



BEYOND ACTIVISM

The impact of the resolutions and other activities of the
European Parliament in the field of human rights outside
the European Union

- COMPLETE VERSION -

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Presentation of the study and researchers

On 18 October 2005, the European Parliament invited to a tender for a service contract concerning the provision of external expertise in the form of a study on “*the impact of the resolutions and other activities of the EP in the field of human rights outside the EU*”. On 21 December 2005, the Parliament offered to the *European Inter-University Centre for Human Rights and Democratisation* (EIUC) a contract to supply services in relation to the above study. EIUC is a centre of education, training and research activities in European policy areas related to the promotion of human rights and democracy.

The research was undertaken by a team of independent academics and experts in the fields of Human Rights and the European Union. It was supervised and conducted by:

- Prof. Florence Benoit-Rohmer (President of the Université Robert Schuman, Strasbourg, Member of the EU Network of Independent Experts of Fundamental Rights)
- Prof. Horst Fischer (Academic Director of the Institute for International Law of Peace and Armed Conflict, Bochum, President of the EIUC)
- Dr. George Ulrich (Secretary General of the EIUC)
- Amb. Klaus Metscher (Former Deputy Permanent Representative of Germany to the UN, Former Chairman of COHOM, Special Adviser to EIUC President)

With primary contributions from:

- Prof. Manfred Nowak (United Nations Special Rapporteur on Torture)
- Prof. Wolfgang Benedek (Director of the European Training Center for Human Rights and Democracy, Prof. at the University of Graz)
- Prof. Stelios Perrakis (Professor at the Faculty of International and European Studies of the Panteion University of Athens)

Mr. Sébastien Lorion (LLM in Human Rights, EIUC Academic Project Officer) has conducted primary research for the study and has been instrumental in gathering and integrating the various contributions and in drafting the final report.

Further research and contributions to the study have been provided by: Dr. Ingrid Nifosi, Magalie Jurine, Saed Zein, Dr. Anne Weber, and Dr. Anke Sembacher. Language editing was provided by Sandra Conway B.L.

For any further inquiry or comment on the present study, please contact:

EIUC - European Inter-University Centre for Human Rights and Democratisation
Monastery of San Nicolò - Riviera San Nicolò 26
I - 30126 Venice - Lido
Tel: +39.041.27.20.911
E-mail: george.ulrich@eiuc.org
E-mail: lorionsebastien@yahoo.com

Executive summary and recommendations

(SUM) Chapter One – Analytical and Methodological Considerations

1. Terms of references of the study

The study is conceived as an impact study of all relevant EP human rights activities. It incorporates findings and concrete recommendations.

2. EP competencies in the field of human rights

The mandate of the EP in the field of human rights cannot be detached from the overall EU inter-institutional configuration. The mandate of the EP is complex, with EU human rights activities being cross-policies and cross-pillars. Depending on the policy areas and pillars, the EP has competencies in four areas: deliberation powers, legislative powers, budgetary powers, and democratic control/accountability powers. Although no treaty explicitly grants the EP the power to directly take action in relation to the promotion of human rights in third countries, a number of provisions in the TEU and ECT implicitly offer a basis for EP actions in this area.

3. Human rights activities of the EP

The EP has taken an “activist” stance in upholding its human rights concerns and has developed a wide range of human rights activities. These include general EP activities with a high potential to reinforce human rights promotion, e.g. resolutions, delegations and public hearings; specialised instruments and activities in the field of human rights, e.g. the Sakharov Prize and the Annual Report on Human Rights; the use of formal EP powers that can be mobilised to promote human rights priorities, e.g.

budgetary powers and the right to give assent to international agreements; and finally individual actions taken by MEPs, notably the EP President.

4. Human Rights Impact Assessment: analytical considerations and EU trends

Human rights impact assessment (HRIA) is a field in expansion, both at the theoretical and practical levels. Its aim is to fully integrate human rights concerns in decision-making processes, with an emphasis on consequences and effects of policy measures. HRIA can include forward-looking aspects (anticipation of the effects of actions) and backward-looking aspects (*ex post* evaluations). It can concern all levels of the decision-making process (policies, programs and concrete measures) and to a large extent relies on the use of indicators and benchmarks.

Impact assessment has in recent years become part of the EU law-making process, notably with the 2003 Inter-Institutional Agreement on better law-making. The Commission has developed a methodology for impact assessment, which contains an evaluation of economic, environmental and social effects of the Commission's proposals. Impact assessment is now mandatory for major EC proposals. The focus is on *ex ante* evaluations.

HRIA methodological steps for HRIA developed by HOM	Impact Assessment: Key steps developed by the Commission
<ul style="list-style-type: none">• Assessment of the actual HR situation• Political analysis• Development of a view on the desired situation• Selection of essential questions• Formulation of policy options and activities• Decision on policy activities• Monitoring• Evaluation	<ul style="list-style-type: none">• Identify the problem• Define the objective• Develop main policy options• Analyse their impact• Compare options• Outline policy monitoring and evaluation

HRIA can be regarded as an important instrument for the EP in at least four regards:

- Impact assessments conducted by the Commission can serve as an aid to decision-making for the EP, notably in co-decision areas.
- HRIA can be instrumental to promote a better mainstreaming of human rights concerns in all policy areas. The EP should raise awareness about human rights impact assessment and push for the human rights dimension included in the existing EC impact assessments to be given more consideration.

- Impact assessment is an additional instrument for the EP to hold the Council and the Commission to account for their performance in the field of human rights. It entails an expanded focus not only on obligations of conduct but also obligations of result.
- HRIA can provide a framework and methodological tool for the EP to evaluate consequences of its own autonomous actions in the field of human rights.

5. Methodology

In conducting the present study, HRIA tools have been adapted and applied to the circumstances of the EP. Due to the mandate given, the study focuses on *ex post* analysis and on activities specifically identified as human rights activities.

Indicators

Impact is defined as the extent to which the EP's activities and resolutions succeed in improving thematic or country specific human rights situations. This may include e.g. raising awareness about pressing human rights concerns. Indicators have been developed in seven areas pertaining to: the situation of target groups/individuals; global human rights situation; authorities' reactions; NGO reactions; media coverage and public debate; policies and activities of other entities; and Sakharov Prize laureates.

Methodological complications

Five methodological complications affect the assessment of EP activities:

- *Scarcity of available data:* The EP does not systematically record reactions to its resolutions; some data are scattered in different offices; media coverage of EP activities is not regularly monitored.
- *Danger of generalising anecdotal or contextual information:* Given the context-specific nature of the human rights activities of the EP, it is often difficult to draw general conclusions about the impact of each type of activity.
- *Elusive impact and broad range of concerns:* Many resolutions of the Parliament are rather broad and concern situations of such a general nature that specific impact may be impossible to discern.

- *Difficulty in isolating or imputing impact:* In virtually all situations the EP features as one actor among many.
- *Difficulty pertaining to observer effect and analysis capacity:* Subjective reports of information may depend on the identity of the actors researching data.

Methodological tools employed

In view of the above considerations, it is necessary to shed light on the impact of EP activities through various means that go beyond the direct application of impact indicators in a quantitative, statistically significant manner. This includes the application of qualitative social science methodologies. The methodology adopted thus consists of a composite set of analytical tools, including: conceptual and legal analysis; desk survey; targeted interviews and consultations; questionnaire survey; media survey; and critical feedback.

Scope redefinition

The study has from the outset been confronted with a basic ambiguity about whether primarily to view the EP as an independent actor in the field of human rights, or rather as an integral component of a broader EU inter-institutional set-up with a primary political control function. A related ambiguity has to do with whether the main object of analysis should be particular, more or less isolated activities of the Parliament or rather the entire sequence of activities and the broader strategies for human rights promotion that emerge over time.

Since it is not possible to resolve these ambiguities in a simple either-or manner, a multi-faceted perspective has been adopted, viewing the EP both as autonomous actor in the field of human rights and as a key counterpart to the other EU institutions. Similarly, the study aims both at identifying the immediate effects and potential value added of particular activities and at identifying cross-cutting factors of impact of relevance to the overall sequences of activities and strategies.

This multi-faceted perspective is reflected in the organisation of the study. Chapter Two is devoted to a description and analysis of each of the main EP activities in the

area of human rights, leading to an assessment of their human rights impact as well as specific recommendations for how to enhance this. Chapter Three presents considerations of a more general nature concerning cross-cutting factors of impact as well as the coordination of EP activities with those of other European and international organisations.

(SUM) Chapter Two – Analysis of relevant activities

1. Resolutions

Statistical analysis has been conducted on 378 EP resolutions concerning human rights pertaining to the period 1999 to 2006, as listed in EP Annual Report on Human Rights 2005.

Impact of EP resolutions can be identified: A. on parties identified as possible human rights violators, notably third countries named in resolutions; B. on individuals and groups mentioned; C. on causes, norms and standards.

Findings

A. Impact of EP resolutions on parties identified as possible human rights violators, notably third countries named in resolutions

- Reactions of countries addressed in resolutions demonstrate that they are sensitive to international criticism, and in particular to criticism and concerns voiced by the elected representatives of the European Union. Reactions contribute to raising a debate about the issues in question and have the potential to generate visibility for the EP itself.
- Countries reacting to EP resolutions generally do not question the legitimacy of the EP in voicing global human rights concerns but often raise objections regarding specific aspects such as the facts of a case, double standards applied, etc. The interest of such states in reciprocal dialogue and cooperation does appear to be genuine in many cases. Interventions of the EP prior to the adoption of resolutions tend to be more constructive and dialogue-focused than reactions to resolutions already passed.
- Impact of resolutions in the area of human rights is significantly reinforced when a given concern is addressed in several resolutions or when complementary activities targeting similar or related concerns are undertaken.

- The EP itself keeps no systematic record of third countries' reactions to resolutions in the area of human rights.

B. Impact of EP resolutions on individuals and groups mentioned

- Resolutions confer a certain degree of protection to individuals and organisations explicitly named. This effect is stronger when resolutions are combined with other activities aimed at a similar effect.
- References to individuals have a morale boosting effect. By extension, this effect may be conferred to entire groups of victims of human rights violations that are denounced by EP resolutions. All resolutions send a signal, a message of support to the victims.
- The majority of human rights victims named in EP resolutions are not, in fact, themselves human rights defenders (they may be prisoners, journalists, dissidents or political opponents, victims of religious repression, etc.), yet their cause will typically be taken up by human rights promoters and may in this regard assume symbolic significance.

C. Impact on causes, norms and standards

- As the world's largest elected international body and paramount symbol of a democratic European Union, the EP carries considerable international prestige. Its resolutions are primarily of a declaratory nature and present an official and legitimate record of the opinion and concerns of the people(s) of Europe. The EP generates impact by affirming and consolidating international law and establishing a distinct European profile in this area. A prominent case illustrating this function is the EP's persistent campaign over a period of many years against impunity for perpetrators of gross human rights violations and its unwavering support for the creation of the ICC and adoption of the Rome Statute.
- External expertise brought to bear on the EP, usually in the form of lobby activities, serves to identify human rights issues in need of attention and helps to focus EP activities for greater impact.
- Resolutions constitute a valuable resource and source of reference for representatives of the other EU institutions, for human rights promoters

working in the context of other international organisations, for governments of EU Member States and third countries, for local and international NGOs, and for academics, journalists, and other civil society actors.

Recommendations

- The EP should maintain and strengthen its role as the voice of Europe in consolidating and reaffirming international law, as a supporter of victims of human rights violations, and as source of inspiration and support for all institutions and groups working towards a greater impact of human rights norms.
- The EP should better capitalise on third countries' reactions: with additional resources, the EP services should seek to systematically record third country reactions to resolutions. Such a record can be helpful in the drafting of subsequent resolutions, in the development of other human rights activities in the same area, and in the general articulation of EP policy vis-à-vis the countries in question.
- The potential for constructive dialogue during the phase prior to the adoption of a country-specific resolution can be still better exploited by the EP. Factors to enhance the process of constructive engagement include ensuring adequate time for liaison, better identifying contact persons within the EP, enabling third country representatives to raise their concerns and provide information before the adoption of a resolution.

2. Delegations

Permanent, *ad hoc*, and own-initiative delegations (by individual MEPs or political groups) all offer a large potential for human rights impact, but they are a difficult instrument to manoeuvre for the EP as a whole, as they involve considerable scope for personalised preferences and initiatives on the part of individual members. They are sometimes characterised by lacking preparation and unwillingness to raise human rights issues.

Findings

- Delegation visits have considerable impact on third countries as they send strong political signal/support to the entities visited and at the same time raise high expectations for impact and follow-up. The risk of unintended negative consequences is also comparatively high.
- Impact on situations is, without adequate follow-up, often limited to a relatively short period.
- External actors typically perceive delegations as representing the EU as a whole, not the EP in particular.
- Success rates principally depend on the following factors of impact:
 - Human rights must be mainstreamed in the work of all delegations. It is not yet a standard point on all delegations' agendas, as some delegations mistakenly consider that there are no human rights concerns to address in the countries in question (typically “western” and highly industrialised countries). This risks feeding an impression of double standards with regard to human rights and absence of an agreed EP policy in the field.
 - The composition of the delegations: The participation of MEPs in delegation activities is influenced by various factors, including political and national interests; this can be a source of strength (drawing on privileged links between countries, language skills, etc.) but also a weakness.
 - Coordination of the work of delegations with other EP and EU activities and with experts in the field. Insufficient preparation and lack of internal consultation within a delegation are relatively frequent and have a negative impact on the image and general actions of both the EP and the EU as a whole. While country visits are seminal to securing both information and commitments from third countries, these are not systematically reported on or subject to systematic follow-up action. This causes disappointment for local partners as well as international organisations present in the field, both of which typically express high expectations following EP visits. Resolutions can be considered as the reference point for the work of delegations, yet they rarely explicitly mandate delegations to raise concerns mentioned in a resolution.

- Context and timing are important factors maximising impact: visits to actors in situations where they feel isolated reinforce the morale boosting effect of the country visits.

Recommendations

- Enhance the success rate of delegations by improved internal consultations, sufficient coordination with other EU activities, a relevant context and timing of missions, and mainstreaming human rights in the work of all delegations. Impose standard human rights practices and grids for delegation actions. The EP has recently made considerable progress in defining ways to standardise the work of the delegations in the field of human rights, in part by providing a checklist of actions to be undertaken. It is strongly recommended that the Guidelines proposed by DROI are taken up and implemented.
- Enhance preparation before visits. NGOs, international organisations, and the secretariats of both the Commission and the Council have explicitly expressed their readiness to brief MEPs before departure.
- Better follow-up to visits. All delegations should submit and actively disseminate (especially outside the EP) reports with a special emphasis on information and official commitments secured during the visit in question.
- Better link delegations with other activities. Human rights resolutions should more clearly mandate the delegations, possibly by introducing consistent language about actions to be performed by the delegations.
- Delegation members should both be candid in raising human rights concerns and prudent not to cause damaging impact. Excessive politicisation should be avoided and out-of-quota participants should generally not be included in delegations.

3. Public hearings

The efficacy of public hearings, as well as exchanges of views on specific subjects conducted in EP committees, can be assessed with regard to their capacity to fulfil five roles:

- securing information and raising expertise;
- facilitating a discussion of EU and EP policy choices and strategies;
- spurring public debate and mediating in local disputes;
- impacting on participating States;
- impacting on participants from local civil society.

Findings

- Hearings contribute to raising the profile and possibly the competence of the EP. Notable shortcomings are lack of resources and poor attendance.
- The advantage of the EP is its ability to bring a wide range of actors and experts together, while the lack of reporting and follow-up as well as questions of visibility and timing are identified as factors negatively affecting impact. Joint meetings are particularly successful in promoting strategies common to several committees.
- Calls have been placed upon the EP to pursue a mediating function between conflicting parties, yet this is at present more a potential than a proper role. Generally, debate spurred is limited to a hearing's participants, as there is no organised summary and communication on hearings.
- Commitments and reactions from third countries can more easily be obtained during hearings and exchanges of views than, e.g., in reaction to critical resolutions. The main factor of impact in this regard is the political will and the clarity of the message sent by the MEPs participating in a given hearing. While some important hearings, notably in view of granting assent to international agreements, can be convincing and efficient in conveying the EP's viewpoint, many others lack preparation and offer avenues for the expression of uninformed or conflicting messages.
- Public hearings offer a platform for different actors and provide an opportunity to enhance their visibility; this participates in the enhancement of international protection of participants but has sometimes counter-intentional effects, as is illustrated by cases of arrest and of several participants to EP hearings upon return in their home countries.

Recommendations

- Raise the profile of public hearings by improving MEP attendance and media visibility. Disseminate and publicise full reports on the content of the hearings. Link public hearings with other activities such as resolutions and the work of delegations.
- Continue to invite prominent experts and key actors, but investigate extending invitations to third country representatives, EU heads of missions, and well-known actors able to boost attendance and media visibility
- Use hearings to devise concrete joint actions and strategies with like-minded international actors. Consider expanding the number of joint hearings of different parliamentary committees, notably by associating committees such as the committees in charge of budget and international trade.
- Draw operational conclusions from all meetings and exchanges of views with a view to follow-up on commitments and information obtained as well as policy options devised. Follow-up should incorporate a mechanism aimed at checking on the situation of invitees upon return to their countries. The EP could draw inspiration from similar mechanisms developed in the context of UN special procedures.
- Enhance the preparation of public hearings and exchanges of views, notably by gathering expertise in advance of events, with a view to conveying informed and targeted messages to the persons invited.

4. Sakharov Prize

Since the Sakharov Prize for Freedom of Thought was set up in 1988, 23 individuals or organisations were selected for the award of the Prize. Eight Sakharov Prize laureates contributed directly to the findings.

Findings

Impact is observable at three different levels:

- Impact on the personal situation of the recipient in the form of: morale boosting, increased protection, support to activities, financial assistance, visibility and enhanced legitimacy, and international contacts.
- Impact on the cause promoted by the laureate: the visibility conferred to the cause seems greater at the international level than at the local level; financial support is on many occasions directly reinvested into projects related to the cause.
- Impact on third countries: authorities generally greet the granting of the award to one of their citizens with indifference; EP commendation does not lead to substantial reform or change in policies. Some laureates, however, noted better access to the highest authorities in countries where they operate.

The following factors affect the impact of the award:

- Visibility of the Prize: Although it is the most visible human rights activity of the EP, media coverage is still weak, especially in non-EU countries.
- Profiles of the laureates: some were already internationally renowned, whereas for others this was the first time that they received significant international attention; some had been directly threatened or imprisoned, while others enjoyed freedom but sought support for their cause.
- Number of laureates: A diluting effect on award is observed as the number of simultaneous nominees increases.
- Inter-institutional cooperation within the EU: on certain occasions this has been instrumental to delivering the Prize and conferring protection to the laureate.
- Follow-up and sustained support: impact tends to be short-lived; a primary area of concern raised by laureates has to do with insufficient follow-up to the award of the Prize and an expectation that stronger working relations and cooperation should ensue between Sakharov Prize laureates and the Parliament.

Recommendations

- Nominations should be a function of the intended impact of the award by either protecting an endangered individual or reinforcing official support to a cause or institution.
- Enhance the visibility of the Prize. One way of achieving this could be to further deepen the symbolic dimension of the award by amplifying its association with former laureates, notably on the occasion of the awarding ceremony itself on Human Rights Day in Strasbourg. The EP should better assess the degree of media coverage of the award by organising press surveys. To do so, the EP could seek the cooperation of EC Delegations and NGOs working in the countries of activity of the laureates. If successful, such surveys could establish a precedent for similar surveys concerning other EP human rights activities.
- Extend the supportive effect of the Prize: the EP should aim at conferring more than a momentary visibility and better fulfil expectations raised, e.g. through systematic liaison with former laureates and sustained support. So far the EP does so only for a limited number of laureates. Inter-institutional cooperation should be further developed to enhance the protection of laureates. EP delegations to countries where laureates are located should have as a standard point on their agenda the liaison with and visits to the laureates.
- Enhance common work between laureates and the EP: the EP should capitalise on the availability and possible contributions of the laureates. The establishment of a network of Sakharov Prize laureates with regular meetings could be facilitated by the EP. The EP and the laureates could support each others work: the EP by supporting laureates' activities and conveying knowledge about them to the European public, and the Sakharov Prize laureates by associating themselves with EP activities in the field of human rights.

5. Annual Report on Human Rights in the World and the EU's Policy on the Matter

Own-initiative reports carry higher significance than regular resolutions and are among the most effective tools for the EP to develop its core position and command attention from other actors in the field of human rights, including the two other main EU institutions. The Annual Report on Human Rights is a unique case. It constitutes a vital focal point for the EP to collectively develop a joint understanding and position on human rights, and highlights the capacity of the different representatives to work together and achieve a common aim. The Annual Report can provide:

- an overview of human rights situations worldwide;
- a policy statement on thematic issues;
- a review of EP activities in the area of human rights;
- scrutiny of EU policies, as part as the accountability function of the EP.

Findings

- The process of compiling the Annual Report is followed with considerable interest, both by countries named and by NGOs, and has the effect of facilitating dialogue, both internally within the EP/EU and with third parties. There are concrete examples of concessions having been made in previous years by third country officials in order to ameliorate critical mention in the Report.
- The shift of orientation in the Annual Report 2005 towards critically examining the EU's own actions in the area of human rights vis-à-vis third countries marks an interesting development which should be assessed regarding its advantages and disadvantages, taking into account concerns about a possible loss of the EP's capacity to raise human rights issues with third countries.
- While the extensive list of country specific concerns in previous years has been criticized for being too scattered and superficial to be truly effective, it is noted that shifting the emphasis almost entirely to a review of EP/EU policies in the area of human rights may go too far in relieving pressure on third

countries. Another concern expressed by some MEPs is that the new focus may weaken the EP's capacity to draw attention to new issues.

- Follow-up activities are virtually nonexistent. While the Report for 2005 emphasises the importance of inter-institutional relations, it is noted that the Commission's written reactions to previous Annual Reports were largely unknown to the MEPs and scarcely debated.
- The catalytic nature of the Report, associating all MEPs in the articulation of a common human rights understanding and programme, is dependent upon the procedure employed. The participation of committees other than AFET and DROI is unjustifiably erratic: DEVE gave its opinion in 1995 and 2001 only, FEMM in 1996 and 2006, BUDG in 2001.

Recommendations

- Restore the potential for pressure on and dialogue with third countries, as has been alleviated by the new focus adopted in the Annual Report 2005, by adding or reintroducing elements such as an EU list of Countries of Particular Concern and emphasis on activities focused on third countries.
- Enhance follow-up activities: rapporteurs of own-initiative reports are well-positioned to perform such follow-up, as they have contacts with experts, officials and different actors and are already identified as main contact persons, have knowledge of the key issues at stake, and have a motivating sense of ownership over the report.
- Enhance the participation of all concerned actors in the drafting and review of the Report: systematically associate relevant committees, including Committees on Budgets and International Trade, and organise joint public hearings.

6. Formal powers of the EP: budgetary powers and right to give assent

In relation to budget and international agreements the EP has formal powers to adopt decisions with a legally binding. While they are primarily exercised within the context of the overall EU architecture, they offer avenues for the EP to directly participate in

shaping policies towards third countries and have direct consequences affecting third countries' interests. These competencies can therefore be used as leverage to accentuate the political weight and importance attached to EP human rights activities in general.

Findings

- Where the EP has had the competence and the willingness to link its human rights activities with the possible exercise of formal powers (e.g. by emphasising such powers in resolutions, hearings or delegation visits), it has been able to develop a more effective policy vis-à-vis third countries and successfully pressure them to enhance their human rights records. Arguably, the most successful case in point concerns countries aiming at acceding to the EU, even as a long term political objective.
- The actual exercise of EP formal powers has, however, an impact that goes far beyond the human rights field. Refusing assent or the acceptance of the budget, or refusing to grant discharge, has important political consequences and effects that are not fully predictable. It is therefore difficult to utilise the powers for specific policy objectives regarding human rights. Within the EU framework, the EP has proven efficient in pushing for general provisions, such as the reinforcement of human rights and democracy clauses in international agreements and the adoption of budget instruments dedicated to the promotion of human rights and democracy in third countries.
- Ancillary instruments such as budget remarks, budgetary reserves, and EP participation in the implementation of flexibility instruments, can lead to concrete action if the priorities established are reinforced by other EP activities. Ability to elaborate strategies and priorities encompassing different policy areas, in a cross-committee fashion, is a primary factor of impact in this regard.
- As far as assent to international agreements is concerned, the EP is exploring the efficacy of a three-pronged approach: securing minimum standards and commitments before the assent, adjoining demands to the formal assent, and improving its role in the monitoring of agreements. Genuine attention is in this regard being given to the respect of human rights standards, and the EP is

successful in securing from third country officials minimal safeguards and commitments before granting its assent. It now systematically organises hearings aimed at this purpose.

- The impact of the assent procedure depends, notably, on the ability to influence negotiations and to convey a clear and consistent message over an extended period of time. Present practice suggests that there is a delicate balance to strike between maintaining the credibility of the threat of a veto and at the same time reserving veto powers for truly exceptional circumstances that are not better addressed through other means.

Recommendations

- Capitalise on the existing formal powers by linking human rights concerns with the possible use of such powers.
- Better bridge the gap between different policy areas within the EP by linking the work of the committees in charge of human rights, budget and international trade, in a bid to develop multifaceted strategies translating human rights policies into budgetary and trade concerns. Conversely, budgetary and trade issues should be better integrated into the articulation of human rights concerns, so as to make the latter more realistic in terms of achievement and better attuned to EP formal powers.
- Enhance the consistency and clarity of statements and expression of concerns over time: the credibility of a veto threat and ability to influence negotiations and major budgetary developments is dependent upon the EP's capacity to convey clear messages and establish cardinal concerns prior to the enactment of the formal powers.

7. Individual actions of EP President and Members

While individual actions of EP members might not usually be considered as EP activities and are not well-documented, they in fact greatly contribute to the general performance and impact of the EP in the field of human rights. Actions of the EP President constitute a unique case, as such actions are institutionalised.

Findings

- Institutional functions carried out by the EP President include, notably, interventions of a declaratory nature and official representation of the EP and its committees vis-à-vis third countries and other EU institutions. It is similarly assumed that the President plays a role in the follow-up to EP activities. All resolutions include formal instructions to the EP President regarding their dissemination, and a small number of the resolutions analysed make further reference to the statements and activities performed by the President.
- Available evidence indicates that the EP President's interventions in the field of human rights mainly focus on individual cases, with a special interest in EU citizens abroad, and that confidential interventions have comparable impact to the Parliament's public strategy.
- The impact of the President's activities in the field depends on two main variables: the resources at the disposal of the President and his/her willingness to take up human rights issues. Coordination with other EP activities is also an important factor, but there appears to be only intermittent cooperation and exchange of information between the Cabinet of the President and the units in the Secretariat in charge of human rights-related issues.
- Autonomous individual actions of the MEPs are numerous and almost invariably identified by the relevant actors as having important impact. MEPs' actions reflect the political and collegiate character of the Parliament. They may enhance the follow-up to other human rights activities of the EP and offer valuable points of access for individuals and civil society organisations to the work of the Parliament.
- Two variables reinforce the value of individual activities: the number of MEPs joining in and the degree of representation across the entire political spectrum. When these two factors are maximised, individual actions come to resemble regular EP activities.
- Advantages and disadvantages result from MEPs specialised agendas, the possible confidentiality of the activities, the absence of an EP record, and the

fact that such activities are rarely taken into consideration in the regular work of the Parliament.

Recommendations

- Reinforce in-house synergies: the contribution of individual MEP actions to EP human rights promotion should better be taken into account and cooperation and exchanges of information between different internal actors should as far as possible be facilitated. Records of actions taken by the MEPs and the President should be established and focal points for particular issues could be identified. The added value of individual actions should be maximised. MEPs can multiply the voice of the EP by activating personal networks and their willingness to invest political capital in a given topic can be beneficial for the EP as a whole: the MEPs in question could, e.g., be engaged in structured follow-up on activities in the area and be appointed to liaise with relevant third parties. The EP President is especially well equipped to follow-up on EP activities with third countries, as she/he carries the mandate to represent the EP and is in contact with third country officials. The President bears special responsibility in mainstreaming human rights concerns into all EP activities and could develop her/his activities in this regard.
- By offering a framework for coordination of individual actions, for instance within inter-groups, the value of such actions can be reinforced while limiting their possible shortcomings, in particular with regard to the risk of conveying conflicting messages.

(SUM) Chapter Three – Cross-Cutting Factors Affecting Impact

A variety of cross-cutting factors affecting the impact of human rights activities of the European Parliament can be identified. A distinction is made between factors that are internal to the work of the EP, factors that relate to the role of the EP within the wider EU architecture, and factors that relate to the work of the EP in relation to other main international and inter-governmental organisations in the area of human rights.

1. Factors internal to the European Parliament

1.1. Participation and support

The active participation by MEPs is essential for the impact of EP activities in the area of human rights.

Findings

- EP activities in the field of human rights generally receive a remarkable degree of support across the political spectrum in the Parliament. Nevertheless, the lack of sufficient attendance at public hearings and debates, even on occasions when prominent guests have been invited, sends negative signals not only to the invited guests but also to the wider human rights community. It is noted that the problem of securing adequate attendance was one of the reasons for discontinuing the Sub-Committee on Human Rights in the previous parliament.
- The impact of resolutions, in particular urgent resolutions, is sometimes weakened due to the small number of MEPs voting on their adoption. In 2005 an average of only 88 MEPs participated in the votes on urgent resolutions in the late Thursday afternoon while on average 563 MEPs voted on the same day at lunch time. The low attendance is perceived by some to be a

consequence of organisational circumstances that do not affect the resolution's legitimacy and impact. However others regard such resolutions to carry less weight and significance.

Recommendations

- The EP should follow its own recommendations in the Annual Report for 2005 regarding voting procedure. Specifically, debates and voting time on urgent resolutions should be reorganised so that the EU Council participates in urgent resolution debates and vote is held while MEPs are still present. It needs to be investigated whether participation can be further enhanced through organisational measures.
- The Sub-Committee should look into ways of reinforcing the presence and participation of its members, e.g. by making members responsible for following up and reporting on specific issues. It could also create working groups on topical issues, e.g. on the protection of human rights defenders.

1.2. Developing capacities and mobilising expertise

EP resolutions are based on facts; they contain a political evaluation and ultimately convey a political message. To counter the perception that the EP as such is insufficiently informed and too political in its activities, there have been attempts to develop in-house expertise which could lead to an enhanced commitment to human rights issues and reinforces the Parliament's capacity to engage in constructive criticism vis-à-vis other actors. The EP also accesses external expertise to ensure the highest quality of information necessary for the debates and decisions.

Findings

- EP policies and proposals entailing concrete, detailed, and applicable measures have greater impact compared to rather general statements. External actors, including UN Rapporteurs, are receptive to informed viewpoints.
- Expert analysis of selected resolutions shows that the quality of information embodied in EP resolutions is generally high. However, it happens exceptionally that activities are affected by factual errors and the EP's overall

image in the area of human rights is in such cases tarnished. The risk of mistakes increases when debates in the EP are too politicized or when specific elements of a decision cannot be discussed at all due to procedural impediments or insufficient participation of MEPs in debates.

- Liaison with external experts, the verification of facts and sources, contacts with authorities of the countries concerned, and other procedural measures are frequently left to the initiative of EP staff as well as individual MEPs. This entails the risk of relying too much on information provided from sources outside the EP with a vested interest in the issues at hand.
- The liaison with authorities of third countries concerned is not formally institutionalised and is subject to conflicting interpretations. Some view it as a source of unwelcome interference and attempt by third country officials to dodge criticism, whereas others emphasise that genuine and constructive dialogue with third country officials about human rights is indeed a primary aim of the EP, and that third country officials have a legitimate interest in supplying and counterchecking information and facts. Not all EP activities or committees involve or organise dialogue with third countries.
- In-house expertise is of great importance for the EP when taking the lead on specific issues. The dedication and expertise demonstrated by the existing structures in tackling certain issues has also supported the conferral of competences to the EP.

Recommendations

- More resources need to be devoted to the verification of data and facts in preparation of EP human rights activities.
- Structural mechanisms should be developed to benefit better from the information provided to the EP by NGOs, independent experts and academics, third country officials (where relevant and appropriate), as well as by relevant offices of Commission and Council, delegations of the Commission, and missions of EU Member States.
- The use of rapporteurs should be reinforced and inter-groups should be better developed as a means of enhancing expertise. Inter-groups should be permanent, structured, guided by a long-term agenda covering at least one

legislature, composed of MEPs from different groups and committees, and offering a framework for *ad hoc* missions.

1.3. Visibility and dissemination

Visibility of activities is crucial for the support and protection given to specific individuals and groups, for promoting debates in third countries, and in raising awareness about human rights priorities and concerns among the Parliament's primary constituency, the citizens of Europe.

Findings

- Third country authorities, international NGOs, and representatives of other EU institutions are aware of and acknowledge the EP's human rights activities. Most other actors, however, have difficulties in distinguishing the EP from the other EU institutions and show limited awareness of EP activities in the area of human rights.
- Aside from the press releases, active public dissemination of information about its activities is not an organisational priority for the EP. Additional dissemination is limited to a few actors who might already be informed about a given activity, e.g. a resolution.
- The EP does not systematically evaluate its global reach. The press service has neither the resources to survey press coverage in third countries, nor to effectively raise the EP profile in international media.
- Media coverage of EP activities is generally not dependent on the EP itself. Coverage in third countries is highly variable and mainly depends on the degree of state control of the media and the degree of receptivity to EP's interventions. EP resolutions are, e.g., extensively reported upon in Taiwan, but hardly ever in Cuba or Tunisia. Generally delegation visits and the Sakharov Prize award receive more coverage. Some activities, like public hearings, are very rarely reported upon. European and international media tend primarily to report on EP activities in instances where: binding issues are concerned (e.g. annulment by the ECJ of the EU-US agreement on air passenger data exchange); controversial issues are at stake and strong

reactions elicited (e.g. activities on Guantanamo or Lampedusa); the symbolic dimension of an activity is salient (e.g. Sakharov Prize).

- International NGOs often circulate information about the EP's human rights activities within their networks of national and local chapters and local NGOs, but they do not actively participate in disseminating public knowledge about EP activities. Local NGOs are sometimes more active in this regard, in particular when references to the EP helps to reinforce a cause or maintain public focus on a given situation. Specific case studies reveal, however, that NGOs without international networks have only limited awareness of the EP and its activities.
- Information about EP activities is mostly found via the EP website and contacts with MEPs and staff. However, the website presupposes a fairly high level of prior knowledge about the structure and actions of the institution, since information is organised according to activities rather than countries. Some activities like public hearings and some delegation reports are not reported upon. The fact of posting information on resolutions and other activities only in the European languages may in some cases impose a language barrier vis-à-vis the countries targeted.

Recommendations

The EP must ensure that its activities are visible to the public. It should further develop its communication strategy with a view to ensuring a consistent and stable relationship with the media and audiences and focusing on evocative but also politically sound statements.

- Systematise the dissemination of information about its activities, notably to organisations, individuals and officials who are directly or indirectly affected by them, or who work in related areas.
- Devise mechanisms to assess the EP's visibility and media coverage in third countries, in particular by enhancing in-house surveying capacity and by liaising with EC Delegations in the countries in question.
- Translate resolutions and other key documents into the languages spoken in countries targeted.

- Improve the access to information related to human rights activities on the EP website. Consider organising information by country/region and themes rather than by activity. Explore the possibility of having one EU common website on human rights activities.

1.4. Monitoring and follow-up

In the absence of convincing follow-up mechanisms, the EP risks being perceived to be more concerned with activism than with measurable results. The follow-up to EP activities is a vital cross-cutting factor of impact entailing:

- monitoring the consequences and effects of a given activity and inviting entities called upon to act;
- ensuring that commitments are honoured and verifying that priorities and objectives established in conjunction with a given activity are taken into account and reinforced, during subsequent activities (including subsequent resolutions revisiting issues previously addressed).

Findings

- Relevant interviewed actors report that the follow-up to essential human rights activities of the EP is lacking or insufficient. This is expressed both by beneficiaries of EP actions, e.g. Sakharov Prize laureates and local NGOs named in resolutions or contacted during delegation visits, and by human rights promoters, including international NGOs.
- Follow-up activities are often left to the discretion of actors with a particular interest: typically MEPs or groups having promoted a given activity. DROI increasingly identifies follow-up activities as part of its mandate. However such activities remain rather incidental, depending on the issues and relying heavily on the information that happens to be brought to the awareness of the secretariat or MEPs.
- Not all activities are reported upon in writing with operational conclusions and recommendations for action. This creates confusion as to what follow-up actions should reasonably be expected. Several observers have noted that

while the EP's follow-up on resolutions is scattered, that on public hearings is virtually non-existent.

- Responding adequately to expectations raised among third parties by resolutions and other human rights activities of the EP is a delicate matter. Many actors targeted and aided by EP actions are encouraged by the support offered but are by the same token discouraged when the level of attention and support subsequently wanes.
- Repeated attention to a given human rights concern enhances impact. Inconsistencies both in language and in the substance of EP policy concerns should as far as possible be avoided, taking into account the shifting majorities that characterise the Parliament.

Recommendations

- Institutionalise follow-up activities. Each activity should incorporate provisions for its follow-up, including the procedures to be followed.
- Activities in the area of human rights should furthermore, as a matter of standard procedure, entail the identification of persons or groups in charge of follow-up and a specification of actions to be performed. The collegial nature of the EP lends itself to the establishment of rapporteurs or working groups on follow-up. The EP could in this regard draw inspiration from the practice of the UN human rights treaty monitoring committees.
- Avoid, as far as possible, to raise expectations that cannot be met through realistic follow-up activities.
- Objectify the human rights approach and set up benchmarks, in the vein of the Guidelines established for EP delegations. Enhance the consistency of similar activities, or different activities on similar issues, over time.

1.5. Coordination of EP's human rights agenda

When seen in isolation from each other, the potential of EP activities is not maximised. The impact of activities is likely to be reinforced if the European Parliament is able to coordinate its actions and strategically mobilise its different

activities over a sufficient period of time. This requires adopting a systemic or holistic approach to the human rights activities of the EP.

Findings

- Strategic overall planning requires viewing all activities in unison, including self-contained activities such as the Sakharov Prize. This presupposes a clear understanding of the added value of each activity. Moreover, the key actors within the EP must be ensured the necessary resources required to coordinate the different activities over a significant period of time. DROI has a central role to play in this regard.
- Possible strategies include gradation of instruments (e.g. request for information, exchange of views, fact-finding mission, resolution, follow-up activities) and repetition.
- Complicating factors that impede the full realisation of the EP's potential in this regard include: the high number of situations and issues demanding attention, the politicisation of certain themes/country cases; the influence of lobbies and current affairs in agenda setting; the flexibility of certain procedures and their likelihood of being used by MEPs for particular ends; and the multiplicity of actors and procedures possibly dealing with human rights within the Parliament.
- For procedural reasons, some activities are developed in relative isolation from the overall EP agenda in the area of human rights. This is notably true of the Sakharov Prize and "urgent resolutions". Urgent resolutions are also often used to address situations of on-going human rights violations (e.g. Burma, Sierra Leone, Taiwan, North Korea, etc.) which perhaps could be more effectively addressed through other means. This devalues the specificity of urgent resolutions in the arsenal of instruments at the disposal of the EP in the area of human rights.
- Focusing on certain priorities enhances the political significance of resolutions and other activities. Too many items on the agenda of the Parliament risks diluting its impact in the area of human rights.
- Impact analysis underlines the importance of having a single entity coordinating a sequence of activities. External actors emphasise the value of

localising within the Parliament one single interlocutor on human rights issues. Some leadership is needed within the EP to prioritise concerns, develop policies, and systematically monitors EP activities in the field of human rights. This function can be exercised by the Sub-Committee on Human Rights, which has already undertaken to: follow-up on human rights activities; facilitate long-term strategic planning; mainstream human rights concerns within the EP; (co-)organise public hearings and exchanges of views and raise expertise and awareness on specific topics within the EP; act as a contact point for civil society and external actors; enhance dialogue and synergies with the Commission and the Council and devise means of holding these EU institutions accountable to their own human rights policies and commitments.

- It is noted that some difficulties and shortcomings limit the potential role of the Sub-Committee:
 - The formal powers of DROI are limited, since it is intended primarily to provide input to the Committee on Foreign Affairs. The limitation of powers makes it difficult for the Sub-Committee not only to mobilise diverse instruments, if necessary, but also to guarantee the consistency and strategic planning of EP activities.
 - Each committee dealing with human rights issues (AFET, DROI, DEVE, LIBE, FEMM) has its particular field of competence. This leads to a certain degree of specialisation within and between the committees and makes co-ordination and mainstreaming difficult. In practice the Sub-Committee does not systematically address issues that fall within the competence of other committees.
 - The work of the Sub-Committee suffers from limited staff and other resources to follow and prepare hearings, liaise with delegations, etc.
 - Attendance of MEPs in the Sub-Committee is low.

Recommendations

- Uphold the specificities of each activity, in particular the urgent resolutions. While the human rights priorities of the EP are, and should be, the result of a political choice, more should be done to reflect an overall policy design.

- The EP needs to establish priorities for its actions in the area of human rights. The following seven policy options mark possibilities for strategic decision-making:
 - Focus on activities related to a core EP agenda and be less permeable to external factors such as lobby activities and news.
 - Focus on issues where it is possible to reach a broad political consensus within the EP.
 - Follow the human rights agenda of other EU institutions and concentrate on democratic control functions.
 - Better identify the added value of an EP activity on a specific issue.
 - Be more consistent in linking internal and external dimensions of human rights policies.
 - Focus on selected thematic activities.
 - Focus on certain geographical areas. In practice there are already comparatively few activities vis-à-vis Latin and Central American countries; the EP should clarify whether this is an explicit policy choice or a default consequence of absence of a holistic approach to human rights programming.
- Explore the issue of leadership and coordination of human rights issues within the EP. This may entail reinforcing the means and role of the Sub-Committee on Human Rights, or even upgrade the Sub-Committee into a full-fledged Committee, as was asked by the EP in its resolution of 25 April 2002 on the Communication from the Commission to the Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third countries. It is crucial that DROI is less constrained in its resources and procedures, notably with regard to its capacity to table resolutions and to feed the work of other committees/delegations. Joint hearings should be encouraged, also with such committees as BUDG and INTA. The EP should set up a "horizontal mechanism" to ensure that human rights aspects are taken into consideration in all EP policy areas, for instance – following the example of the Committee on Budgets' financial sheets – by providing a human rights sheet for all activities in case they can have an impact on human rights situations.

2. The Parliament in the European Union

An important aspect of the impact of the EP in the area of human rights is the role it plays in interacting with the other main institutions of the EU, notably the Commission and the Council. Actions of Member States and other EU institutions can contradict EP human rights policies. Conversely the ability of the EP to take the lead and translate its own priorities into general EU policies considerably reinforces its political weight vis-à-vis third countries. The power to check consistency of action with commitments is fundamental. To exercise political control is a primary function of democratically elected MEPs.

Having pushed for an enhanced level of commitment in the field of human rights, a central challenge for the EP is now to monitor that existing commitments are adequately reflected in actual EU practice. The EP takes a two-pronged approach, seeking both to develop its own policy lines and its role in exercising democratic control. This dual approach is reflected in the structure of EP resolutions, which combine calls on third countries and on EU institutions.

2.1. Holding the Commission and Council accountable to established human rights standards

Findings

- The distribution of legislative powers within the EU is unique and arrangements for democratic control are complex. “Hard” accountability powers, notably appoint-and-recall powers, apply only vis-à-vis the Commission. As such powers have a very general – “all or nothing” – effect, it is difficult to activate them in a targeted way, linking them with precise policy priorities.
- Dissatisfaction can occasionally be expressed by substitutive means, such as through actions before the ECJ. This has led, e.g., to the annulment of the EU-US Agreement on air passenger data exchange in May 2006. Such cases are widely covered by international media and raise the human rights profile of

the EP. But, needless to say, the provisions should be exercised with caution and used only in exceptional cases.

- An important “soft” mechanisms to exercise democratic control is the possibility to pose parliamentary questions:
 - Parliamentary questions enhance accountability if they reflect EP views and are coordinated in a systematic way with other activities. The procedure for tabling questions is straightforward, but their personalised nature makes it difficult to incorporate them in wider strategies.
 - Other institutions feel bound by their answers. Parliamentary questions have greater effect on the EC than on the Council, as Council representatives typically feel more accountable towards their national parliamentarians.
 - Delays in responses and vagueness of information provided frequently lead to frustration among MEPs. This may partly be due to the high number of parliamentary questions, which are experienced as a “disturbing working burden” by the Commission and the Council.
 - To have a real impact, there must be a critical mass of questions coming from MEPs representing diverse groups, posed over a sufficient period of time; to convey a strong message, questions have to be precise, targeted and well-timed.
 - At best, parliamentary questions can support an already existing will within Council or Commission to deal with a given issue.
- The EP is generally successful in retrieving information from other EU institutions and thus in making decision-making transparent. A factor underlying this success is the EP’s willingness to proactively request information rather than wait for its delivery. This helps other actors, such as NGOs, in assessing the work of EU institutions. The Council and Commission generally recognise that EP democratic control offers them valuable avenues to explain and enhance the visibility of their work in the area of human rights.
- Parameters influencing the EP’s success in communicating its objectives to other EU institutions are the same as cross-cutting factors identified with regard to third countries: sustained political will, clarity of the message,

relevance of the proposals to the given context, timing, level of expertise, overall consistency of EP activities, and mobilisation of formal powers.

- EP views are taken into account by other EU institutions. It is, however, not always clear what mechanisms are set up internally in the relevant institutions to process EP recommendations and requests and communicate them beyond the persons actually liaising with the EP. Many COHOM members, for instance, do not automatically receive information about the EP, yet express interest to do so.
- The EP in many cases supports and reinforces certain positions and views already present within the other EU institutions. A key element to understanding the dynamics of EU inter-institutional relations is that institutions are not internally monolithic, as divergent viewpoints may exist within. This is true of the EP, which is on occasion perceived as excessively politicised, but also of the other EU institutions. EP support can thus be crucial for certain actors within the Commission and Council, whose views are thereby reinforced by democratic legitimacy.
- As a general observation, the clearer the policies and commitments in the area of human rights are within other EU institutions, the easier and more meaningful it is for the Parliament to exercise democratic accountability functions. The standardisation of human rights and democracy clauses in agreements with third countries, the adoption of the European Charter on Fundamental Rights and of the EU Guidelines on Human Rights, and the establishment of Human Rights Dialogues all mark significant advances in this regard.
 - EP insistence on the Guidelines is especially important. References to Guidelines in resolutions and parliamentary questions are still limited, in number and quality.
 - The EP has considerably enhanced its efforts on the human rights and democracy clauses, arguing that clauses should be extended to all new international agreements and that the EP should be involved in negotiating the mandate for agreements.

Recommendations

- Enhance cooperation with national parliamentarians in view of coordinating the monitoring of human rights policies. DROI should as far as possible seek to open channels of communication and organise meetings with analogous national committees.
- Seek to rationalise the use of the parliamentary questions; discuss the use of questions, and most notably question time in DROI; permit the Sub-Committee to table questions under Rule 108; consider imposing criteria for tabling parliamentary questions, such as a mandatory quota of questioning MEPs, possibly representing several political groups and/or different nationalities.
- Continue to pro-actively demand information from the EU institutions; explore new areas, such as debriefings following EU Human Rights Dialogues.
- Uphold and deepen the monitoring of the performance of EU institutions in the implementation of EU Guidelines and human rights clauses; create working groups monitoring each set of Guidelines; systematically refer to Guidelines as a reference for assessing the performance of EU institutions, but also of EC Delegations and EU Member State missions abroad.

2.2. Co-ordination of the actions of EU institutions vis-à-vis external actors

Recognising synergies created by complementary or coordinated activities, it is possible to promote common policies and synchronised – or even joint – activities vis-à-vis human rights situations outside the EU, drawing on the added value of each institution. Cooperation and ability to work together increase the impact of both the overall and the individual institutions' human rights activities.

Findings

- For many observers, EP activities, and even the actions of individual MEPs, are difficult to separate from those of the EU as a whole. Contradictory messages as well as gaps between declarations and concrete actions are costly in terms of image and receptivity to calls to action. It is found that:

- While differences in mandate and policies are unlikely to be apparent to external actors, there is a broad understanding that the EP is the elected body of the EU. This confers a high degree of respect, and sometimes visibility, to MEPs. They are perceived as less influenced by political alliances between EU Member States and third countries and thus able to adopt more balanced and neutral positions.
- Specific EP standpoints tend to be best recognised when the EP adopts a consistent policy line, contradicts other EU policies, or addresses unexplored areas.
- The blurred perception outside Europe of the EU legal architecture does not necessarily affect the effectiveness of the EP. An MEP has noted that: “the EP has more visibility and impact in situations and places where the general awareness of the EU architecture is less developed”.
- Inter-institutional cooperation is generally accorded a high priority within the EU and is perceived to be developing in a positive direction. The difficulty for all institutions is, on the one hand, to define within the existing structure areas of common activity while, on the other hand, retaining institutional particularities. In determining the specificity of the EP contribution, three main considerations are of importance:
 - Content of policy lines: The EP addresses sensitive human rights situations and themes and usually articulates its concerns in clear and unambiguous language. This enhances the impact of EP assessments and promotes the Parliament’s visibility worldwide. Resolutions often serve as a useful reference point for Council and Commission representatives when raising human rights concerns with third countries. The EC Human Rights and Democratisation Unit also finds EP resolutions useful in explaining its priorities and recommendations to other EC Directorates.
 - Democratic legitimacy of the parliamentarians: Both Commission and Council acknowledge and welcome the active stance of the EP in the area of human rights. In a 2001 Communication the EC underlines that “the full involvement of the EP in the human rights policies pursued helps to ensure increased democratic legitimacy”. The Council

similarly praises the principled participation of MEPs in different activities, e.g. in UNCHR proceedings. On sensitive issues, like Sudan, demonstration of democratic support by the EP can enhance the Council's weight in negotiations at the UN level. However, MEPs have not been invited to participate, e.g., in the Human Rights Dialogue with China, despite the participation of officials from the Chinese National People's Congress.

- Transparent and open working methods: The EP provides multiple entry points for external input, notably from NGOs. Its working methods offer many opportunities to involve a wide range of actors and formulate new policy options. This function is commended by the other EU institutions, which positively evaluate the unique function of the EP in organising public hearings and debates.
- Election observation missions such as to the West Bank and Gaza Strip illustrate the practical possibilities for common inter-institutional work. Special roles have been identified for MEPs and EP delegations have successfully been integrated into the general framework. Nonetheless, the contrast in the Palestinian example between the joint activities undertaken for the monitoring of the electoral process and the Council's and Commission's unilateral reactions to the political outcome of the elections also illustrates the existing limits of inter-institutional cooperation.
- The increasing importance attributed to inter-institutional coordination highlights three critical areas of cooperation:
 - Inter-institutional dialogue: Enhanced inter-institutional dialogue is of one of main accomplishments of the newly (re-)established EU actors in the area of human rights, i.e. the Personal Representative of the Secretary-General/High Representative on Human Rights in the EU Council and the Sub-Committee on Human Rights in the EP. Despite positive developments, however, there still seem to be difficulties in the process of institutionalizing the exchange between the EP and COHOM as well as between the EP and the Commission. *Ad hoc* means of dialogue tend to take precedence over institutionalized channels of communication. This presents a problem when

interlocutors change. Although the “structured dialogue on human rights” with EC Commissioners was much welcomed by both sides, no Commissioner has come to DROI sessions since the first meeting with Commissioner Patten.

- Rapprochement of agendas: The commitment to human rights promotion has been strengthened in all institutions and despite clashes over specific policy options, both priorities and policy instruments have converged over the last years. The EP has to a certain extent shaped this development. It has promoted general commitments in the area of human rights, the use of conditionality and budgetary instruments, and the focus on specific thematic areas such as human trafficking, conflict diamonds, or cluster ammunitions. Both the Council and the Commission recognise that EP resolutions serve as a barometer of topical issues. Viewed in a broader perspective, however, the dominant trend is for the Parliament and Commission to focus on the agenda set by the Council. This is made easier by the clear identification of priorities and commitments through the EU Guidelines on Human Rights adopted by the Council. The Guidelines serve as hooks for the Parliament to hold the Council and the Commission accountable for their actions. The Sub-Committee on Human Rights has accordingly sought to raise awareness about the Guidelines within the EP and has promoted conformity of its activities with the Guidelines. However, analysis of EP activities referring to the Guidelines demonstrates some ambiguity in how these documents are taken into consideration.
- Devising of joint activities: Besides EOMs, diverse joint activities have been proposed. Salient among these is the proposal that the EU Council’s Annual Report on Human Rights should aim at becoming a genuine inter-institutional report. There are still some ambiguities about how this can be achieved. For some observers, a single report is not realistic because of the excessive politicisation of certain human rights issues and the division of work within the Union. Others, however, welcome the possibility for EP views to be explicitly featured in the report, even when they are critical, as this would demonstrate the

EU's capacity for self-criticism. Another proposal is that the December European Parliament plenary session could become a common focal point for EU's activities in the field of human rights. Actors within the Commission have in a similar spirit suggested that the EP and the EC could better co-ordinate their public diplomacy efforts and seek to jointly devise plans to send representatives to participate in public events, conferences, etc., on human rights related issues. The EC has also recognised the added value of EP delegations and would welcome assistance from the EP in assessing EC-funded projects. Some proposals for common activities have been made but declined by other institutions, such as EP calls to be involved in the EU Human Rights Dialogues with China, and now also Russia.

Recommendations

- All institutions should seek to better capitalise on the specificities of the Commission, the Council and in particular the EP. The overriding aim should be to develop coordinated activities which lead to synergies while maintaining the respective competencies and functions of each institution.
- Uphold and deepen inter-institutional exchanges and dialogue. EP representatives could, e.g., be invited to debriefing sessions of the COHOM but should also make available to COHOM a summary presentation of EP activities before COHOM meetings; DROI should consider renewing a “structured dialogue” with Commissioners; the EP should seek to enhance dialogue not only with the established human rights actors in Council and Commission but also, e.g., with geographical working groups, CIVCOM, and the Political and Security Committee, EC Delegations and EU diplomats, etc.; cooperation between institutions' secretariats should as far as possible be enhanced.
- Fully implement the recently launched EP guidelines for delegations, which mark a welcome step towards better linking EP activities to the work of other EU institutions; EP delegations could also, e.g., do more to inform themselves about and assess the work of the EC, including EIDHR-funded projects.

- Better contextualise the activities (e.g. choice of Sakharov Prize laureates, urgent resolutions) within the broader agenda of the EU.
- Develop joint activities, (e.g. a joint Human Rights Day in Strasbourg involving prominent representatives of all EU institutions, Human Rights Ambassadors, chairs of national parliamentary committees or inter-groups working on human rights, civil society representatives, previous Sakharov Prize laureates, etc.) and explore new areas for joint inter-institutional human rights policies and actions.

3. The Parliament and other international actors

As a key international institution with global impact on human rights issues, the EP can complement and reinforce the activities of other international organisations.

General findings

- The most obvious international interlocutors of the EP are corresponding national and international parliamentary assemblies, yet the EP in fact engages with a wide variety of other actors. The degree of coordination greatly varies according to the actors.
- All international actors in the field of human rights underline the need to create synergies and avoid duplication of efforts.
- EP resolutions are frequently more specific and candid than statements from other international bodies.
- The EP has the necessary tools to contribute to building synergies with and between a wide range of actors. It has successfully done so on the issue of children and armed conflict during its fifth legislature by working to link its activities with UN activities and collaborate with UN bodies (notably UNICEF), NGOs, other EU institutions, and ACP countries via the ACP-EU Joint Parliamentary Assembly. Despite the plethora of different actors, the EP was able to make a recognisable contribution to the elaboration of EU Guidelines on Children and Armed Conflict adopted in 2003 and specific

reference to the EP was made in the UN Secretary General's Report to the UN Security Council on Children and Armed Conflict of 10 November 2003.

Findings pertaining to EP participation in Joint Parliamentary Assemblies:

- Participation in Joint Parliamentary Assemblies (JPAs) is a difficult but potentially rewarding exercise. It needs time and efforts to establish an open and direct relationship that permits for dynamic exchanges and mutual confidence.
- Joint scrutiny of all participating countries – European included – enhances the credibility of monitoring and can help to dispel the perception of double standards and unilateral criticism.
- The ACP-EU JPA has instituted a procedure of reporting human rights violations. In effect the situation both in European and ACP countries is monitored, and a report is prepared by co-rapporteurs. Concrete follow-up procedures are established. The JPA generally focuses on a specific issue over several meetings, which too enhance the quality of its results.
- Joint assemblies have a “socialization effect”, offering an appropriate forum for dialogue. Best practices are exchanged, thus enhancing parliamentary monitoring of the executive bodies. MEPs participating in joint assemblies can furthermore gather information to feed EP activities and find a venue to explain activities currently undertaken by the EP with reference to partner countries. This suggests that EP conduct in joint assemblies should by necessity be coordinated with other EP human rights activities and can help to align EP strategies in the field. However, this potential is not always realised. EP delegations to JPAs often perceive themselves as autonomous bodies that are not restricted by EP views and policies. Positions reached in joint assemblies are by the same token not necessarily regarded as binding on the EP for its future activities – a fact which is noted with some frustration by third country representatives.
- A point of criticism levelled against the EP in the EMPA is that it comes across as patronizing, prepared only to address human rights violations outside its own borders. Mediterranean partners further criticize the fact that the EP on its own accord addresses issues that primarily concern Mediterranean partners.

Findings pertaining to bilateral co-ordination with regional organisations – The example of the Council of Europe (CoE):

- Overall, relations between the EP and the CoE are positive but are broadly limited to exchanges of information and official meetings. Activities actually realised in cooperation, such as some election observation missions or activities undertaken in the context of EU enlargement, show that concrete joint activities are desirable. Representatives of the CoE observe that the EP may be willing to act but is restricted by a lack of formal powers, which in turn may deter MEPs. When the EP demonstrates that it can take the lead on specific issues, it attracts the cooperation of the CoE.
- Official meetings with the CoE Parliamentary Assembly, PACE's Committee on Legal Affairs and Human Rights and the CoE Commissioner on Human Rights are regular. There are many examples of good cooperation and areas of possible joint activities have been defined (including human rights defenders, torture, terrorism and EU accession countries), but more could clearly be done in this regard.
- The CoE is the regional organisation that is the most often cited as a source of information in the EP's work. However, regarding EP calls for action, 16.4% of all resolutions call on regional organisations to act, but only 1.9% of them are directed at the Council of Europe compared to 7.7% directed at the African system and 4.5% directed at the OSCE. It appears that expectations towards other regional organisations vary according to the geographical and thematic mandates of the organisation as well as their ability to deliver expertise and remedies for human rights violations. The only exception to this rule is the Inter-American regional system, which despite being close in character to the European system and efficient in addressing human rights is largely ignored by the EP in its activities concerning human rights in American countries.

Findings pertaining to the EP and the UN human rights protection system:

- Half of all EP human rights resolutions make reference to UN activities. Mention of the activities of the UN serves both as points of reference and as expressions of support for the activities in question.

- Compared to other parliaments, the EP is showing a unique interest in the work of the UN institutions in Geneva. However, significant limitations on its participation derive in part from the fact that the EU itself was/is not a member of CHR/HR Council and in part from the traditional separation of responsibilities that leaves the conduct of international negotiations to the executive branch. There are also political and procedural elements that influence the impact of the EP within the context of UN procedures:
 - Debates: So far EP debates organised in preparation of the UN sessions were predominantly a sequence of interventions without a common focus and occasionally with limited relevance to the CHR. They typically did not address outstanding and disputed points in the deliberations of the EU Council and were mostly an enumeration of concerns of various parliamentary groups or individual members. There was no specific follow-up to the debates. A problem was timing: to be effective, debates must come early enough to influence the Council's positions.
 - EP resolutions on the CHR: There is no distribution system in Geneva and they are mostly unknown within the UN context. Their all-embracing character makes it difficult for addressees to identify EP central concerns and requests. This is blatant for country situations: in 2005, the EP called for CHR resolutions on 31 countries ranging from Burma to India. Under agenda item 9 of CHR 61st session, only four countries were criticized. The question is thus whether EP's long lists were simply meant to "go on record" or to have a real impact in Geneva.
 - Delegations: They enhance EP understanding of UN processes on human rights and help the EP to identify a niche for its contribution. They are also helpful to strengthen common EU positions in on-going discussions.
- The EP seeks to integrate conclusions deriving from UN special procedures as material for its own reflection. DROI has been instrumental in increasing EP support to the mandates of the special procedures. It is, however, found that:

- Willingness to take into consideration and support the UN special procedures does not go beyond occasional meetings and references.
- Activities are not well communicated in either direction; this clearly marks a missed opportunity. Special Rapporteurs express their appreciation of EP resolutions and activities – they are generally identified as sound and bold, although for factual analysis NGO reports tend to be preferred. But if dissemination of relevant information is not better systematised, there is a real risk that Special Rapporteurs will not be adequately informed about EP activities. Conversely, information about special procedures is not forwarded to the EP, thus diminishing the EP's ability to follow-up on or echo mandate holders' concerns and calls.

Recommendations

- Generally uphold and deepen the cooperation channels which have been identified and initiated between the EP and other regional and international organisations active in the field of human rights.
- More specifically, consider whether EP participation in Joint Parliamentary Assemblies could be better integrated into the overall EP human rights agenda and co-ordination of activities.
- Complement enhanced dialogue with PACE with concrete joint activities in the areas already identified in joint meetings; increase the cooperation between the EP and CoE at all levels and ensure better follow-up on meetings.
- Seek to refer more consistently to other regional organisations in EP activities concerning certain regions, notably the Americas.
- Uphold the EP's political engagement vis-à-vis UN human rights bodies, but seek to make a sharpened and more realistic contribution through debates and resolutions: concentrate on a limited number of priority countries and thematic issues. Elaborate a standard distribution system for information on EP activities.
- Enhance the EP's support to UN special procedures (both in resolutions and in the work of EP delegations) as well as the channels of communication between UN mandate holders and the EP.

BEYOND ACTIVISM

The impact of the resolutions and other activities of the European Parliament in the field of human rights outside the European Union

Chapter One

Analytical and methodological considerations

1.1. Terms of reference of the study

The present study is conceived, first and foremost, as an impact study¹, although the EP has requested that it should also incorporate an overview and analysis of relevant activities, general findings on impact, and concrete recommendations. Study specifications stipulate that the research should focus on:

- A general overview of all activities of the European Parliament regarding human rights in third countries;
- An overview and assessment of all EP resolutions adopted during the current and the last legislature regarding human rights in third countries;
- An analysis of media reactions and reactions of government and other state structures in third countries with regard to these Parliament resolutions;
- An analysis of media reactions and reactions of governmental and other state structures in third countries with regard to other activities of Parliament including activities by its political groups;
- A summary of the views of NGOs on the consequences of Parliament's activities;
- Possible conclusions regarding which of Parliament's activities have produced the most significant results;
- Proposals for increasing the impact of certain parliamentary activities.

¹ As is evident both by its title and by the EP Annual Report on Human Rights for 2005, where the EP indicates that it “looks forward to receiving the results of an impact study designed to analyse and evaluate the impact of its activities in the area of human rights” (paragraph 114).

Preliminary methodological steps in preparation of the study have included conceptual and legal analysis to elucidate the EP mandate, procedures and activities in the area of human rights as well as to elaborate the theory of impact assessment, as applicable in the given context, and develop a cluster of dedicated indicators of impact applicable to the relevant EP activities. The outcome of this initial survey is presented below as a general theoretical and methodological introduction to the study. It is furthermore intended that the methodological tools developed may be of relevance to the Parliament for the development of in-house impact assessment procedures that could be undertaken by the EP services on a regular basis.

1.2. EP competencies in the field of human rights

The formal mandate of the European Parliament in the field of human rights constitutes the background information against which the scope of its activities and their expected impact can be identified. It cannot be detached from the overall EU inter-institutional configuration. Although no treaty explicitly grants the EP the power to directly take action in relation to the promotion of human rights in third countries, a number of provisions in the TEU and ECT implicitly offer a basis for EP actions in this area. The overall issue of mandate is complex, with EU human rights activities being cross-policies and cross-pillars. A distinction should be made between competencies based on the Treaty establishing the European Community (ECT, Community powers) and those based on Title V (Common Foreign and Security Policy) and Title VI (Justice and Home Affairs) of the Treaty on European Union (TEU).

1.2.1. Within the framework of the Community

Article 177 (development cooperation), § 2, and article 181a (economic, financial, and technical cooperation with third countries), § 1, of the ECT, which provide that “Community policy” in these areas “shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms”, may be relied on as a basis for external human rights action by European institutions. In its judgment of 3 December 1996, *Portugal v. Council* (Case C-268/94, Rec. I-06177), the European Court of Justice (ECJ) considered that a provision of an agreement, providing that respect for human rights and democratic principles “constitutes an essential element” of this agreement, did not exceed the objective stated in Article 130u(2) (now article 177 § 2) of the Treaty (§ 24 of the judgment). It is currently unclear whether the scope of this article would extend to measures or agreements whose primary objective is human rights

matters, rather than ancillary provision to a more general cooperation development policy.

With respect to countries other than developing countries, and where the Community has no explicit or implicit powers to achieve “in the course of the operation of the common market, one of the objectives of the Community”, article 308 ECT allows the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, to take “appropriate measures”. In practice, recourse to article 308 has been extended to external relations² and is used as a legal basis for international agreements or external financing programmes³, including Community external policies in the field of human rights. However, this article has not been interpreted as extending as far as to allowing the European Community accession to the ECHR: according to the ECJ, in its Opinion 2/94 (28 March 1996, Rec. I-1759, § 27) “no treaty provision confers on the Community institutions any general power to enact rules on human rights or to conclude international conventions in this field”.

The European Parliament has competencies in four areas.

1.2.1.1. Deliberation powers

The ECJ has recognised that the EP enjoys an inherent right “to discuss any question concerning the Communities, to adopt resolutions on such questions and to invite the Governments to act” (Judgment of 10 February 1983, *Luxembourg v. Parliament*, Case 230/81, Rec. 1983, p. 255, § 39). Under its general power of deliberation, the EP can thus debate any aspect within the scope of Community competencies and conclude its debate by issuing a resolution.

² In 1971, the ECJ noted that “Article 235 [now article 308] empowers the Council to take any ‘appropriate measures’ equally in the sphere of external relations” (Judgment of 31 March 1971, *Commission v. Council* (ERTA judgment), Case 22/70, Rec. 1971, p. 263, § 95).

³ Brandtner, Barbara & Rosas, Allan, “Human Rights and the External Relations of the European Community: An Analysis of Doctrine and Practice”, in *European Journal of International Law*, vol. 9, 1998, pp. 468-490.

1.2.1.2. Legislative powers

Assent

The EP must give its assent for certain important decisions. According to article 49 § 1 TEU, Parliament's assent is required for accession of new countries to the EU. While the Council shall in general conclude agreements after consulting the EP, the EP also has to give its formal assent in a number of areas, before an agreement comes into force: agreements referred to in article 310 ECT (association agreements), other agreements establishing a specific institutional framework by organising cooperation procedures, as well as agreements with significant budgetary implications for the Community or agreements entailing amendment of an act adopted under the co-decision procedure (article 300 § 3 ECT). However, the EP has no role in the procedure initiating consultation or partly suspending an agreement: negotiation of agreements with third countries, including the human rights clause, is so far the exclusive remit of the Council. Yet, "the human rights clause, and the human rights situation in general, has been an important element in the procedure of the European Parliament giving its assent to different agreements with third countries"⁴, and the EP recently stressed that it was no longer prepared to give its assent to new international agreements that do not contain a human rights and democracy clause⁵.

Co-decision

The procedure of co-decision (article 251 ECT) is applicable in legislative processes concerning Community measures which achieve the objectives in the field of development cooperation referred to in article 177, with the exception of those relating to the ACP countries and governed by the ACP-EU Convention (article 179 ECT).

The Parliament's powers pertaining to the external relations of the EU are thus rather limited. For instance, the EP is not consulted on the urgent imposition of economic sanctions against a third country (article 301 ECT). In most cases, the procedure of co-decision does not apply: the Council alone legislates, but it has to consult the EP.

⁴ European Parliament, *Report on the human rights and democracy clause in European Union agreements* (2005/2057 (INI)), 23 January 2006, p. 14.

⁵ Many agreements with developed countries and sectoral agreements, such as those on textiles, agriculture and fisheries, still lack this clause. However they do not necessarily require the Parliament's assent.

1.2.1.3. Budgetary powers

The EP has the last word in deciding non-compulsory expenditure – not resulting directly from the Treaty or instruments adopted on the basis of it – and can reject the budget in its entirety. In addition, the EP gives an annual discharge to the Commission in respect of the implementation of the budget for the previous financial year. The European Development Fund is currently the only expenditure that is not subject to authorisation by the European Parliament. The European Commission⁶, as well as the Parliament, has recommended the incorporation of aid to ACP and OCT countries, in the framework of the EDF, into the EU budget (development cooperation section of the general budget of the European Community), in order to increase public control of this aid. But the ECJ, in a judgment of 2 March 1994, *Parliament v. Council* (Case C-316/91, Rec. 1994, p. 625), noted that “the competence of the Community in the field of development aid is not exclusive, so that the Member States are entitled collectively to exercise their competence in that field with a view to bearing the financial assistance to be granted to the ACP States” (§ 34). As the Member States have decided to set up a Fund by mutual agreement, the Court concluded that the EDF expenditure was “not Community expenditure which must be entered in the Community budget” (§ 39 of the judgment).

1.2.1.4. Democratic control

The EP exercises parliamentary accountability functions over the other European institutions, mainly the Commission. Under article 214 ECT, the Parliament approves or rejects the appointment of the President of the Commission. Then, the nomination of the Commission members, designed by the President-elect of the Commission and the Council, is subject to a vote of approval by the EP. The EP President can request the nominees proposed for the various posts of Commissioners “to appear before the appropriate committees according to their prospective fields of responsibility” (Rule 99 § 1, EP Rules of procedure). In the course of its activities, the EP examines several reports submitted by the Commission, can ask the Commission oral and written questions, can hold public hearings or may, at the request of a quarter of its members,

⁶ European Commission, *Communication from the Commission to the Council and the European Parliament: Towards the full integration of cooperation with ACP countries in the EU budget*, COM(2003)0590, 08.10.2003.

set up a temporary committee of inquiry to investigate “alleged contraventions or maladministration in the implementation of Community law” (article 193 ECT). Lastly, the EP has the right to censure the Commission: if a motion of censure on the activities of the Commission (article 201 ECT) is adopted, the Commission shall resign as a whole.

There is also a certain parliamentary supervision over the activities of the Council, although nothing in the Treaty establishing the European Community provides for such a control. MEPs regularly ask the Council questions, the President of the Council attends the EP’s plenary sessions and takes part in important debates, and the EP gives input to every EU summit.

1.2.2. Within the framework of the Common Foreign and Security Policy

According to article 11 of the TEU, one of the objectives of the CFSP is “to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms” (fifth indent).

EP powers have been formalised in article 21 TEU: the EP has the right to be informed and consulted on the main aspects and the basic choices of the CFSP. The EP may put questions and make recommendations to the Council and it holds an annual debate on progress in implementing the CFSP. Legislative powers are limited as there is no co-decision on CFSP issues. Therefore, the EP can mainly act through the budgetary procedure. In particular, expenditure on CFSP operations are financed from the Community budget, except where the operations have military or defence implications or if the Council unanimously decides otherwise (article 28 § 3 TUE). The Inter-Institutional Agreements on budgetary discipline of 6 May 1999 and of 17 May 2006 maintain the distinction between compulsory and non-compulsory expenditure – which had been opposed by the Parliament – but confirm and develop the principle of budgetary co-decision of the EP and the Council. These agreements solve favourably to the EP diverging interpretations over the nature of certain

expenditures. They also establish the involvement of the EP in the adoption of individual CFSP measures, although in the form of information *a posteriori*.

1.2.3. Within the framework of Justice and Home Affairs

Justice and Home Affairs are mainly dealing with fundamental rights within the EU but do have an impact on the outside as well. First, they impact on the way the EU is perceived by external observers – its inability to credibly assess its own human rights record causes prejudice to the quality of its calls and criticisms outside the EU. Second, internal measures in the area of Justice and Home Affairs, notably in the field of asylum and migration or trafficking in human beings, have direct connections with, or impact on, external affairs. The external effects of internal policies are increasingly recognised and assessed by EU institutions. Article 39 TEU defines the role of the EP within the third pillar. It is essentially limited to a consultative role: the Council shall consult the EP before adopting most of the measures under the third pillar, and EP has the right to be regularly informed of discussions within both the Commission and the Council, and to ask questions to the Council, as well as to make recommendations. Finally, the EP is required to hold a yearly debate on the progress made in the areas of the third pillar. The third pillar mainly covers police cooperation, judicial cooperation in criminal matters, fight against organised crime, and fight against trafficking in human beings. It is noted that many aspects of Justice and Home Affairs have been transferred to the first pillar (external borders, asylum policy, immigration and the rights of third country nationals, fight against fraud and cross-border corruption, fight against drug trafficking, customs cooperation) and that co-decision procedure was extended by the Treaty of Nice, thus allocating formal legislative powers to the EP in certain measures relating to asylum and refugees (provided that the Council has already adopted legislation defining the common rules and basic principles governing these issues) and to judicial cooperation in civil matters (with the exception of aspects relating to family law).

1.2.4. Current trends

The complex and relatively recent nature of the competencies on human rights issues within the EU gives rise to multiple interpretations. The EP generally seeks to maximise the use of existing treaty provisions, and insists on communitisation of CFSP in a bid to palliate the fragmentation of EU human rights policy and enhance its consistency. The EP “considers it vital to communitise the CFSP as soon as possible, as the only way of ensuring true consistency in the Union's actions in this field and tackling the current situation where the different institutions, particularly the Council, have to deal with these matters, as regards both geography and subject matter, in some cases within the Community framework and in others at intergovernmental level (CFSP)”⁷. Nonetheless, in the proposed Constitutional Treaty, the competencies of the Parliament were not so much improved in the field of human rights, besides the extension of co-decision to almost all matters covered by the so-called area of Freedom, Security and Justice (Justice and Home Affairs issues now dispatched in first and third pillars)⁸, and a better information on the status and progress of international trade negotiations as well as a formal role in the conclusion of all international trade agreements⁹. In the area of CFSP, the powers of the EP were not improved, despite the creation of an EU Foreign Affairs Minister. It has even been argued that its powers were eroded in this area, with the Minister (also a Commissioner) escaping from appoint-and-recall powers applicable vis-à-vis the Commission, and with the creation of mechanisms for financing certain CFSP initiatives without the participation of the EP¹⁰. Arguably, “freezing of the EP’s powers under Article 21 of TEU contrasts with the evolution of the CFSP during the last decade, which has led to an incremental development of new institutions and mechanisms. The most important of these changes is undoubtedly the creation of the ESDP in 1998, under which the EU has already launched several civil and military

⁷ Resolution on the Communication from the Commission to the Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third countries, adopted on 25 April 2002, paragraph 22.

⁸ Article III-396 thereof.

⁹ Articles III-315 and III-325.

¹⁰ Article III-313(3) of the Constitutional Treaty grants the Council a right of unilateral recourse to the European Community budget without parliamentary veto rights for ‘urgent financing of (CFSP) initiatives’. For Diedrichs, “this provision creates a mechanism separate from EU procedures that could lead to parallel budgetary structures outside parliamentary control” (Diedrichs, 2004, 45). Thym goes one step further and analyse this move as a Council’s “counter-measure” to “democratic blackmailing”, that is, the use of EP budgetary powers to put a foot in the decision-making process of CFSP. He argues that “the Council has recently reinforced extra-budgetary means of financing in an attempt to avoid being taken hostage by Parliament” (Thym, 2006, 115).

missions” (Barbé & Herranz, 2005, introduction). It is sometimes suggested that developments favourable to the EP are to be expected through inter-institutional agreements rather than by treaty developments, as was the case for the use of budgetary powers under the second pillar¹¹.

¹¹ See Rack & Lausegger, 1999, p. 830. As well as Maurer, Andreas, et al. ‘Interinstitutional Agreements in CFSP: Parliamentarisation through the Backdoor?’, in *European Foreign Affairs Review*, 2005, vol. 10, pp. 175-195.

1.3. Human rights activities of the European Parliament

As noted by an observer of the European Parliament, “the fact that the Parliament’s powers in relation to the Union’s external relations, particularly under the common foreign and security policy, are rather limited does not prevent its taking a very active interest in alleged human rights violations in third countries, as if seeking to compensate through the quantity and scope of its activity for its lack of formal clout” (Bradley, 1999, 840). The EP is commonly perceived as “activist” in taking up many human rights issues by using imaginatively the instruments at its disposal. Taxonomically, the notion of “activity” of the EP is diffuse, and all the more the concept of “human rights activities” – which can encompass activities specifically devised for promoting human rights, as well as powers only indirectly linked with human rights but which nevertheless contribute to EP’s impact on human rights.

The range of human rights activities to be taken into account in the present study comprises four main categories:

1. General EP activities with a high potential to reinforce human rights promotion; these include, notably, EP resolutions targeting human rights situations in third countries or generally, but also EP delegations and public hearings;
2. Specialised instruments and activities in the field of human rights, namely the award of the Sakharov Prize and the adoption of the Annual Report on Human Rights in the World and the EU’s policy on the matter;
3. The use of formal powers of the EP, notably budgetary powers and the right to give assent to international agreements, both of which can be mobilised to promote human rights priorities of the EP;
4. Individual actions taken in the name of the EP or in the individual capacity of its members. These include, respectively, the EP President’s actions and individual members’ actions (or joint actions of several MEPs), the latter of which are not EP activities proper but nevertheless contribute significantly to

the EP's impact in the area of human rights (as testified by several MEPs and other interlocutors to the study).

Chapter two of the present study is devoted to a general description and analysis of each of the above types of activities, leading to an assessment of their human rights impact. The analysis of each activity furthermore includes identification of the key factors affecting human rights impact and, where relevant, recommendations for how to enhance such impact. In view of the terms of reference of the study, this accounts for the primary intended findings.

In the course of conducting the study, it has, however, become apparent that it is necessary to complement the analysis of the specific activities, each taken separately, with a set of additional considerations of a more general nature, concerning cross-cutting factors affecting impact as well as the coordination of EP activities with those of other European and international organisations. This will be further elaborated in the final section of the present chapter.

1.4. Human Rights Impact Assessment: analytical considerations and EU trends

Human Rights Impact Assessment is a field in rapid expansion, both at the theoretical and practical levels. Increasing research has been dedicated to the topic, in Europe especially by Scandinavian and Dutch human rights research centres and development cooperation departments which have sought to devise effective human rights-based development strategies. The Humanist Committee on Human Rights (HOM) has been at the forefront of the research, and proposes the following definition:

“Human Rights Impact Assessment is a systematic process to ensure the integration of human rights aspects in decision-making throughout the policy formulation, implementation, checking and adapting process. It includes a continuous system of monitoring and evaluation of the results of policy measures in terms of actual human rights observance. The purpose of HRIA for EU policies with an external effect is twofold. First, it should enhance the effectiveness of foreign policy measures with respect to the improvement of the human rights situation in third countries. Second, it should prevent any negative impact of a particular policy or program with an external effect on the human rights situation (‘do no harm principle’).”¹²

Within this general framework, HRIA encompasses many elements that go beyond the mere evaluation of past activities. All levels of the decision-making process are concerned: overall policies, programs but also concrete measures and projects. HRIA can concern activities explicitly targeting human rights, but the development of impact assessment theories is linked to the necessity of also assessing the impact of other policies (trade for instance) on human rights situation. HRIA typically includes forward-looking aspects that aim at anticipating effects of policies and measures to be engaged, and backward-looking aspects that aim at evaluating if the applied policy did achieve defined goals. HOM researchers identify eight procedural steps in HRIA¹³:

- Assessment of the actual human rights situation

¹² Radstaake, Marike & Bronkhorst, Daan, *Matching practice with principles – Human rights impact assessment: EU opportunities*, Report published by the Humanist Committee on Human Rights (HOM), Utrecht, 2002, p. 5.

¹³ Radstaake, Marike & de Vries, Jan / Humanist Committee on Human Rights, *Reinvigorating human rights in the Barcelona Process: using Human Rights Impact Assessment to enhance mainstreaming of human rights, An introduction to Human Rights Impact Assessment and a search for a more systematic approach to human rights analysis – taking the human rights situation in Morocco as an example*, Paper presented at the 5th Mediterranean Social and Political Research Meeting, Florence and Montecatini Terme, 24-28 March 2004, organised by the Mediterranean Programme of the Robert Schuman Centre for Advanced Studies at the European University Institute, p. 4.

- Political analysis
- Development of a view on the desired situation
- Selection of essential questions
- Formulation of policy options and activities
- Decision on policy activities
- Monitoring
- Evaluation

One of the main features of HRIA research and discussion is the identification of benchmarks and indicators, which are instrumental in breaking down general and long-term objectives into measurable elements. They attract many different views as to their formulation. Broadly speaking, while the general framework and purpose of human rights impact assessment have been identified, the complexity of the factors to be taken into consideration and the variety of methodological obstacles have hindered the development of commonly accepted specific HRIA rules. Andreassen and Sano identify four analytical challenges for HRIA. “These are the matching between the objective, activities and outcome of a project; the identification of type of change that follows from a project; the issue of aggregation of impact and the task of identifying key result indicators.”¹⁴

Theories of impact assessment have stimulated wider attention within EU institutions over the last decade, and their use has been notably advocated by the European Parliament¹⁵. The implementation in the field of human rights is developing in two directions:

- Incorporating impact assessment methodology within the framework of human rights activities and notably within project management cycles. In its fundamental Communication on *The European Union’s Role in Promoting Human Rights and Democratisation in Third Countries* adopted in 2001, the Commission commits to “evaluate the impact of its dialogue and activities, and how far they have achieved their objectives, and provide an assessment to

¹⁴ Andreassen, Bård Anders & Sano, Hans-Otto, *What’s the Goal? What’s the Purpose? Observations on Human Rights Impact Assessment*, Research Notes 02/2004, Norwegian Centre for Human Rights, Oslo, 2004, pp. 6-7.

¹⁵ *Report on the report from the Commission on the implementation of measures intended to promote observance of human rights and democratic principles (for 1995) (COM(96)0672 – 0672 – C4 – 0095/97)* (Rapporteur Renzo Imbeni), adopted on 19 December 1997.

the European Parliament and Member States”, and “to develop a methodology of human rights impact assessments for cooperation projects and programmes to monitor and enhance the impact of individual projects and programmes on human rights. This will be done in consultation with other donors, and taking into account the Commission’s experience in gender and environmental impact assessment. This assessment will take economic, cultural and social rights into account”¹⁶.

- Incorporating human rights dimension within general impact assessments carried out for EU policies and regulations. The Commission started to focus on impact assessment following the Göteborg and Laeken European Councils, respectively of June 2001 and December 2001. The Councils paved the way to the introduction of impact assessment in EU policy and law making by stressing the importance of considering the effects of policy proposals in their economic, social and environmental dimensions, and simplifying the regulatory environment.

Taking a lead in the field, the Commission has elaborated the concept of impact assessment and a corresponding methodology in three basic documents: the *Communication on Impact Assessment* of 5 June 2002¹⁷, the Staff Working paper *Impact Assessment: Next Steps, In support of competitiveness and sustainable development* of 21 October 2004¹⁸ and the revised impact assessment guidelines of 15 June 2005¹⁹. Impact assessment has meanwhile become part of the EU law-making process. Inter-institutional developments show that the EU is committed to impact assessment especially when drafting legislation. In December 2003 the Commission, the Council and the European Parliament concluded an Inter-institutional Agreement on better law-making²⁰ with the view to improving the quality of legislation. In this

¹⁶ European Commission, *Communication from the Commission to the Council and the European Parliament: The European Union’s Role in Promoting Human Rights and Democratisation in Third Countries*, COM(2001)252, 8 May 2001, Annex 2, p. 26.

¹⁷ COM(2002)276, 5 June 2002.

¹⁸ SEC(2004)1377, 21 October 2004

¹⁹ SEC(2005)791, 15 June 2005. The guidelines replace the 2002 “Impact Assessment in the Commission – Guidelines”, and “A Handbook for Impact Assessment in the Commission – how to do Impact Assessment”. These have to be seen in light with Communication to the Commission from Mrs. Schreyer in agreement with Mr. Kinnock and the President, According to action 16 of the Action Plan for Reform, *Focus on results: Strengthening evaluation of Commission activities*, SEC (2000)1051, 26 July 2000.

²⁰ European Parliament, Council of the European Union, European Commission, *Interinstitutional Agreement on better law-making*, OJ C 321, 31.12.2003, p. 1. It identifies many areas where the three institutions commit to enhance existing practices: better coordination of the legislative process, greater transparency and accessibility, better choice of legislative instruments and legal basis, use of alternative methods of regulation, better

context the systematic use of impact assessment is regarded as key to the enactment and implementation of clear, simple and effective legislation²¹. The way impact assessment is to be carried out is specified in Articles 29 and 30. Article 29 provides that the Commission will continue to implement “the integrated advance impact assessment process of major items of draft legislation, combining in one single evaluation the impact assessment relating *inter alia* to social, economic and environmental aspects”. Article 30 adds that in the case of co-decision procedure the European Parliament and Council may, on the basis of “jointly defined criteria and procedures, have impact assessment carried out prior to the adoption of any substantive amendment, either at first reading or at the conciliation stage”²².

As it generally emerges from its 2002 Communication, the Commission has considered impact assessment as “a tool to improve the quality and coherence of the policy development process” and to foster “an effective and efficient regulatory environment and [...] a more coherent implementation of the European strategy for Sustainable Development”²³. Impact assessment has enabled the Commission to base its decisions on reliable analyses of the potential impact on society of its policies and on a balanced evaluation of the various policy instruments available. In this sense, impact assessment is “an aid to decision making”²⁴: it provides an essential input to the Commission by revealing possible consequences of its policy choices. Impact assessment is carried out for all major initiatives which are listed in the Commission’s Annual Policy Strategy or Work Programme. This covers:

- regulatory proposals;

implementing measures, improvement of quality of legislation, better transposition and application, simplification and reduction of the volume of legislation. Regular debates and meetings are held to follow up on the Agreement. See for instance the debate on “Monitoring the application of Community law (2003-2004) – Better lawmaking 2004: application of the principle of subsidiarity – The implementation, consequences and impact of the internal market legislation in force – Strategy for the simplification of the regulatory environment”, held with the Commission and the Council in plenary sitting on 4 April 2006.

²¹ *Interinstitutional Agreement on better law-making*, Article 25.

²² Inter-institutional impact assessment has been further spelled out in the Dutch Presidency draft on institutional approach to impact analysis (Note du Secrétariat Général au Comité des Représentants Permanents, Doc. 12643/05, 26 September 2005, p. 2). The document provides that the Commission, in carrying out impact assessment of draft legislation, shall comply with the 2002 Communication on the collection and use of expertise from the Commission. The Parliament and the Council, on the other hand, shall take fully into account impact assessment conducted by the Commission when examining its proposals, and realize impact analysis before the adoption of any substantial amendment. In doing so they will have to structure their impact assessment in a way which is consistent with the methodology the Commission has developed since 2002. Co-ordinating work on impact assessments across the three EU Institutions was the subject of a Common Approach to Impact Assessment, agreed by all three institutions in December 2005. This sets out certain 'traffic rules' on how impact assessment should be handled throughout the legislative process.

²³ COM(2002)276, p. 2.

²⁴ *Ibidem*, p. 3.

- other proposals having considerable economic, social and environmental impacts;
- proposals having a major impact on particular groups;
- proposals representing a major change or policy reform.

Importantly, the evaluation of economic, environmental and social effects of the Commission's proposals involves a human rights impact assessment as a matter of standard practice. This requires that for policy options selected "all relevant positive and negative impacts will be examined and reported on with specific emphasis on the environmental, economic and social dimension"²⁵. Social impacts include impacts on human capital, impact on fundamental/human rights, compatibility with Charter of Fundamental Rights of the European Union, changes in employment levels or job quality, changes affecting gender equality, social exclusion and poverty, impacts on health, safety, consumer rights, social capital, security, education, training and culture, as well as distributional implications such as effects on the income of particular sectors, groups of consumers or workers, etc²⁶. Human rights impact assessment, as conceived by the Commission, concludes with a comparison of the policy options and presentation of results summarizing the positive and negative impacts of the options across the social environmental and economic dimensions, and an indication of monitoring and evaluation tools to effectively measure the impact on human rights of EU policies after their initial implementation²⁷.

Impact assessments anticipate internal and external effects, within and outside the EU. The emphasis is on *ex ante* impact assessments. *Ex post* evaluations are closely linked to impact assessments but are not regarded as an integral component of such assessments. The six-step methodology developed by the Commission finishes with provisions on *ex post* evaluations by the establishment of indicators and possible evaluation arrangements but indicates that the realisation of such evaluations is thought of as a separate exercise²⁸.

²⁵ SEC(2004) 1377, p. 9.

²⁶ COM(2002) 276, p. 15.

²⁷ SEC(2005) 791, p. 46

²⁸ For examples of impact assessments, see Commission Staff Working Papers on the EU strategy for Africa, or on the Tenth Anniversary of the Euro-Mediterranean Partnership, SEC(2005)1255, 12 October 2005, and SEC (2005)483, 12 April 2005.

European Commission
Summary of key analytical steps in impact assessment
Impact Assessment Guidelines, 15 June 2005, with 15 March 2006 update
SEC(2005) 791, Annexes p. 3

1. Identify the problem

- Delineate the extent of the problem
- Identify the key players/affected populations
- Establish the causes
- Is the problem in the Union's remit to act?

2. Define the objectives

- Set objectives that correspond with the problem and its root causes
- Establish objectives at a number of levels so as to set out the 'intervention logic'
- Ensure that the objectives are consistent with EU policies and strategies, such as the Lisbon and Sustainable Development Strategies

3. Develop main policy options

- Identify policy options to meet the objectives
- Consider the most appropriate delivery mechanisms (regulatory/non-regulatory approaches)
- Begin to narrow the range through screening for technical and other constraints, and measuring against criteria of effectiveness, efficiency and consistency
- Draw-up a shortlist of potentially valid options for further analysis

4. Analyse their impacts

- Identify (direct and indirect) environmental, economic and social impacts and how they occur
- Identify who is affected (including those outside the EU) and in what way
- Assess the impacts in qualitative, quantitative and monetary terms where possible and appropriate
- Consider the risks and uncertainties in the policy choices, including obstacles to compliance

5. Compare the options

- Weigh-up the positive and negative impacts for each option
- Where feasible, display aggregated and disaggregated results
- Present comparisons between options by area
- Identify, where possible and appropriate, a preferred option

6. Outline policy monitoring and evaluation

- Identify core progress indicators for the key objectives of the possible intervention
- Provide a broad outline of possible monitoring arrangements
- Provide a broad outline of possible evaluation arrangements

One finds, nevertheless, a growing tendency for human rights evaluations to be conducted after policies and legislations have been implemented. The setting up of the Foreign Relations Counsellors Working Party mandated to ascertain the impact of sanctions adopted within the context of Common Foreign and Security Policy (RELEX/Sanctions)²⁹ is symptomatic of this new trend.

²⁹ Council of the European Union, *Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy*, Doc. 15114/05, 2 December 2005,

In practice, there is room for human rights to be better integrated in EU overall impact assessments, and for these impact assessments to be better integrated into the decision-making process. Different actors recognize that they do not extensively take them into consideration, or not at all – i.e. national parliaments from only 15 Member States currently report using the Commission’s impact assessments³⁰. *Ex post* evaluation and monitoring phases (including interim monitoring) could be incorporated into the general framework of impact assessment activities.

HRIA can be regarded as an important instrument for the EP in at least four regards:

- Impact assessments conducted by the Commission can serve as an aid to decision-making for the EP, notably in co-decision areas.
- HRIA can be instrumental to promote a better mainstreaming of human rights concerns in all policy areas. The EP should raise awareness about human rights impact assessment and push for the human rights dimension included in the existing EC impact assessments to be given more consideration³¹.
- Impact assessment is an additional instrument for the EP to hold the Council and the Commission to account for their performance in the field of human rights. It entails an expanded focus not only on obligations of conduct but also obligations of result.
- HRIA can provide a framework and methodological tool for the EP to evaluate consequences of its own autonomous actions in the field of human rights.

paragraph 79. The document further states that “monitoring at EU level should enable a more consistent assessment as to whether the restrictive measures are having the impact they need to be effective. This is crucial where autonomous measures are at issue, since it provides the basis for decisions on the need for improvement of legal texts and, to some extent, for those on the usefulness of maintaining the measures.” (paragraph 80).

³⁰ COSAC Secretariat, *Fourth bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny*, Presented to XXXIV Conference of Community and European Affairs Committees of Parliaments of the European Union, 9-11 October 2005, London, p. 24.

³¹ This is actually the domain in which Maria Radstaake and Daan Bronkhorst (HOM) envision a role for the EP. Their “report recommends that the EP should adopt the principle of applying HRIA to both EU internal and external policies and that it calls on the Council and the Commission to take the appropriate steps towards the development and implementation of such an instrument” (Radstaake & Bronkhorst / HOM, 2002, IX).

1.5. Methodology

Evaluating the impact of EP activities in the field of human rights outside the EU is necessarily an adaptation of human rights impact assessment theories. The following considerations must from the outset be taken into account:

- The focus in the present context is on *ex post* analysis, thus emphasising the observed or inferred impact of activities already completed or in the process of completion. The study does not seek to describe a method for *ex ante* impact assessment of all EP activities. Nevertheless, the study does identify factors of impact which constitute relevant parameters to anticipate or maximize the impact of future activities;
- Human rights impact assessment is a tool developed to feed concrete and precisely identified decision-making processes and best fits specific policies and projects management cycles. It is not intended to evaluate the general impact of types of activities or of the entire range of activities of a given institution, as is the mandate of the present study.
- The research is limited in scope to an assessment of activities of the EP in the field of human rights, while one of the main added values of human rights impact assessment is to anticipate human rights consequences of activities and projects which do not *a priori* concern human rights, but rather other policy areas.

In one sense, therefore, the scope of the present study is broader than usually defined when it comes to human rights impact assessment, but in another sense it is narrower. Even so, human rights impact assessment theories offer solid ground on which to evaluate the Parliament's activities in the area of human rights.

Within the human rights discourse, impact is commonly regarded as the *level of performance* of a State vis-à-vis human rights protection³², or the *degree of fulfilment*

³² Green, Maria, "What We Talk about When We Talk about Indicators: Current Approaches to Human Rights Measurement", in *Human Rights Quarterly*, vol. 23, 2001, pp. 1084-1088.

of human rights³³. Adapted to the present context, impact can thus be defined as *the extent to which the European Parliament's activities and resolutions succeed in improving thematic or country specific human rights situations*. This may include e.g. raising awareness about pressing human rights concerns.

1.5.1. Indicators

The most important conceptual tool to evaluate impact is *indicators*, which function as yardsticks to measure results, successes or failures, of a given actor in the field of human rights. They are pieces of qualitative information that are used in evaluating the extent to which EP activities and resolutions in fact bring about changes in concrete human rights situations. To be useful, indicators need to be identified and adapted in relation to a specific context. They are considered to be of two kinds: *statistical* if they essentially refer to numerical information and *thematic* if they refer to any information relevant to the realization of a given human right³⁴. Human rights indicators should be “progressive” in the sense that they “ought to reflect the centrality of improvement in the enjoyment of human rights”³⁵.

According to this basic approach, a cluster of possible indicators pertaining to EP activities' impact have been defined as a methodological prelude to the present study. Whenever applicable, these indicators were incorporated in questionnaires as well as structured interviews. They are presented in the table below as an initial outcome of the study that is considered to be of potential use also in connection with further possible impact assessments undertaken by the Parliament.

³³ *Report of the Workshop on Indicators to Monitor the Progressive Implementation of the Right to Education*. World University Service-International, Geneva (Versio), 9 May 1999.

³⁴ Green, *supra* note 32, pp. 1077 and 1078-1080. See also *The Human Development Report 1992*, p. 31; United Nations, *Guidelines, Common Country Assessment (CCA)*, 1999, p. 9.

³⁵ Tomasevski Katarina, “Indicators”, in Eide, Asbjørn, Krause, Catarina & Rosas, Allan (eds.), *Economic Social and Cultural Rights. A Text Book*, The Hague, The Netherlands: Kluwer Law International, 2001, p. 54.

Checklist of indicators for the assessment of the impact of EP resolutions and other activities in the field of human rights

Indicators on the situation of the target groups/individuals

- Did the situation of the target groups or individuals change (e.g. liberation, commutation of death penalty to another sentence, etc.)?
- Did the violations stop?

Indicators on the global human rights situation

- Did the human rights situation described in the resolution improve?

Indicators on authorities' reactions

- Did the authorities officially react to the resolution/activity of the EP?
- Did the authorities change their policy or behaviour after the resolution was adopted?
- Did the authorities engage into discussion with the EU on the issues addressed by the resolution or with the groups or individuals concerned by the resolution?
- Did the authorities improve protection of these groups or individuals? Did they offer remedies to stop and compensate the HR violations?

Indicators on NGOs reactions

- How did local NGOs publicly react to the resolution/activity?
- Did local NGOs assess the relevance and helpfulness of the resolution/activity?
- Did they use the resolution/activity to justify or support their claims?
- When mentioned in the resolution, did it change their situation, improve their visibility and/or help them launching new activities?
- How did international NGOs react to the resolution/activity?

Indicators on media coverage and public debate

- Did the different kinds of media (TV, press, radio, internet...) report on the resolution/activity?
- Was the coverage fair and objective? Critical or not?
- Did the resolution/activity raise public awareness and trigger public debate?
- Does the EP record numerous local logs on its website, and notably its human rights pages?

Indicators on the policies and activities of other entities

- Did other international organisations (other EU institutions, but also UN and UN-related bodies, or regional organisations, such as the ASEAN, the African Union, etc.) change their policy or launch new (aid) programmes after the resolution/activity was passed?
- Have other international entities referred to the resolution/activity in order to support their mandate or give strength to their claims (e.g. UN Special Rapporteurs)?

Indicators specific to the Sakharov Prize

- Did the prize enhance the protection of the winner?
- Did it help to improve its situation?
- Did it draw international and/or public attention to the laureate? To the laureate's claims?
- Did it help launching new activities?
- Did the laureate made publications after having received the prize?
- Did the prize generate debate about human rights in the country?
- Did it generate fruitful debate inside the EP itself?
- How useful was the money awarded?

1.5.2. Methodological complications

Certain complicating factors affecting the analysis of the impact were encountered in the course of the study. Besides the absence of legally binding effects of the Parliament's human rights activities vis-à-vis third countries – which rather contextualises the assessment – the main complicating factors are the following:

Scarcity of available data: The Parliament does not systematically record reactions to its resolutions: they arrive at different places, and are sometimes been considered “classified” information that are difficult for the services to obtain/exchange. Nor does it in other ways monitor the effects of resolutions and other human rights activities, except in certain isolated cases such as when individual human rights defenders are named in a resolution. Reactions to resolutions and other human rights activities are often communicated through informal channels of which there is no public record. Also, some data just does not exist, or is similarly scattered in different services, groups, or MEPs' offices: there is no compilation of individual actions, nor information about media coverage of the EP. The fact that pieces of information are first-hand detained by different actors within the EP and not centralised prompted the development of semi-structured interviews as a methodological tool for the study. Despite various calls from EIUC and the parties commissioning the study, (presumably) existing information was also not provided to the researchers, notably background information regarding the inter-parliamentary delegations, information from press services and data on the number and origins of logs on EP internet website (with a focus on its human rights pages), which would constitute a concrete indicator of the reach of the Parliament through this instrument. Previous researchers analysing EP activities noted the same lack of information provided, notably concerning the work of delegations³⁶.

Danger of generalising anecdotal or contextual information: Given the high number of situations that can be affected by EP activities, the need to contextualise the activities of the EP to definite circumstances and timeframe, and the necessary

³⁶ See Herranz, in Barbé et Herranz, 2005, chapter 5. Herranz notes the impossibility to access precise data held by the Secretariat, in contrast with a high number of interviews conducted with MEPs.

subjectivity allowing to assess the fulfilment of certain indicators, it is difficult to generalise rules in terms of impact of each activity. Compiling evidence of impact necessarily entails to take into consideration anecdotal experience and specific examples. Their processing implies sometimes to infer impact rather than to demonstrate it. In view of the difficulty there is in analysing the fulfilment of all indicators for all situations, it is observed that some indicators tend to take precedence on others, and almost act as “proxy indicators” substituting to the difficulty in accessing data for other indicators. This is the case, for example, of third country reactions to EP resolutions, which gain enhanced attention, to the cost of the analysis of real changes in policies.

Elusive impact and broad range of concerns: The definition of impact as EP failure or success in improving thematic or country specific human rights situations is elusive. Time is also an important factor in the sense that impact might not be immediately observable. EP resolutions themselves can be rather broad in nature and concern general situations. Only resolutions targeting very specific situations or named individuals or organisations, and placing specific calls on other actors offer ground for concrete impact measurement. A focus on impact as the EP’s success or failure in having other actors implement or act on its calls on them therefore tends to replace the more emphatic definition of impact. Assessment of fulfilment of concrete calls tends to take precedence over the more elusive impact over general situations. Lastly, the possibility is recognised that in a number of cases the EP might not aim at impacting, but rather at making a political statement for the records.

Difficulty in isolating or imputing impact: In virtually all situations the EP features as one actor among many, and any conclusions about the specific impact of the EP must therefore be made with some inevitable reservations. It should be noted, generally speaking, that it is in no way compromising for the EP that its interventions occur in a context where many other parties are active as well. In fact, it may be taken to be a sign of relevance and prudence that the EP acts in unison and synergy with other leading international human rights organisations. Many of the major human rights concerns in the world today are such that a concerted effort by many parties is necessary in order to ensure a significant impact, and it in fact speaks in favour of the EP that it often plays a noticeable, although not always concretely discernable, role in

such processes. When viewed in this perspective, the problem of isolating impact is neither one of methodology nor of the efficacy of the actions of the EP as such; rather, it is a problem inherent in posing the question of the EP as an isolated and isolable actor in the field of human rights. This may to a certain extent be misguided. The same point can be made even more forcefully with reference to the relation between the EP and the other EU institutions. The imputation of impact is rendered even more subtle when one analyses the possibility of indirect EP impact, generated through the work of other actors called upon by the EP, or shared impact, generated by joint activities undertaken by the EP and other actors together.

Difficulty pertaining to observer effects and analysis capacity: The “observer effect” is a well-documented dynamic in many scientific disciplines referring to changes that the act of observing has on the phenomenon being observed. This may apply to the EP in the sense that information reported on a given issue – especially when it comes to subjective evidence related, e.g., to personal morale boosting effects or political support – may vary considerably depending on the actors researching information. For instance, interviewees might overestimate the EP’s impact in certain areas in a bid to receive political consideration. In this regard it would appear that external actors are in a position to conduct impact assessment with a greater degree of neutrality and reliability of data, yet there are, conversely, certain clear advantages to undertaking impact assessment from within the EP structure itself. Not only does the EP have privileged first hand information about its own activities, which helps both to clarify causal links and retrace imputation possibilities, it is also in a position to add a political dimension to the analysis consistent with the institution’s overall priorities and commitments in the area of human rights³⁷. This gives the Parliament a certain legitimacy in making generalizations out of scattered available data. Overall, however, it is essential that the possibility of in-built biases is taken into account in the evaluation of qualitative data.

³⁷ The idea of political ingredient being necessary to draw general conclusions on impact is confirmed by the EP approach to impact assessment, presented in its *Report on the report from the Commission on the implementation of measures intended to promote observance of human rights and democratic principles (for 1995) (COM(96)0672 – 0672 – C4 – 0095/97)* (Rapporteur Renzo Imbeni), adopted on 19 December 1997. It indicates that “while the evaluation of individual programmes is often a technical matter, an assessment of the overall impact of EU-funded activities in a given country is a political matter. As such it falls within the responsibility of Commission Delegations. [...] External Delegations should be required to prepare each year a brief report identifying whether the situation regarding human rights and democracy in the partner country has improved” (p. 14).

It generally appears that methodological difficulties of the nature outlined above have discouraged academics and experts from engaging in analysis on the issue. While academic works have been produced on EP activities in the area of human rights (and are referred to in the study whenever relevant), almost no scholars or experts have broached an assessment of the Parliament's impact in this area – or they have concluded the mission is impossible. Kieran Bradley, for example, recognises the importance of the issue, while precluding the possibility of having in-depth analysis on it. He argues that though the EP's activity "is both considerable as to its volume and extensive as to its subject matter, the impact of its positions is not always easy, or even possible, to evaluate; while the evidence is necessarily anecdotal, a parliamentary resolution condemning violations of human rights in some far-flung corner of the globe for example, may have effects which bear no discernable relation to the Union's general influence in the region, as if in application of chaos theory to political behaviour" (Bradley, 1999, 839). In response to this rather pessimistic conclusion, it may be argued, however, that human rights impact assessments generally suffer analogous drawbacks, and it is precisely to overcome them that applicable tools and methodologies have been refined in recent years³⁸.

In the present context, the recognition of the above complicating factors and methodological limitations has had two main consequences: it has led to an adaptation of methodology placing added focus on qualitative methods and to a certain redefinition of the focus and scope of the study.

1.5.3. Methodological tools employed

In view of the above considerations, it is necessary to shed light on the impact of EP activities through various means that go beyond the direct application of impact

³⁸ Andreassen & Sano in the outset of their article on human rights impact assessment that "some argue that the time frame horizon of the "object of change" – the prevailing human rights conditions – is so elusive that measurement of impact and result becomes unfeasible and unrealistic. It is also often argued that the use of resources in support of human rights has to tolerate a high degree of risk and potential failure. It is a "risk" activity. In this paper, we argue that even if there are many methodological problems connected to making impact analysis in this field, it is still possible to develop better methods and analytical tools for making inferences about the impact of human rights projects than has been done so far." (Andreassen, Bård Anders & Sano, Hans-Otto, *What's the Goal? What's the Purpose? Observations on Human Rights Impact Assessment*, Research Notes 02/2004, Norwegian Centre for Human Rights, Oslo, 2004, pp. 5-6.)

indicators in a quantitative, statistically significant manner. This includes the application of qualitative social science methodologies. The methodology adopted thus consists of a composite set of analytical tools and methods that varies in accordance to the type of EP activity evaluated³⁹:

- *Conceptual and legal analysis* – is employed to elucidate the EP mandate and procedures in the area of human rights, as well as to elaborate the concept of impact, as applicable in the given context, and develop a cluster of dedicated thematic indicators pointing to those aspects to be examined and taken into account in each assessment of the impact of the EP.
- *Desk survey* – has been used for various aspects of the research, notably the systematic compilation and assessment of the main written activities of the European Parliament. These includes: all human rights resolutions from 1999 to 2006 (as identified by the Human Rights Unit), all questions to Commission and Council in the framework of question time in 2005, the four most recent EP Annual Reports on Human Rights and EP resolutions on the EU's priorities and recommendations for the UN Commission on Human Rights.
- *Targeted interviews and consultations* – 74 persons have participated in semi-structured interviews and consultations (11 by answering a list of questions by e-mail, 4 by telephone and 59 by person-to-person interviews): 13 MEPs, 13 EP secretariat or political groups' staff, 8 representatives of international NGOs, 3 representatives of local NGOs (more information based on questionnaire surveys), 8 Sakharov Prize laureates, 8 representatives of non EU international and regional organizations (CoE, UNHCR, and UN, including 2 UNSG Special Rapporteurs), 10 representatives of the Council, EU Member States and the Commission (including EC Delegation), 9 third country officials (including 5 on-site interviews), 2 others.
- *Questionnaire survey* – has been employed as an ancillary tool to verify the impact of inter-parliamentary delegations (questionnaire sent to Delegations' chairpersons) and the qualitative assessment of local NGOs.
- *Media survey* – was employed primarily to shed light on the EP media policy and visibility with regard to human rights, and focused on the activities of two

³⁹ Methodological considerations are similar to those developed in the social sciences. Added value and shortcomings of almost all methodological tools are well-documented. For a discussion of these methodological tools, applied to the study of external perceptions of the EU, see Chaban, Natalia et al., 'The European Union As Others See It', in *European Foreign Affairs Review*, Summer 2006, vol. 11, n° 2, p. 248.

selected country cases, conducted in the field in the case of Palestine and through desk survey in the case of Cuba.

- *Critical feedback* – although not commonly identified as a scientific methodological tool, critical discussion has been instrumental to the research, given the number, quality and diversity of backgrounds of the different researchers involved. Hypothesis and preliminary findings were proposed and discussed in different circles, including with key representatives of the EP itself. The reactions to EIUC progress report submitted in March 2006 and the exchange of views on summary findings in the EP Sub-Committee on Human Rights on 10 July 2006 form part of this methodological approach and were instrumental in validating the relevance of the paths taken and in counter-analysing provisional conclusions based on findings.

1.5.4. Scope redefinition

In preparing and conducting the present study, members of the research team have repeatedly encountered an ambiguity about whether primarily to view the European Parliament as an independent actor in the field of human rights, or whether rather to view it as an integral component of a broader EU inter-institutional set-up with a primary role aimed at holding the European Commission and EU Council to account for their policies and actions. Several of the methodological complications identified above come back to this fundamental question. A related ambiguity has to do with whether the primary object of analysis should be particular, more or less isolated activities of the Parliament or rather the entire sequence of activities and the broader strategies for human rights promotion that emerge over time.

Some internal and external observers understood these issues as fundamental and objected to the relevance of assessing the impact of EP activities in the field of human rights. This attitude nonetheless contradicts with the general trend within the EP, which has regularly recognised the need for evaluating the impact of its activities, as well as of other institutions' activities in the field of human rights. This tendency for

introspection is not recent⁴⁰ but has gained renewed interest within the Parliament as is attested by the commission of this study as well as by the new focus of the EP Annual Report on Human rights for 2005, or the Sub-Committee on Human Rights' special session on the evaluation of its activities after its first year of existence. The bottom line justifying the assessment of EP activities' impact is the responsibility for assuming the consequences of its actions in order, at least to avoid unintended possible negative impact. In different – limited – cases, revealed by the EP itself but also by international NGOs, EP activities have led to the deterioration of a situation or of an individual having participated in its activities⁴¹.

Since it is not possible to resolve these ambiguities in a simple either-or manner, a dual perspective has been adopted, viewing the Parliament both as autonomous actor in the field of human rights and as a key counterpart to the other EU institutions. Similarly, the study aims both at identifying the immediate effects and potential value added of particular isolated activities and at presenting a qualitative evaluation of the EP's overall human rights strategy and possibilities for maximising its profile and efficiency in this area.

This multifaceted perspective is reflected in the organisation of the study by the presentation of findings in two separate chapters. Whereas chapter two is devoted to the analysis of particular activities and thus predominantly reflects a perception of the Parliament as autonomous actor, chapter three is devoted to the identification of a range of cross-cutting factors that naturally shape the overall human rights agenda of

⁴⁰ Different reports have emphasised the need for impact assessment in the field of human rights. One of the strongest and most articulated one was the *Report on the report from the Commission on the implementation of measures intended to promote observance of human rights and democratic principles (for 1995)* (COM(96)0672 – 0672 – C4 – 0095/97) (Rapporteur Renzo Imbeni), which led to the adoption of a resolution calling “for a thorough impact assessment at political level of human rights activities” and where the EP expressed the belief “that a major evaluation conference could be held annually on the EU’s democratisation programme throughout the world, along the lines of the October 1997 conference on the Phare and Tacis democracy programmes”.

⁴¹ EP Press service relates that Mehdi Zana (Kurdish human rights activist) “was re-arrested in 1994, for having given its views on the situation of the Kurdish people in Turkey two years earlier before the European Parliament’s subcommittee on human rights.” (EP Press service, *Sakharov prize winner Leyla Zana comes to the European Parliament, Background information*, 08 October 2004. Available at: <http://www.europarl.europa.eu/omk/sipade3?PUBREF=-//EP//TEXT+PRESS+BI-20041008-1+0+DOC+XML+V0//EN&LEVEL=2&NAV=S>, last seen 23.05.2006). The Tunisian human rights defender Khemaies Chamari was arrested by Tunisian authorities after returning from a public hearing at the EP (as reported by the FIDH). The resolution on the situation of Mr Yannick Bigah, Chairman of ACAT – Togo adopted on 8 April 2003 deplors “the harassment from the Togolese authorities suffered by several members of ACAT (Action by Christians for the Abolition of Torture) because of the contribution made by that human rights defence organisation at a hearing on that topic organised by the European Parliament”. Delegations can also complicate already tense situations, see pp. 108-109.

the Parliament. Certain cross-cutting factors are seen as internal to the EP itself. Such factors include, e.g., the degree of collegiate support to human rights resolutions and activities, the ability of mobilise expertise in a given area, strategies for dissemination and visibility, strategies for monitoring and follow-up, and mechanisms for the overall coordination of EP human rights activities. Other factors of impact concern the relation between the EP and the other EU institutions. The EP is an integral component of the broader EU inter-institutional configuration and as such exercises an important function in shaping, monitoring and reinforcing general EU human rights policies and actions. This, in effect, accounts for a primary aspect of the Parliament's impact on human rights situations in third countries. The same logic can be extended to the relation between the EP and other international organisations active in the field of human rights at the regional and international level. An important factor underlying the Parliament's human rights impact thus has to do with its ability to coordinate its agenda with that of other main international actors, to support and reinforce their human rights activities, and to situate its own activities in the context of common priorities and agendas. Chapter three thus complements the findings presented in chapter two, on the one hand, by presenting a range of qualitative considerations of importance to the Parliament's planning, organisation and coordination of human rights activities and, on the other hand, by placing central emphasis on the role of the Parliament in relation notably to the Commission and Council of the EU, but also to other international organisations. It should be noted, however, that an element of general qualitative analysis is already included in the findings presented in chapter two in so far as this does not focus exclusively on measurable impact but also presents a broader description and assessment of each type of activity and identifies key factors of impact in relation to each activity.

It is the view of the authors that this dimension of the study, while somewhat exceeding the original terms of reference, is indispensable to any qualified evaluation of the effectiveness of the Parliament's actions in the area of human rights. The expanded scope was anticipated already in the original study outline presented to the EP, and it has been confirmed by preliminary meetings held with the different parties involved in the commission of the study.

Chapter Two

Analysis of relevant activities

2.1. Resolutions as the fundamental activity of the European Parliament

Texts adopted by vote are the most legitimate and authoritative documents of any elected assembly. For the European Parliament, resolutions represent the most significant way of communicating its position on a broad range of subjects, including human rights. The present section contains, first, an overview and statistical analysis of resolutions of the European Parliament concerning the human rights situation in third countries from 1999 to 2006 and, secondly, an analysis of the impact of such resolutions.

2.1.1. Overview of the resolutions: statistical analysis

This section contains statistical analysis of 378 EP resolutions concerning human rights pertaining to the period 1999 to 2006, as listed in the Annual Report on Human Rights 2005. It documents different features of the EP resolutions, such as the legal basis of the resolutions, the general, geographical and thematic focus of the resolutions, their ability to refer to individual cases, the references made and sources of information used, and the actors called upon by EP resolutions.

2.1.1.1. Legal basis

Resolutions relating to the promotion of human rights outside the European Union are generally based on one of the following rules of the EP Rules of procedure:

- Rule 91 (resolutions on breaches of human rights)
- Rule 103 (resolutions following Statements by the Commission, Council and European Council)
- Rule 108 (resolutions following questions for oral answer with debate)
- Rule 115 (resolutions following debates on cases of breaches of human rights, democracy and the rule of law, also known as “urgent resolutions”).

Concerning the use of each of these procedures, it is observed that:

Rule 115 (urgent resolutions) remains the most used legal basis to address human rights issues. The scope and the use of this rule have nevertheless greatly evolved over time. First, the number of urgent resolutions (successively Rule 47, Rule 50 and now Rule 115 of EP Rules of Procedure) has been drastically reduced over the years. It passed from 155 in 1995 to 36 in 2005. This trend is based on a voluntary limitation of the use of the urgent resolutions. The previous maximum of five propositions for urgent resolutions per plenary was reduced to three by decision of the EP in June 2002. Second, although urgent resolutions were frequently used to address violations of human rights, they were not in the past limited to these issues but rather more widely concerned with “debates on topical and urgent subjects of major importance”. In the abovementioned 2002 decision, the EP decided to limit urgent resolutions to urgent cases of breach of human rights, democracy and the rule of law.

Rule 103 has been gaining in importance over the recent years and is now more widely used than Rule 115. 49 resolutions have been adopted in 2005 (36 under Rule 115), but since Rule 103 does not deal exclusively with human rights issues, nor with external affairs issues only, it is arguable that it is still secondary in importance to Rule 115 with regard to the subject matter of the present study. Rule 103 is nonetheless widely used to address human rights issues, and certain highly important resolutions on human rights are based on this procedure (e.g., the resolutions on EU priorities and recommendations for the sessions of the UN Commission on Human

Rights in Geneva).

Slightly fewer resolutions are adopted under **Rule 108** of the Rules of procedures (24 in 2005). Furthermore, they do not deal exclusively with human rights; the proportion of resolutions dealing with human rights under Rule 108 is not as high as under Rule 103. The procedure nevertheless provides an important tool for articulating human rights concerns.

Rule 91 is the only rule which has been specifically dedicated to human rights violations outside the European Union. It has been used only three times during the period under scrutiny.

Non-legislative resolutions referring to **Rule 45** (resolutions on own-initiative reports) are also very important for the expression of human rights concerns, but are treated separately by the EP and are not included in the list of “human rights resolutions” annexed to the EP Annual Report on Human Rights for 2005.

2.1.1.2. Focus and content of resolutions

The content of a human rights resolution can be described in three main ways: according to its geographical focus, thematic focus, or focus on the situation of named individuals or organisations. The prevailing characteristic of a given resolution is usually explicit in its title. Obviously, however, many resolutions will display a combination of the three main characteristics. A thematic resolution, e.g., will often at the same time concern a specific country or region, and all resolutions on individual cases at the same time have a certain thematic focus. The latter class, furthermore, is typically geographically delimited as well.

General focus

In order to better capture the existing complexity, the categorisation adopted in the present context departs from the one in common use whereby the category “country resolutions” comprises all resolutions that have an explicit geographical focus and the category “thematic resolutions” comprises only resolutions that concern a human rights theme but have no geographical remit. This division has the unfortunate effect

of not rendering visible how many resolutions in fact do address specific thematic and/or individual issues. It is therefore proposed to categorise the resolutions as follows:

Type of resolution	Number of resolutions	Share of total number of resolutions
Country or regional focus only	186	49.2%
Thematic and country specific	120	31.8%
Thematic focus only	36	9.5%
Individual focus (thematic, geographic and individual focus)	36	9.5%
Total	378	100%

Geographical focus

With the exception of purely thematic resolutions, all EP resolutions under present consideration focus on the human rights situation in one or several named countries (90.5%). Resolutions are distributed according to main regions as follows:

Regions	Number of resolutions	Share of total number of resolutions
Asia/Oceania	98	28.7%
US, Canada, Australia	9	2.6%
Latin America and Caribbean	29	8.5%
Africa (south of Sahara)	87	25.4%
Mediterranean, Middle East and Gulf	42	12.3%
Eastern Europe and Central Asia	53	15.5%
Candidate countries and Balkans	24	7%
Total	342	100%

Thematic focus

In total, 192 resolutions – a little more than half of the resolutions under consideration – have a thematic focus. Analysis of the thematic focus of resolutions is a valuable indication of EP priorities. Other resolutions, not focussing on a particular theme, encompass several issues and offer a sort of “panaché” of themes. Nevertheless, the same priorities generally apply to them. The most prevalent themes are: humanitarian issues, regional conflicts, women and children, elections, and political repression. It is noted that some themes comprise a variety of sub-themes like, for instance, the humanitarian issues which comprise issues like refugees, war prisoners, weapons, and emergencies. The following overall breakdown is observed:

Thematic focus	Number of resolutions	Share of total number of resolutions
Humanitarian issues	24	12.5%
Regional conflicts (regarding a region and/or a ethnic/national minority)	22	11.5%
Women and Children	20	10.4%
Elections	18	9.4%
Political repression (incl. political prisoners)	16	8.3%
Impunity and ICC	13	6.8%
Freedom of expression / Media	12	6.2%
Freedom of religion	12	6.2%
Death Penalty	10	5.2%
NGOs and Human Rights Defenders	8	4.1%
International/regional HR mechanisms	6	3.1%
Other	31	16.2%
Total	192	100%

Individual cases

Individual cases in the EP resolutions are identified as cases involving explicit reference to named persons or organisations/groups who are victims of human rights violations. 36 resolutions out of 378 focus specifically on individual cases. Many others, however, also make some mention of the situation of individuals.

Resolutions	Number of resolutions	Share of total number of resolutions
With no reference to any individual case	190	50.3%
With at least one reference to an individual case	188	49.7%
Total	378	100%

The breakdown of the individual cases by identity is as follows:

Identity	Number of references in different resolutions	Share of total number of cases
Political leaders and political parties/groups	324	41.2%
Journalists and media	134	17%
Religious/Believers and specific religious organisations	95	12.1%
NGOs and Human Rights defenders	74	9.4%
Women condemned under Shariah rules	22	2.8%
Unionists and unions	13	1.7%
Lawyers and Judges	11	1.4%
Students, universities and students organisations	11	1.4%
Businessmen	8	1%
Minorities representatives/unions	7	0.9%
Farmers	7	0.9%
Persons in death row / facing death penalty	5	0.6%
Writers	5	0.6%
Others (cricketers, mathematician, guides, interpreters...) or undefined	70	9%
Total	786	100%

EU citizens represent 6.1% of all individual cases.

Number and frequency of references to individual cases

It is possible to analyse the frequency of the references to the same cases by comparing the total number of individual cases raised in all resolutions with the total number of references to these cases in the resolutions (thus taking into account repetitions of a case in different resolutions).

Identity	Total number of references in different resolutions	Total number of cases	Average frequency of repetition of same cases in different resolutions
Human rights defenders/NGOs	74	59	1.25
Politicians and political groups	324	212	1.59
Journalists and media	134	110	1.22
Other	254	209	1.21
Total	786	590	1.33

Sources of information – background references in the resolutions

All resolutions include reference to facts and specific situations. The present section aims at analysing how the EP contextualises its resolutions on human rights and the way in which it refers to other entities as a source of background information for its own understanding of the facts and relevant recommendations. Besides facts, the most commonly invoked background information is the activities previously undertaken by the Council, the Commission, and especially the EP itself.

References to	Number of resolutions	Share of total resolutions
Previous EP activities/positions	330	87.3%
Previous activities/positions of any of the other two EU institutions	220	58.2%
Previous activities/positions of the Council only	199	52.7%
Previous activities/positions of the Commission only	90	23.8%
Reference to the EU Charter on Fundamental Rights	16	4.2%

Other references:

References to	Number of resolutions	Share of total resolutions
At least one main human rights international treaties/UN Declarations	138	36.5%
At least one body of the United Nations	191	50.5%
At least one regional organisation other than the EU	126	33.3%
Local or international NGOs as sources of information	55	14.6%
At least one other country than the main countries targeted	82	21.7%

Main calls for action in the resolution

Resolutions may reaffirm a key principle or belief, express a point, or express an official condemnation. Virtually all resolutions combine the above objectives. But there is no resolution which does not, in addition, call on and urge an entity to act.

The present table identifies the main entities called upon and the frequency of the respective calls.

Calls upon	Number of resolutions	Share of total resolutions
Any EU institutions	337	89.2%
Authorities of third countries	334	88.4%
Specific UN bodies	80	21.2%
Other main political actors of the countries	78	20.6%
Other countries	76	20.1%
Any regional organisations	62	16.4%
International Community in general	43	11.4%

A more comprehensive presentation of the statistical analysis is annexed to the present report (Annex II), with additional statistical evidence and full details and description of the methodology used. Analytical conclusions and further details based on statistical evidence are incorporated, whenever relevant, in the text of the study.

2.1.2. Analysis of the impact of resolutions

In analysing the impact of the resolutions of the European Parliament in the area of human rights, the main complicating factors presented in chapter one must be taken into account. They concern possible shortcomings of available data and impact assessment tools, but also the absence of legally binding effect, in spite of the resolutions being the most authoritative documents emanating from the Chamber.

The various different internal procedures and policy areas aside, what the Parliament itself identifies as resolutions relating directly or indirectly to human rights violations in the world all share the same characteristic in terms of legal effect: they are non-legislative resolutions, devoid of any enforcement or formal implementation mechanisms. They are not binding on third states, corporations, or international organisations and similarly do not legally bind the Commission and Council of the European Union – nor even the Parliament itself, as recalled by the Court of First Instance of the Community in the *Krikorian* case.

Court of First Instance

G. Krikorian and others v European Parliament, Council and Commission Judgement of 17 December 2003 in Case T-346/03

Two individuals and an association aiming at the recognition of the Armenian genocide challenged the non-legal binding character of resolution adopted by the EP on 18 June 1987, on a political solution to the Armenian question. This resolution is seen as fundamental in expressing EP stance making Turkey's accession to the EU conditional upon Turkey's recognition of the Armenian genocide. A position which has been reiterated on many occasions in different parliamentary activities (reports, resolutions, delegations). This case gave the Court (and subsequently the European Court of Justice, who upheld the judgement in appeal, ECJ C-18/04P, judgement of the 2 November 2004) the opportunity to confirm the legal nature of EP resolutions, in the field of human rights promotion outside the EU.

The plaintiffs argued that the resolution had binding legal force in respect of the European Community, and that the fact that the European Council did not make Turkey's accession conditional on the prior acknowledgement of the genocide at its meeting in Helsinki on 10 and 11 December 1999 when it recognised Turkey's status as a candidate for accession to the EU, gave rise to the non-contractual liability of the Community. They also claimed that the conduct of the EP, the Council and the Commission was contrary to the 1987 resolution, since they did not object to the European Council's decision and considered Turkey as a candidate for accession to the EU (Turkey enjoying an EU accession partnership). The specificity of this resolution, they claimed, was that it had to be put in perspective with the requirement of the assent of the EP for any accession (art. 49 TEU). "It follows that the 1987 resolution gave rise to a legitimate expectation [on the part of the applicants] that the Parliament would, if necessary, exercise its right of veto on the Republic of Turkey's accession or, more generally that that institution would object to examination of the Republic of Turkey's candidature as the latter had not acknowledged the genocide in question" (paragraph 8 of the Order).

The Court first found that an act of the European Council cannot give rise to non-contractual liability of the Community, for it is not an institution of the Community. Second, on the conduct of the institutions, it declared that:

- “19. It suffices to point out that the 1987 is a document containing declarations of a purely political nature, which may be amended by the Parliament at any time. It cannot have binding legal consequences for its author nor, *a fortiori*, for the other defendant institutions.
20. That conclusion suffices to dispose of the argument that the 1987 resolution could have given rise to a legitimate expectation, on the part of the applicants, that the institutions would comply with that resolution.”

This order confirms the political nature of virtually all EP resolutions in the field of human rights promotion and external relations. Only resolutions granting EP assent to the accession of a new State to the EU produce legally binding effects. It is therefore up to the EP to assure consistency between its resolutions. Interestingly, the impact of EP resolutions here will be dependent on Turkey's behaviour, but also on EP's position in the future, and more precisely of its approval or refusal to Turkey's accession. It underlines the importance of political consistency over time: EP cannot expect other actors to take its stances seriously if it itself does not feel bound by them, and therefore creates concomitant expectations from third States that it might change its positions in the future. This is risky, especially in the field of human rights where genuine progresses in a country might only occur on a mid-term or long-term basis. This case, as a whole, also illustrates the high level of expectations springing from the EP activities in the field of human rights.

Taken together, the complicating factors limit the possibility of determining the specific impact of EP resolutions in exact, verifiable terms. Given the wording of

resolutions as well as the way in which they are perceived by the main parties involved, it is, however, clear that they are *intended* to have an impact and are in various ways *presumed* to accomplish this aim. Intentions about impact are explicitly expressed in resolutions calling upon third parties to act or demanding cessation of specific human rights violations, and are often implicit in the articulation of general concerns related to human rights.

A widespread assumption encountered in the course of the study, both when consulting with MEPs and with third parties observing the human rights activities of the European Parliament, is that the *resolutions of the EP do make a difference and do have an impact on various target groups and situations, even if this impact is not always immediately visible and verifiable in objective terms*. This general assumption will be examined in the following at three basic levels:

1. the impact of EP resolutions on parties identified as possible human rights violators, notably third countries targeted in resolutions;
2. the impact of EP resolutions on individuals and organisations named in resolutions;
3. the impact on causes and on the international human rights regime.

2.1.2.1. Impact on human rights violators – Reactions from third countries

A key finding of the study is that EP resolutions on human rights situations in third countries regularly elicit strong reactions by representatives of the countries in question, either after or in advance of the adoption of a given resolution. This is confirmed by anecdotal evidence presented by virtually all MEPs and EP officials interviewed in conjunction with the present study (who report that they are regularly contacted by third country representatives in relation to resolutions on human rights), by sporadic examples of written responses to resolutions, and by direct testimony provided by representatives of countries named in resolutions.

Assumption: if there's a reaction, there's an impact

Some observers treat reactions to resolutions on human rights as directly constituting an impact. The very fact of soliciting a reaction is, in other words, seen to at least partially satisfy the intentions of the EP in passing a given resolution. As articulated by a representative of the civil society, “the importance of resolutions is measured by the level of reactions of the Embassy. Impact can be assessed by the reactions of targeted countries’ representatives, since the aim of the resolution is to send a signal to the authorities, not to change the situation.” Others, however, view human rights impact as a further consequence to be inferred from the reactions observed. What such reactions, and the considerable efforts invested by third countries in preventing or influencing the adoption of critical resolutions, demonstrate is that the resolutions touch the right spots and that it matters to a State if the EP voices a concern. Ideally, this may in turn lead to changes in the conduct and attitudes of the country named. While there is limited evidence of lasting changes in policy and conduct as a consequence EP resolutions on human rights, a variety of observations indicate that EP resolutions generally have a positive impact on the attitude and demeanour of the countries named. The following four elements are found.

1. Whereas countries named in resolutions regularly challenge specific allegations, and perhaps also the legitimacy of a given resolution in view of the process by which it has been adopted, countries almost never react by contesting the legitimacy of the European Parliament as such in voicing concerns about human rights issues in third countries or of a global nature. Of the numerous cases examined, the only case where the EP’s underlying legitimacy has been clearly contested is that of Taiwan, where the People’s Republic of China has consistently replied that this is a matter of internal concern.

2. Similarly, reactions to EP resolutions almost never question the principles of universal human rights, nor the validity of the international commitments made in this area by the countries named. It is by the same token noteworthy that the argument of cultural relativism is no longer salient. While some Asian officials might note that there is an “Asian manner” to advocate human rights or raise concerns in public, this is rarely, if ever, invoked to reject the idea of universal human rights or the active stance adopted by the EP in this area. In its reply to the resolution passed on 11 April

2002 on EU strategy towards China⁴², the Foreign Affairs Committee of China's National People's Congress thus concluded by acknowledging that "as other countries, China is not satisfactory in some areas with respect to human rights. But China will continue to devote itself to the ever-increasing level of human rights for the Chinese people".

3. Official reactions to EP resolutions are occasionally publicised by the State itself and in this way contribute to raising a debate. Some academics go as far as saying that EP "declarations are helpful to spur public discourse on democracy and human rights that follows its own dynamics and thus goes beyond governmental control. The loss of control over political discourse is a severe setback for any authoritative regime, forcing it gradually into the defensive" (Jünemann, 2004, 3).

4. Strong reactions to EP resolutions may have the unintended effect of generating enhanced visibility for the EP's activities in the area of human rights. A member of EP services thus noted that when the Vatican has strongly reacted to resolutions on sexual orientation or reproductive health issues, media coverage and reporting on EP activities in general has been considerably higher.

Reactions post-resolutions

As human rights resolutions typically reflect negatively on the countries named, it is understandable that reactions by third country officials to resolutions already adopted tend to be defensive in nature. Standard responses and counter-arguments are the following⁴³.

1. "Facts are incorrect." The most common reaction from third countries is to present

⁴² European Parliament resolution on the Commission communication to the Council and the European Parliament on a EU Strategy towards China: Implementation of the 1998 Communication and future steps for a more effective EU policy (COM(2001) 265 – C5-0098/2001 – 2001/2045(COS)).

⁴³ Based on interviews with third country representatives and on the analysis of the public press releases or official communications to the EP President and services following the adoption of resolutions. See notably: Statement issued by the Foreign Affairs Committee of China of the National People's Congress, 18 April 2002, in answer to the resolution passed on April 11 2002, available at <http://www.china.org.cn/english/2002/Apr/31149.htm> (last seen 02.06.2006); Egyptian People's Assembly, *Comment on European Parliament resolution on "Violence against Sudanese Refugees" adopted on 19 January 2006*, sent to EP President Borrell on 26 January 2006; Russian Minister of Foreign Affairs Information and Press Department, *Commentary following EP's adoption of a Resolution on the violations of Human Rights and Democracy in the Republic of Mari El* (12 May 2005).

their own evaluation of the facts and provide the EP with elements that might have been overlooked or not known at the time of the adoption of the resolution. Some reactions go further, arguing that MEPs have been misled by their sources of information in a bid by the regime's opponents and critics to instrumentalise the voice of the EP (such information sources as the Dalai Lama or the local NGO *Ligue Tunisienne des Droits de l'Homme* have been singled out, by Chinese and Tunisian authorities respectively, as non-reliable and politicised sources of information). Other countries suggest that MEPs might not be well acquainted to the realities of their country, claim that is generally accompanied with a plea to send delegations and to raise awareness about the country's situation. The strongest reactions argue that resolutions are purposely misleading and aim at diverting attention from real problems faced by the countries' nationals within the EU.

2. "It is difficult to have perfect human rights record." Enhancing human right records might require time, and the performance should be seen in light of the country's specificities. Countries that have experienced crisis argue that security and order remain, at least temporarily, their main preoccupations. Pleas for respect for human rights standards might be balanced with acknowledgement of past efforts, and recognition of specific difficulties faced by some countries. The discrepancy between tough language and failure to recognise advancements is seen as an injustice. It is sometimes reported that the recognition by the EP of positive reforms strengthens reformist politicians in their actions.

3. This is also linked with the critique of double standards. More bluntly, some officials speak of "hypocrisy". The critique is twofold. There can be double standards in the way one country is criticised compared to other countries, including neighbours with similar profiles. Secondly, many countries official reactions note a discrepancy between the Parliament's critique of human rights outside and inside the EU, especially when it comes to the treatment of the countries' own nationals within EU member states (for instance, the Russian minority in the Baltic States, or the Arab and Muslim Communities in several European countries).

4. Resolutions are referred to as counter-productive, and as having negative impact for "victims" (whose needs are others than the ones described in resolutions), for the

overall situation in the country (the resolution gives credit to critics of the regime, opponents, separatists, etc. and is a factor of destabilisation and insecurity), and for the development of good relations between the country and the European Union.

5. Some countries raise doubts about the impact of criticism, when positive measures and constructive propositions might be needed. An official compared the moral posture and blunt critics done by MEPs with the more positive actions undertaken by the European Commission, citing, notably, training of journalists on human rights issues. In comparison, a general feeling is that EP stances are arrogant and judging on peoples.

6. During interviews, some representatives questioned EP insistence on human rights as a separate issue of consideration. Why is it that human rights are separate from other political considerations, like security, trade? This can lead to unbalanced statements, in contradiction with other areas of action of the Parliament itself, and certainly of the EU. This is, it is claimed, harmful for EP human rights policy itself.

7. The legitimacy of the procedure leading to the adoption of a resolution can be called into question. Countries express disappointment when they have not been given the chance to present their views and provide the MEPs with information before the adoption of the resolution. This is typically the case for urgent resolutions, which are adopted over a very short timeframe. The failure of MEPs to attend debate and vote leading to the adoption of urgent resolutions (usually less than 90 MEPs present out of 732) is referred to as a problem of credibility and legitimacy. An interesting argument raised by Egyptian People's Assembly concerns the discrepancy between the safeguards taken by the Parliament to secure thorough and precise information on the allegations of CIA transportation and illegal detentions on EU territory, and the velocity in endorsing news or NGOs report to condemn a whole country (in this case, Egypt, over the issue of Sudanese refugees, on 19 January 2006).

Whereas some such claims and arguments merely serve as bad faith attempts to deflect attention from human rights violations, it must be recognised that others in fact hold some merit and could meaningfully be taken up in a bilateral dialogue about human rights. This will be further addressed below.

Reactions ante-adoption

The period leading up to the adoption of a resolution is often a moment of intense exchange between the third country representatives and MEPs. It marks a window of opportunity for genuine dialogue about the issues at hand, and third countries may be inclined to demonstrate a spirit of compromise and good will in a bid to curb the resolution process; occasionally this even leads to concrete action on the part of government authorities.

In the case of human rights violations in Cambodia, for instance, a first resolution was adopted on 1 December 2005 (which also dealt with Vietnam and Laos). A new resolution exclusively on political repression in Cambodia was tabled (and adopted) for 19 January 2006. On 17 January, four Cambodians (two human rights defenders, the director of a radio and the President of the *Cambodian Independent Teacher's Association*) charged with defamation over criticism of the Cambodian Prime Minister were released on bail, with immediate notice, on the 18 January, to the EP, *via* the Cambodian mission to the European Union. All these cases were to be mentioned in the resolution, and three of them were already included in the December resolution. The resolution adopted on 19 January welcomed their release but deplored the fact that the charges had not been dropped. The timely occurrence of the two events reveals an enhanced cause-effect relationship. The Cambodian Embassy in Brussels also issued a press release (dated 18 January 2006 but sent the day after the resolution) to “clarify” the individual cases taken up in the resolutions. It concluded that “Cambodia has acted within the rule of law. [...] The court did not arrest, nor detain journalists, activists, teachers, and/or politicians, but only took legal action against those who had violated laws. Similarly, there were no ‘symptomatic of a general deterioration’ in respect for civil liberties in Cambodia, nor there was a crackdown on political dissidents. Simply, the defamation and accusation [...] are neither human rights nor a matter of freedom of expression.”

In other cases, dialogue has provided an occasion to correct some information held by the Parliament. This was the case for the resolution on “Violence against Sudanese Refugees” adopted on 19 January 2006, where not only Egypt, but also the UN High

Commission for Refugees were to be criticised. Dialogue with the UNHCR has nonetheless allowed the EP to correct some facts that had been misinterpreted and to take into account information provided by the UNHCR. At the end the resolution was critical but less, and most importantly the result of a political opinion based on correct facts, so acceptable.

Several factors can be identified that make the pre-adoption moment fruitful:

1. The process leading to the resolution leaves time for dialogue and potentially for the government to make some concessions (time which is hardly nonexistent in the case of urgent resolutions).

2. The government is at least informed if not invited to present its assessment of the situation. This dialogue can be opened during previous activities of the Parliament. A good example of this practice can be drawn from the Committee on Development's treatment of Human Rights issues⁴⁴. Generally, third countries officials and civil society are both invited to give their assessment of the situation in an exchange of views, when the text of a draft resolution for further adoption is presented and discussed. This leaves time for the government to show good willingness and provide information.

3. Identifying contact persons is also important. It is not easy for third countries. Arguably, dialogue and concessions are facilitated in relation with reports and their subsequent resolutions (under Rule 45 of the Rules of procedure) where a rapporteur is nominated, or when a committee has the lead for a resolution. It also prevents a more diffuse third country's lobby on all MEPs, aiming at exploiting ideological and political heterogeneity of the Parliament to prevent the adoption or water down the text of a resolution.

Mutadis mutandis, this period before the resolution, favourable to obtain assurances,

⁴⁴ For instance the Committee organised a human rights slot on Chad, on 20 February 2006, with Chad Justice Minister and the president of the *Association Tchadienne pour la promotion et la défense des Droits de l'Homme*, debating with MEPs and EC representatives, and with the text of draft resolution submitted to the members in advance, alongside with a dossier. The resolution, under Rule 91 of EP Rules of procedure, was adopted at the next part-session on 15 March 2006.

is not dissimilar to the debate leading to EP assent to an agreement with a third country, or, in relation with the Commission and the Council, the period leading to the acceptance of the Commission and of the budgets. The possibility for the EP not to adopt a resolution confers a power that it can use. The drawback is that it does not guarantee that assurances will be lived up to after the adoption. However, there is case for trying to maximise the existing potential.

Countries' reactions as impact – limits

Revisiting the premise that reactions to resolutions are a direct indicator of impact, it is found that this premise has some merit but also limits.

1. The assumption that reactions *eo ipso* constitute impact can lead to a tendency to seek to provoke reactions through the use of strong, antagonistic language, even if this in a broader perspective may be found to be counterproductive. Accordingly, third countries' concerns may be dismissed as lobby or reactivity when in fact they can be utilised as means of dialogue. The EP should identify ways of letting the States concerned rectify facts if indeed they are wrong, or through other means verify the facts that are taken up in a resolution.

2. Linked to this is the idea that reactions are sometimes justified, and that counter-arguments to resolutions should not in every case immediately be dismissed. Impact should not be measured by the strength of reactions alone, but also by constructive actions and dialogue that could be based on them.

3. Occasional cases persist where human rights resolutions are ignored by the country named, yet this scenario is relatively rare, and when it does occur, there may be supplementary evidence that the implicated authorities are nevertheless aware of and attentive to the text of the resolution⁴⁵.

4. Overall reactions to EP resolutions by third countries testify to significant human rights impact, yet such impact may in many cases be short lasted and easily offset by

⁴⁵ See analysis of Cuban authorities' reaction to EP resolution, Box 18, pp. 236-237.

other factors. It might be the case that reactions do not in fact demonstrate genuine interest in EP activities. One interviewee thus suggested that reactions from his/her country did not necessarily mean that the highest authorities cared about the resolutions, or even were properly informed about them. An EP Staff member similarly suggested that some countries pretend to care, but in reality do not, as long as the resolution is not referred to in a more authoritative document (EU Council's conclusions, for instance).

5. There is a focus on the reactions from States, while human rights violations can also be committed by other actors and calls for actions placed upon other entities. Statistical evidence shows that EP calls on many other entities, like regional organisations, other States, financial institutions, corporations, etc. In some cases, like calls on rebel warring forces in specific countries, the “reactivity indicator” does not apply.

6. There is currently too limited reflection on how to best make use of the period of time leading to the adoption of the resolution. The EP could take the lead in ante-resolution contacts and exchanges with third country representatives, and seize this as a moment of opportunity for obtaining concessions. Identifying appropriate interlocutors within the EP can help.

7. While generally the above stated premise acts as a valid indicator of impact, there is no centralised collection of third country reactions within the EP. Reactions can reach the Presidency, the services, the political groups, individual MEPs, etc. One practical recommendation to evaluate the Parliament's impact in the future is to collect and better identify reactions from third countries, and use them for the development of EP policy vis-à-vis the countries.

2.1.2.2. Impact on individuals and groups mentioned

About half of the resolutions mention at least on specific individual or group, including 10% which are specifically dedicated to one or several individual cases. One advantage of having individuals mentioned is that it sets a clear indicator of successful impact. Only in a few cases have the situations of persons mentioned in

resolutions changed according to the EP calls. Nonetheless, impact on persons mentioned is genuine.

To name individuals or specific organisations in resolutions is widely presumed to have the effect of conferring international protection to the persons/organisations named. While there is limited evidence of the situation of persons/organisations thus named substantially improving, findings do indicate that their situation is likely not to deteriorate and that the resolutions thus may be seen to confer a certain measure of protection. This is obviously all the more likely when resolutions are combined with other activities aimed at a similar effect such as, e.g., concerns raised by an EP delegation.

The naming of specific human rights defenders in EP resolutions furthermore has an important function of morale boosting. This is particularly important in cases which have not been taken up by other international organisations, or have not been referred to in recent international activities. As a representative of an international NGO states, “there is nothing worse for a human rights victim or a human rights defender than ignorance or oblivion”.

By extension, it can be considered that the same morale support or boosting is conferred to the victims of denounced large-scale human rights violations, although they might not be referred by names. All resolutions can be perceived as a signal, a message of support to the victims. This supposes knowledge of the resolutions, which, as will be argued in section 3.1.3, does not go without problems, pertaining both to external factors (media coverage, internet access...) and to factors internal to the EP (dissemination, translation...). Morale support to victims is difficult to assess, although some NGOs give hints to evaluate the subjective reception of resolutions. Human Rights Watch notes for instance that “Habré’s victims and their supporters cheered the European Parliament’s decision”⁴⁶ after the adoption of a resolution on Chad on 15 March 2006. Morale boosting is sometimes presented as the only possible effect of resolutions: e.g. a Taiwanese commentator says that resolutions on Taiwan do not change anything, but have “a consolation effect” (Lan, 2004, 136).

⁴⁶ Human Rights Watch, Press release, *Chad: European Parliament Calls for Trial of Hissène Habré*, 16 March 2006.

Naming individuals or groups can also be seen as granting support to their underlying cause and claims, if they have any. This perception attracts more and more credit with the insistence on support to human rights defenders. The majority of human rights victims named in EP resolutions are not, in fact, themselves human rights defenders (they may be prisoners, journalists subjected to censorship, dissidents or political opponents, victims of religious repression, etc.), yet their cause will typically be taken up by human rights promoters and may in this regard assume symbolic significance. It is therefore relevant to analyse impact on causes separately.

2.1.2.3. Impact on causes and on norms and standards

External actors benefit from the EP resolutions without necessarily being mentioned by the EP. They can take up resolutions in support of their claims. This seems comforted by the fact that many different external actors call on the Parliament to adopt resolutions in the field of human rights. This is generally welcome by the EP. The way in which human rights defenders and other parties seek to mobilise the EP to adopt resolutions on certain situations is, like reactions, treated as an indicator of presumed impact. It is found that the external expertise brought to bear on the EP in this way, usually in the form of lobby activities, can serve to identify human rights issues in need of attention and can help to focus activities for greater impact.

Support to international and local human rights NGOs

Resolutions are generally welcome both by NGOs and human rights defenders (generally local NGOs working together with international Brussels-based NGOs). Some go as far as identifying concrete changes brought by a resolution. In a letter signed by several organisations representing the “officials of the Lao Diaspora” (convened by the *Lao Movement for Human Rights*) and sent to the EP on 20 February 2006, it is underlined that “only a month after the adoption of [the EP on human rights situation in Cambodia, Laos and Vietnam on 1 December 2005], the Lao regime decided to bring the date of the legislative elections a year forward, undoubtedly concerned about the firm decision of the European Parliament, and seeking to forestall any initiative from the opposition”. The letter also warns that

unless these elections are indeed organised in a free and fair fashion, promoting political plurality, this amounts to a transparent and cosmetic move to reinforce a “democratic image” of Laos to the eyes of the international community.

NGOs are reinforced in their activities in different ways. First, the importance of the NGO can be reinforced if its calls have been taken up by the Parliament, and if the EP mentions the NGO in its resolutions⁴⁷. Second, EP resolutions can be used in support of further claims from NGOs. It is usually the case when:

- one wants to emphasise the reality of European people’s state of mind in comparison with stances adopted by the European states. This the case for international NGOs in Geneva that use the annual EP resolution on EU’s priorities for the UN Commission on Human Rights as an argument to lobby the EU States. Another example: the EP resolution on Middle East of 10 April 2002 has been referred to by international and local NGOs for its bold call on the Commission and Council to suspend the EU-Israel Euro-Mediterranean Association Agreement, in the wake of Israel’s failure “to comply with the latest UN resolutions and make a positive response to the current efforts undertaken by the EU to achieve a peaceful solution to the conflict”⁴⁸.
- there are no other similar calls, or at least no recent similar calls. The Lao Movement for Human Rights, for instance, calls the EP resolution adopted on 1 December 2005 “a historical decision”, an “unprecedented snub for the Lao totalitarian leaders”.

However, if there is a similar statement by the EU Council or any other mechanisms with better enforcement mechanisms, references will be made to the latter. Many international NGOs acknowledged the fact that they do not generally refer to the EP if there have other options⁴⁹. It is an illusion to believe that the same NGOs which lobby the parliament for a resolution on a certain situation will use the resolution for their own work – at best, they will pass on the information to their local NGOs contacts. As

⁴⁷ 14.55% of the total number of resolutions on human rights issues explicitly mention international as well as, to a lesser extent, local NGOs as sources of information, but it is hypothesized that many more resolutions rely on such information. Some NGOs measure in press releases their own impact drawing on their ability to pass on concerns to the EP.

⁴⁸ This resolution was notably taken up by the Euro-Mediterranean Human Rights Network, the International Federation of Human Rights Leagues and OMCT in an Open letter regarding the EU-Israel Association Council on 17-18 November 2003, or by NGO “European Jews for a Just Peace” (Open Letter to the European Commission and the Council of Ministers, 15 May 2003, calling them “to enforce the resolution adopted by the EP”).

⁴⁹ See analysis on references to EP work in Human Rights Watch World Reports, in Box 10, pp. 183-184, and analysis of references of EP activities on Cuba by main international NGOs, in Box 18, pp. 236-237.

far as local NGOs are concerned, EP resolutions are occasionally noticed and invoked and thus serve a clearly valuable function, but there is no doubt that this could be further enhanced through better communication and dissemination.

Support to causes of other entities

Not only NGOs call on the Parliament to adopt human rights resolutions. Other entities, even States, might do. It was the case of Peru's President Alejandro Toledo, who sent a letter to EP President Borrell on 19 December 2005, asking him whether the EP to pass on an urgent resolution during the January 2006 plenary session, supporting the extradition of former president Alberto Fujimori. This would come as an additional political support to the resolution passed on the same issue by the Latin-American Parliament (Parlatino) on 25 November 2005. As a result, the EP adopted an urgent resolution on the Fujimori case on 19 January 2006.

While other international organisations active in the field of human rights pay less systematic attention to the resolutions of the EP, it is found that the resolutions are indeed appreciated and utilised when they come to the attention of the appropriate actors, but conversely that some such actors (e.g. UN Special Rapporteurs) see additional scope for priorities established in the own work to be taken up and reinforced through EP resolutions. In some situations an EP resolution can directly reinforce the claims of other international organisations, as was the case when the UNHCR was accorded increased visibility and room for manoeuvre after the EP adopted a resolution on Lampedusa on 14 April 2005.

Resolutions can have the unexpected fate of being used in support of causes promoted by countries described as human rights violators by the EP itself. For instance, during the 61st session UN Commission on Human Rights in 2005, the US, supported by the EU, tabled a proposal of resolution asking Cuba to accept the visit of an UNSR on its soil. Cuban government presented a counterproposal asking USA to invite UNSR in Guantanamo, mimicking the US proposal in the form, but taking up parts of EP resolution on Guantanamo adopted on 28 October 2004. This led to the only reference to an EP resolution in four years declarations by Cuban Minister of Foreign Affairs, on 21 April 2005, where it deplored the fact that the EU was unable to live up to the

EP resolution during the session on the UNCHR⁵⁰.

Spurring debate and laying the foundations for public support to human rights causes

Resolutions help creating a context where claims or actions in favour of human rights might have more resonance. It is linked with the resolution's ability to spur public debate, in third countries but also within the European Union. It is observed, however, that amongst all the activities undertaken by the Parliament in the field of human rights, resolutions are the least covered in third countries media. There are exceptions to this, like in Taiwan⁵¹.

Within Europe, timing and controversy will be two important factors affecting the reporting on a resolution. For instance, the urgent resolution adopted on 16 February 2006 calling on the US to close Guantanamo camp received some media coverage (including main UK TV news on 16 February 2006). This came at the exact moment when UN report had been released (15 February 2006) and led to controversy (even its endorsement by UN secretary general Kofi Annan being uncertain). Coverage is the precondition for support from European peoples. The relatively uncovered resolutions on Cuba, for instance, do not have any effect on European tourism to the island.

Reinforcement and affirmation of international law

As the world's largest elected international body and paramount symbol of a democratic European Union, the EP carries considerable international prestige. Its resolutions are primarily of a declaratory nature and present an official and legitimate record of the opinion and concerns of the people(s) of Europe. This may have an important indirect effect and is found to generate impact both through the work of other actors and by reinforcing a regime of international normativity centred around

⁵⁰ Available in Spanish at: http://www.cubaminrex.cu/Declaraciones/2005/DC_210405.htm (last seen 03.06.2006).

⁵¹ See the evidence provided by Yuchun Lan (2004, 136-137): "In striking contrast to [the] indifference by the Europeans, almost every EP resolution relating to Taiwan found echoes in the Taiwanese media who are very susceptible to any message of international support". "The support of the EP for Taiwan's bid for the WHO became the cover story of one major daily of the island, the China Times, and was discussed as the top political event for other important media the United Daily and the Liberty Times. The newly adopted resolution on the enhanced partnership between Europe and Asia was also largely commented upon for two days by the China Times, 6-7 September 2002."

human rights and the rule of law.

The EP's role in affirming and consolidating international law and establishing a distinct European profile is one of its most important functions in relation to human rights. A prominent case illustrating this function is the EP's persistent campaign over many years against impunity for perpetrators of gross human rights violations and its related unwavering support for the creation of the International Criminal Court, the adoption of the Rome Statute and the development of its capacity.

Effects of EP resolutions on international law and EU constitutional law The example of the International Criminal Court

The European Parliament has devoted part of its human rights activity to the fight against impunity and the International Criminal Court, whose establishment has marked the beginning of a new era of human rights protection and enforcement. In order to analyse the impact of such an important aspect of the Parliament's practice, this study has carried out an examination of a cluster of EP resolutions and the section in the Annual Report on Human in the World 2004 devoted to the ICC.

Reference and support to international standards have the effect to reinforce the latter, even if calls are in a strict sense placed upon EU institutions only. Resolutions can indeed be divided up into two main categories:

- Resolutions and recommendations focusing on the effective functioning of the ICC;
- Resolutions focusing on the EU policy on the ICC.

Resolutions and recommendations belonging to the first category have urged the Council and Commission to promote universal ratification of the Rome Statute, indicated the EU bodies measures to be undertaken when the ICC and its effective functioning come "under attack", urged the Council and the Commission to do whatever possible to convince the U.S. to change its attitude towards the ICC, and highlighted serious situations to be possibly brought under the jurisdiction of the Court. Those falling within the second category have paved the way to an effective EU Common policy on the ICC, and, importantly, highlighted a monitoring role of the Parliament vis-à-vis its implementation.

The EP resolutions on the ICC highlight a special "impact" on international law.

First, the resolutions, being declarative of international law, reaffirm the legal strength of international norms and principles. A clear example in this regard is given by the resolution on the ICC adopted on 26 September 2002 in which the EP recalls the obligations under the 1969 Vienna Convention on the Law of Treaties and states that they apply in the case of the Rome Statute. Other resolutions make reference to the principle of individual responsibility for international crimes, re-affirm that jurisdictional immunity does not shield individuals that have allegedly committed such crimes, and reiterate that international crimes trigger universal jurisdiction.

Second, EP resolutions often sanction current trends in international law. In this sense, they constitute valuable interpretative tools to establish the legal significance of certain developments and define their scope. Emblematic in this regard are those resolutions viewing the establishment of the ICC as a breakthrough and step forward in the field of international law, or those in which the EP clearly states that prosecutions under the jurisdiction of *ad hoc* tribunals, the establishment of the ICC and the Pinochet case are major "antidotes" to tackle and remedy human rights abuses.

Third, EP resolutions on the ICC also confirm the body's ability of advocating for the progressive development of international law. The 1949 Geneva Conventions are a case in point. The Parliament has called for an update of the humanitarian law treaties in order to respond to the new challenges posed by international terrorism.

Finally, some resolutions drawing a link between EU membership and ratification of the Rome Statute should be mentioned. In these documents the EP has affirmed that countries wishing to join the EU should ratify the ICC statute as it is a "shared feature of the legal culture of the EU", part of the Copenhagen criteria, and "an essential component of the democratic model and value of the EU".

These resolutions may be then viewed as reflecting a sort of "emerging *opinio iuris*", expressing the belief that the ratification of the Rome statute should form part of the EU Constitutional law.

Whereas this general function is particularly salient in connection with thematic resolutions, it is in fact implicit in all resolutions on human rights and may be seen to be a continued priority of the EP. The Temporary Committee on the Alleged Use of European Countries by the CIA for the Transport and Illegal Detention of Prisoners, as well as a series of resolutions on Guantanamo, most recently the urgent resolution adopted on 16 February 2006 calling on the US to close Guantanamo camp, mark the Parliament's most prominent current efforts in defending the integrity of international human rights law and protection.

Summary of recommendations on resolutions

- The EP should maintain and strengthen its role as the voice of Europe in consolidating and reaffirming international law, as a supporter of victims of human rights violations, and as source of inspiration and support for all institutions and groups working towards a greater impact of human rights norms.
- The EP should better capitalise on third country reactions: with additional resources, the EP services should seek to systematically record third country reactions to resolutions. Such a record can be helpful in the drafting of subsequent resolutions, in the development of other human rights activities in the same area, and in the general articulation of EP policy vis-à-vis the countries in question.
- The potential for constructive dialogue during the phase prior to the adoption of a country-specific resolution can be still better exploited by the EP. Factors to enhance the process of constructive engagement include ensuring adequate time for liaison, better identifying contact persons within the EP, enabling third country representatives to raise their concerns and provide information before the adoption of a resolution.

2.2. General EP activities with a potential to reinforce human rights promotion

2.2.1. Delegations

2.2.1.1. Nature, objectives, powers

The European Parliament's delegations are characterised by their number and their variety. All MEPs participate in the work of permanent delegations, most participate in *ad hoc* delegations, and many organise their own delegations, individually or with a group of MEPs. Political groups also organise delegations to third countries. While this study concentrates on the first two categories, it must be acknowledged that from the outside – and also sometimes for insiders – differences are not easily perceived.

Permanent delegations are the most structured type of delegations. They hold meetings in Brussels and can develop long term strategies by accumulating contacts and expertise. Nevertheless, their range of activities and contacts is rather diverse. They can:

- interact with other regional or inter-parliamentary assemblies (like NATO, Parlatino, etc.);
- participate in joint assemblies (ACP-EU Joint Parliamentary Assembly, Euro-Mediterranean Parliamentary Assembly);
- institutionalise parliamentary relations within the context of partnership or co-operation agreements, or within the framework of association agreements;
- develop direct bilateral parliamentary relations (the genuine “inter-parliamentary delegations”).

Delegations can be dedicated to a region, a limited number of countries, or one country, and the number of members of each delegation varies considerably

(membership of permanent delegations varies from 19 to 65, and up to 139 for the delegation to the ACP-EU JPA). *Ad hoc* delegations are becoming increasingly numerous and have widely divergent objectives and characteristics.

The intentions of the EP, via its delegations, can be quite variable. In practice, they all come down to liaising: delegations represent the EP and are mandated to act in its name. This means communicating a message, receiving messages and information, interacting and fostering mutual understanding. As the EP represents itself as having a special vocation in the field of human rights and democratisation, the general assessment is that delegations bear a responsibility for diffusing the EP's message in this area, are expected to live up to this vocation and lead by example.

The main means available to delegations are exchange, interaction, presence and persuasion. The sending of delegations is in essence similar to the traditional diplomatic prerogatives of States and reinforces the idea of an emerging "parliamentary diplomacy".

2.2.1.2. Impact – common features

Findings show that different types of EP delegations share common features of relevance to their impact:

1. Delegations are accepted in almost all countries. While individual MEPs acting in their own capacity might not always be granted access to a country (such as has been the case in Cuba for instance), EP delegations are now welcomed by virtually all third countries. In their reactions to resolutions third countries increasingly invite MEPs to come to the country to observe "the reality of the situation".

2. Delegations are almost invariably perceived by external actors as representing not only the European Parliament, but the European Union as a whole (if not the "international community"). The subtleties of the EU inter-institutional configuration have limited local relevance and MEPs are seen just as any foreign officials, with the added value of having been elected by the European people. Moreover, the priority

given to interaction with local parliamentarians is to a large extent being superseded⁵². EP delegations in fact meet with a wide range of actors, including representatives of the executive (sometimes at the highest level), civil society, international organisations in the field, etc. All EU institutions recognise the fact that EP delegations represent more than the EP itself, and increasingly cooperate in the field. EP delegations are thus generally welcomed and assisted by the EC Delegations in third countries and it is now a standard point on the EP delegations' agenda that the MEPs shall receive a briefing at the EC Delegation. This helps to coordinate activities, but it does not preclude the importance of pre-mission preparation. It is also reported that co-operation with EU embassies in third countries is generally good, but could improve, notably to ensure better exchange of information.

3. Delegations send a strong political signal in support of the causes of the organisations visited and, by the same token, naturally raise expectations that claims will be echoed and follow-up action taken. Any delegation, whether it comes from the EP or other institutions, is seen by locals as a politically important moment which raises hopes, notably that MEPs will sustain their support once back in Brussels. This pattern of high expectations – and the correlative disappointment that sometimes accompanies it – is observed not only in local organisations but is also signalled by offices of international organisations operative in the field such as, for instance, the UNHCR. Calls on the delegation to forward a message can also come from the people. Thus, a petition of 75.000 signatures was handed to the members of the EP *ad hoc* delegation in Kosovo from 30 May to 3 June 2000, calling for the release of Albanian Kosovars held in Serbian prisons – a fact that was subsequently related in EP resolution on the fundamental rights in Serbia and Kosovo adopted on 15 June 2000.

Generally, while delegations may not be the unique cause for change in a given human rights situation (other activities of the Parliament and the interventions of other international and local actors may play an important role as well), it is found that

⁵² Yet the importance of the inter-parliamentary nature of the delegations is recalled regularly. See for instance the Commission's Communication on EU's role in promoting human rights and democratization in third countries, 2001, p. 6: "Through its inter-parliamentary delegations, [the EP] has a significant role to play in encouraging the development of democratic parliamentary in third countries." See also the introductory comments of EP President Borrell during the public hearing on "the EP as a promoter of parliamentary democracy", held on 26 May 2005.

concrete results are often likely to be achieved during delegations' visits⁵³. This is a clear indication of impact. It is also interesting to note that delegations to third countries, during their visits and through their contacts, are well positioned to participate in the assessment of EP/EU activities in the area of human rights. This is a potential which could be better exploited.

However, the impact of EP delegations on human rights situations is limited to a relatively short period. It may happen, for instance, that political prisoners are released during a visit of MEPs and then rearrested (as was the case of the Egyptian opposition leader Ayman Noor, who was released in March 2005 during MEPs visit, but without this putting an end to the ongoing prosecution, nor precluding Noor's later sentencing to five year jail term). Similarly, impact tends to some extent to be linked to the places visited by a given delegation. It is generally observed that *ad hoc* delegations seem to have higher impact than permanent delegations, but one could argue that impact is also easier to assess in relation to *ad hoc* delegations, given the fact that they often have very specific objectives, e.g. to attend a trial.

While possibilities for delegations to achieve concrete human rights impact are significant, so is the risk of unintended negative consequences. This risk is higher than in connection with most other human rights activities of the EP. "Faux pas diplomatiques" are frequently evoked and can compromise the image of the Parliament (if not the Union as a whole) as well as fragile improvements in a given situation. An example occurred in December 2005 when a delegation of MEPs was sent to attend and monitor the trial of the Turkish author Orhan Pamuk. After having reportedly criticised the Turkish military in public, an MEP was charged by nationalist lawyers under article 301 of the Turkish Criminal Code (which makes insulting the army punishable) – the same article under which Orhan Pamuk was prosecuted. While charges were dropped in January 2006, against the MEP and against Pamuk, both the Turkish Minister of Justice and members of opposition parties reiterated condemnation of the MEP's statements after the event and requested an apology. A second example is to be found in the declarations made in Cambodia

⁵³ For instance, the visit of MEPs to Lampedusa (Italy) coincided with an improvement of the High Commission for Refugees' access to the refugee camps. While MEPs presence was certainly not negligible, it is nonetheless difficult to ascertain that their visit prompted this positive development.

by the head of the EP delegation sent in April 2006 to assess the human rights situation. In a press conference held during the visit (on 24 April), the MEP reportedly praised the country on its situation and questioned the objectivity of the report of UNSG Special Representative on human rights in Cambodia Yash Ghai, issued in January 2006. The declarations were widely covered in Cambodian newspapers such as *The Cambodian Daily*, *Koh Santepheap*, or *Cambodge Soir*. Press coverage reported that the “EU Delegation praised Cambodian freedom and democracy”, and stated that “Cambodia’s level of press freedom is acceptable”⁵⁴. The comments caused discomfort within the Parliament, with some groups dissociating themselves from the declarations⁵⁵, underlying that the MEP declarations did not reflect EP positions, within the human rights activists and opposition parties in Cambodia, and within international community present in Cambodia, especially UN bodies. Reports from UN workers present in the country⁵⁶ demonstrate that the episode attracted much visibility and that EP image suffered. They felt that the EP was undermining the work of the UN, but recognised that the declarations did not reflect correctly EP views as a whole – they thus perceived the EP rather as a body unable to clearly convey its message and suffering from individual behaviours and excessive politicisation. While the head of the EP delegation wrote to the local press to correct his statements, the latter were nonetheless used by Cambodian authorities to discredit or at least relativize the severe conclusions of the UN Report⁵⁷.

Overall delegations offer large potential for human rights impact but are a difficult instrument to manoeuvre for the Parliament as a whole, as they involve considerable scope for personalised preferences and initiatives on the part of individual members.

2.2.1.3. Specific factors affecting the impact of the delegations

The degree to which delegations are successful in achieving impact in the area of human rights is variable and depends, *inter alia*, on the following factors.

⁵⁴ See for instance ‘EU Delegate praises Cambodia freedom, democracy’, in *Development Weekly*, issue 90, 1-7 May 2006.

⁵⁵ See for instance ALDE group press release, *European Liberal Democrat leader criticises imprudent remarks made by EP delegation member on Cambodia*, 28 April 2006.

⁵⁶ Contacts taken with UNESCO field workers in Cambodia.

⁵⁷ See for instance ‘The Visit of European Parliamentary Delegation to Cambodia’, in *Information Bulletin* issued by the Royal Embassy of Cambodia in Washington D.C., May 2006, vol. 5.

Inclusion and mainstreaming of human rights concerns within the agenda of the delegations

The expression of human rights concerns is not a standard point on the agenda of all delegations. There are two possible reasons for this. First, delegation members might not be fully aware of their possible contribution to the Parliament's promotion of human rights and democratisation and the importance of their activities in this regard. It does not appear that delegations to developed countries (Japan, Australia, New Zealand, Switzerland, Iceland, Norway, Canada, etc.) believe that human rights are part of their mandate – a reality confirmed by the chairperson of one of these delegations, who explained there are no human rights violations to discuss with its partner country. However, no country is immune to human rights concerns. In relation with Australia and New Zealand, for example, the question of Aborigines is not addressed (despite the fact that the EU is traditionally a fervent promoter of the rights of the minorities in its external relations), nor is death penalty in Japan, where as of March 2006 79 prisoners were on death row with no prospect of a moratorium on executions. This is another area where the EP and EU usually take a strong stand that, however, is not reinforced by the relevant EP delegations⁵⁸. Delegations, moreover, can potentially create important avenues to coalition building on human rights issues with like-minded countries or, if this is impossible, to exchange views on diverging concepts of human rights. For this reason too human rights should in any case feature as a point on delegations' agenda.

In countries where delegations are prepared to address human rights issues, it is found that this is not done in a consistent fashion but rather depends on factors such as other interests at stake, knowledge and preparation, context, and personal willingness to take up human rights concerns. Political motives can also play a role. Much depends on the nature of the relations between the EU and the countries in question. For the delegations to accession countries, e.g. Bulgaria, it is observed that human rights

⁵⁸ This is not a problem of the delegation alone. There are no recent resolutions touching upon the issue of death penalty in Japan, whereas another European assembly, the Parliamentary Assembly of the Council of Europe, is considering taking action against Japan, as well as the USA, and withdraw their observer status due to their non-fulfilment of the legal requirement that States that are members or observers of the Council of Europe must respect a ban on the death penalty. For more information, see the website of the NGO *Hands Off Cain*: <http://www.handsoffcain.org/bancadati/schedastato.php?idcontinente=23&nome=japan> (last visited 25 May 2006).

feature among the main concerns raised by the delegation when interacting with counterparts, in some cases even before economic considerations⁵⁹.

Composition of delegations

The composition of a delegation is an important aspect of its success. The participation of MEPs in delegation activities is influenced by ideological and personal interests, and especially by national interests. There are thus more Spaniards in the delegations to Latin America, and MEPs from the new EU Member States look more towards Eastern European countries, etc.⁶⁰ This is above all a strength on which the EP can capitalise. For instance, the contribution of Eastern European MEPs has been widely recognised as crucial to the development of positive relations with the Ukraine.

There is, however, a persistent risk of politicisation and the persistence of a national politics prism in the work of delegations has been singled out by many contributors to this study as a factor impeding impact. With a skewed national composition, delegations risk being perceived as partial in some regards, i.e. not fully representative of European views. The frequent addition of out-of-quota MEPs, who voluntarily join in delegations, can also be a sign of politicisation. This is in particular likely when delegations deal with issues directly affecting EU States or with immigration issues in neighbouring countries. The cases of the delegations to Libya and Lampedusa have frequently been cited by NGOs as good initiatives, but also to some extent as missed opportunities due to their composition. The former delegation has thus been criticised for the participating MEPs inability to adopt a common line of action and message to the Libyan authorities, and the latter was to some extent hijacked by national politics (Italian MEPs, notably from the *Lega Nord*, having freely joined the delegation).

A related point is the uncertainty about whether complementary delegations will report consistently on a common problem. Ideally the series of *ad hoc* delegations to

⁵⁹ Answers to questionnaire on EP delegation, by MEP Catherine Guy-Quint, Chairwoman of the Inter-parliamentary Delegation to Bulgaria, received on 14/06/06.

⁶⁰ See, on this, the detailed study of Anna Herranz, "The Inter-parliamentary Delegations of the European Parliament: National and European Priorities at Work", in Barbé, Esther & Herranz Anna (eds.), *The Role of Parliaments in the European Foreign Policy, Debating on Accountability and Legitimacy*, Barcelona: Office of the European Parliament in Barcelona, 2005, Chapter 5.

refugees' camps (e.g. in Ceuta and Melilla, France, Malta, Libya, Lampedusa, etc.) should issue a common report and help clarify a political line charting a long-term strategy for the European Parliament on the issue of asylum and detention camps, but such consistency in delegations' reports has been difficult to achieve in practice.

The discourse and possible disunity of delegations' messages is clearly a factor affecting their impact and is linked with the question of composition and personal attitudes of the MEPs, notably vis-à-vis the media. The delivery by MEPs of diverging messages is a recurring observation which blurs the force of the message, not only of the delegation, but also of the EP and the EU as a whole. The head of a delegation has a particular coordinating role and should assume primary responsibility for liaising with other EU and international actors in the country in question as well as for communicating to the media. Consultation within the group of MEPs participating in the delegation is pivotal for sending an unambiguous and politically backed message.

Co-ordination and expertise of the delegations

A criterion of impact is the degree to which delegations reinforce overall strategies both of the Parliament and of the EU as a whole. Concerning the co-ordination with EP activities, resolutions can be considered as the foundation and natural reference point of the work of delegations, even if they rarely explicitly mandate the delegations to raise the concerns mentioned in a resolution⁶¹. It happens, conversely, that resolutions directly follow-up on a delegation's activities⁶². Moreover, permanent delegations, given their specific expertise on a given country, can assume a co-ordinating role with regard to EP activities relating to the country in question and thereby contribute to the formation of effective long term strategies. The delegation to South-East Europe, for instance, has been efficient in coordinating different EP activities that ultimately have had a concrete, positive impact on the situation in

⁶¹ This happens sometimes, as does the resolution on Tunisia adopted on 14 March 2002, which "instructs its delegation for relations with Maghreb countries and the Arab Maghreb region to raise the issue of human rights more firmly." It is noticeable that on some countries, as is the case for Tunisia, delegations' activities are almost systematically referred to in the resolutions. There is a transparent link between the resolutions and the delegations, in terms of communicating information and mandating the delegations.

⁶² The resolution on Sudan adopted on 16 September 2004 called "upon the Government of Sudan to immediately release all prisoners of conscience, including those opposition members and human rights activists who were identified in a letter the European Parliament delegation handed to the Minister of the Interior."

Vojvodina.

Since EP delegations are widely perceived as representative of the EU as a whole, a delegation's general comprehension of EU activities in the region and effectiveness in interacting with the Commission and Council is also a significant factor of impact. A common voice and repetition of similar concerns by different actors improves impact, while diverging messages can weaken political signals sent by the EU. Having first hand information about EU Council and EC activities is, similarly, pivotal in enabling delegations to enact the accountability role of the Parliament vis-à-vis the other institutions. The preparation of the delegation is therefore crucial, and the country desks of both the Council and the Commission can provide important input to the delegations of the Parliament. Many MEPs report that more efforts could be put into preparatory meetings⁶³, and both the Council and the Commission note that, while they are generally available to provide EP delegations with information and briefings before departure (e.g. about EIDHR projects supported in the region), this is rarely done. Communication of such information tends rather to be left to EC Delegations' briefings on-site. Co-operation between EU institutions intensifies in third countries, while remaining more scattered in Brussels.

NGOs and other international organisations are also largely available to provide EP delegations with briefings and expertise before departure on a mission. The Sub-Committee on Human Rights has envisioned assuming a facilitating role in this regard, but for the time being it appears that when briefings are in fact organised for delegations, it is usually at the initiative of external actors. Briefings are at any rate more likely to happen on site. MEPs willingness to be informed is a crucial element of success and lack of such willingness has been a recurrent source of disillusion for the above possible partners. As a representative of an international organisation put it, "there are now two bad precedents, when we went to great lengths to organise on site briefings with international organisations' offices as well as with civil society, and when MEPs have shown the weakest possible interest at these meetings. Frankly, it's too much effort for nothing, so this kind of meetings are not proposed and organised any longer". It is also noted that the quality of the questions raised by MEPs

⁶³ See interviews done by Herranz, supra note 60, p. 111.

sometimes comes as a disappointment for local and international organisations in the field, but this primarily depends on the individual personality, efforts and preparation of delegation members.

Just as for the EU as a whole, the co-ordination of delegations with the overall international activities run in a country and the repetition of similar messages by different international actors lead to enhanced impact. There is much room for the EP delegations to create synergies with other international actors active in the field of human rights. In terms of impact assessment, it is noticeable that as the degree of co-ordination with other actors is raised – together with the likelihood of impact, as does the difficulty to match delegations' actions with observed concrete impact. This is not only a methodological problem of impact assessment, it is also a factor that might influence MEPs attitude, if their main concern is to look for direct, short term and individual impact and visibility (which are important factors in a political and election-oriented environment) rather than long term strategies and diffuse impact. More generally, it is observed as a general rule that the issue of attributing impact to a specific action is, itself, influencing the individual behaviours and common strategies that ultimately lead to impact. It can improve the willingness to impact, but reinforce short-term and visible impact.

A crucial element for the delegations to play a role and take responsibility as representatives of the EU, is that they report on their visits, with a special emphasis on the information secured and the commitments orally made by the authorities. It can feed the subsequent work of EU institutions, starting with the EP. The resolution on the imprisonment of Akin Birdal in Turkey, passed on 13 April 2000, notes that “Prime Minister Ecevit assured visiting MEPs that changes to the Criminal Code, including article 312, were foreseen in the very near future”. This kind of information is valuable, and can help holding the authorities accountable of their own promises. Interestingly, many references of international NGOs to the work of the EP concern such commitments that were made by officials, either before the MEPs in Brussels/Strasbourg, or during MEPs visits in third countries. This includes visits paid by MEPs in their individual capacities, but where they keep benefiting from their status and still represent the Parliament. Securing information and debriefing visits is an area where the EP has a constructive role to play. It is important that this is done in

written and disseminated. Reporting to the different committees happens but far from systematic. More could be done, also vis-à-vis the country desks at the Council (there is evidence that delegations' reports are more frequently sent to Commission's delegations than the Council's).

Context and timing

Finally, the way human rights are promoted can be diverse, depending on the nature of the relation as well as on the context. Delegations can, for instance, play a mediating role between conflicting or warring forces⁶⁴, or act as a mere presence to guarantee the tenure of fair trial or of conferences/meetings organised by vulnerable actors. The country with which delegations interact is a non-negligible factor to evaluate their impact. Visits to actors in situations where they feel isolated reinforce the morale boosting effect of the country visits.

Timing is also important, and greatly affects the intensity of the political signal given by the mere fact of sending a delegation. The last minute decision of the calling off the delegation to Uzbekistan, following the event of May 2005, is for instance an important political signal. Many of interviewees in Palestine noted that the sending of delegations at specific moments like during the Second Intifada (2000), during the Israeli reoccupation of the West Bank (April 2002) and just after the inauguration of the new PLC and Cabinet were important signals. This reaffirms, just as for resolutions, public hearings, and so on, the importance of the political support and the morale boosting that EP activities can bring to vulnerable actors. This in itself is a concrete and important impact of EP activities. One can argue that this impact is even more important when MEPs go in the field and meet the actors.

2.2.1.4. Trends and way forward

There are within the Parliament a variety of proposals circulating for how to maximise the impact of delegations. Generally the debate within the EP concerning delegations focuses on the use and purpose of delegations, their composition and number,

⁶⁴ See, for instance, the resolution on the results of the Ukraine elections, adopted on 13 January 2005, or the resolution on the situation in Fiji and the Solomon Islands, adopted on 6 July 2000.

thematic priorities, and the growing significance of *ad hoc* delegations. This reflection, which is not limited to human rights concerns, has been initiated at the highest level of the Parliament. Some proposals include a limitation of the number of *ad hoc* delegations in a bid to ensure better co-ordination of delegation activities and to better draw on the expertise and contacts existing within the permanent delegations. A related concern has to do with reinforcing the quality, clarity and consistency of delegations' messages by taking firmer measures regarding the voluntary adjunction of MEPs to the delegations.

Certain more concrete and elaborate initiatives have been launched by the Sub-Committee on Human Rights and have been taken up by the structures dealing with permanent delegations (i.e. the secretariat and the conference of delegations' chairpersons). This includes, most notably, a set of draft guidelines prepared by DROI with a view to enhancing the awareness among delegation members of human rights concerns and thereby also the specific contribution of MEPs to the promotion of human rights and democratisation when visiting third countries⁶⁵. The added value of this document is to mainstream human rights in the work of the delegations by providing them with a common grid of analysis that is operational and in line with other actors' activities. The guidelines emphasize the need for consistency in the human rights work of the Parliament as well as of the EU as a whole. It is especially encouraging that the guidelines advise MEPs to coordinate their activities with existing EU Guidelines on Human Rights, adopted by the Council, as well as with concrete actions of the Council and Commission in the regions visited. Surprisingly, however, the draft guidelines include no mention of how delegations should work with the EP's own resolutions in the area of human rights; nor do they stipulate concrete follow-up measures to be taken by delegation members upon return from a mission. These are both considerations which, in the view of the present authors, could further enhance the draft guidelines.

⁶⁵ « *Orientations spécifiques pour l'action des membres du Parlement européen en faveur des droits de l'homme et de la démocratie lors de leurs déplacements dans les pays tiers* » (PE 358.333v03-00). These guidelines target delegations, as is recalled EP Annual Report on Human Rights in the World for 2005 at paragraph 110. The fact that the idea of these guidelines was presented by the Chairwoman of the Sub-Committee on Human Rights at the Conference of the Chairperson of EP delegations on 6 July 2005 can also lead to the conclusions that the Guidelines principally target permanent delegations. However it should ideally encompass, as its title suggests, all delegations, *ad hoc* and permanent alike, and even all actions of MEPs abroad.

Summary of recommendations on delegations

- Enhance the success rate of delegations by improved internal consultations, sufficient coordination with other EU activities, a relevant context and timing of missions, and mainstreaming human rights in the work of all delegations. Impose standard human rights practices and grids for delegation actions. The EP has recently made considerable progress in defining ways to standardise the work of the delegations in the field of human rights, in part by providing a checklist of actions to be undertaken. It is strongly recommended that the Guidelines proposed by DROI are taken up and implemented.

- Enhance preparation before visits. NGOs, international organisations, and the secretariats of both the Commission and the Council have explicitly expressed their readiness to brief MEPs before departure.

- Better follow-up to visits. All delegations should submit and actively disseminate (especially outside the EP) reports with a special emphasis on information and official commitments secured during the visit in question.

- Better link delegations with other activities. Human rights resolutions should more clearly mandate the delegations, possibly by introducing consistent language about actions to be performed by the delegations.

- Delegation members should both be candid in raising human rights concerns and prudent not to cause damaging impact. Excessive politicisation should be avoided and out-of-quota participants should generally not be included in delegations.

2.2.2. Public hearings

Public hearings organised by the European Parliament are to be analysed together with exchanges of views conducted by specific committees or sub-committees during their sessions. Their functions and impact are quite similar, although the degree of formality, and hence the political signal, is greater when public hearings are organised by several committees or by the bureau – a fact that impacts primarily on the level of attendance of the MEPs.

Like resolutions, public hearings do not have any legally binding effects but can contribute to a broader process which ultimately may lead to a binding outcome. This is true, e.g., of public hearings that precede the EP's decision to grant its assent to an agreement with one or several third countries⁶⁶.

Generally, public hearings and exchanges of views involve third country officials, civil society representatives, representatives of other EU institutions, representatives of other international organisations, academics, experts, and MEPs. The efficacy of public hearings can be assessed with regard to their capacity to fulfil five roles.

2.2.2.1. Secure information and raise the level of expertise

A central function of public hearings and exchanges of views is to provide the Parliament with up-to-the-minute information and expert assessments on the basis of which MEPs can subsequently debate and forge an opinion. This has an impact on the level of expertise of the MEPs, who can subsequently use the knowledge gained and information provided in other activities. This is an important factor in projecting an image of the EP as a serious actor, able to take the lead on issues⁶⁷.

Generally the EP is good at engaging key actors in the area of human rights (notably

⁶⁶ A case in point being the public hearing on the EU-Syria Association Agreement organised by AFET and DROI on 30 and 31 March 2005, complemented by an exchange of views in the framework of the Report on the EU-Syria Association Agreement in AFET on 26 April 2005.

⁶⁷ It is argued by Lalone (in Barbé & Herranz, 2005) that developing expertise in the field of trade and common commercial policy has been seen as the necessary prelude to the development of formal competencies of the EP over time in the treaties, in the field of trade issues, by raising EP's profile.

by taking advantage of the services offered by international Brussels-based NGOs as well as informal contacts of MEPs and delegations) and thus accessing available expert information on the subjects under its scrutiny. It is noted, however, that some actors are not widely involved in public hearings. This is true, e.g., of Heads of Missions, whose occasional presence in Brussels could be better exploited to gain an understanding of EU activities in third countries.

The range of topics and number of guests invited is naturally constrained both by time/agenda considerations and by financial resources. Especially the latter factor has been singled out by several contributors to the present study as a severe limitation when it comes to the activities of the Sub-Committee on Human Rights. Another factor inhibiting the impact of public hearings and exchanges of views on the general level of expertise among MEPs is the unfortunate variability in MEPs attendance to such events (the exchange of views with the UN High Commissioner for Human Rights, Louise Arbour, during the Sub-Committee on Human Rights on 27 May 2005, e.g., was poorly attended).

2.2.2.2. Facilitate a discussion on policy choices and strategies

The main advantage of public hearings is the wide range of actors and experts they can bring together on a single issue. This is seen as very useful, also from the point of view of the Commission and Council. Discussions can help in forming a qualified assessment of current political trends and identifying new policy alternatives. They can also help in coordinating future actions undertaken by the Parliament and other EU institutions. At the level of the Parliament, it is noted that public hearings jointly organised by different committees/sub-committees active in the field of human rights (notably DROI, AFET, DEVE, LIBE, FEMM) can contribute to shaping common political lines. This effect could be extended to other committees with which synergies in the field of human rights are important. A joint hearing on the use of budgetary powers in the field of human rights could, e.g., be jointly organised by DROI and the Committee on Budgets⁶⁸. Public hearings could also potentially be of assistance in the attempt to design common strategies at the international level.

⁶⁸ Similar proposals have been made for joint hearings of AFET and the Committee on Budgets, for instance in EP resolution on the situation in Kosovo and the reconstruction of South-Eastern Europe, adopted on 22 July 1999.

However, the EP has not yet pursued such possibilities in any consistent manner. Meetings with UN or Council of Europe representatives with an important human rights mandate have primarily been focusing on exchanging views and securing information rather than on tabling common strategies.

A factor impacting negatively on the effectiveness of public hearings in shaping debates and defining strategies is the general lack of reporting and follow-up. Some hearings do lead to conclusions which are forwarded to the Commission and the Council in a bid to feed their policies and to try to coordinate actions. This is a common practice of the Committee on Development, which in relation to its human rights slot systematically draws conclusions and actions to be taken and sends its report to the Commission⁶⁹. However, this tends to be an exception; there is a scarce written records of most public hearings organised by the EP (even the important ones⁷⁰), and the press releases that are commonly issued after hearings are not sufficiently substantive to preserve a record and feed future debates on the issue at hand. This means that information provided, brainstorming on policy options, etc., tend to benefit only the limited number of actors present and often only for a limited period of time. The difficulty to refer back to previous hearings inhibits the possibility of effectively using the hearings as part of an overall strategy. There is hardly any follow-up on the conclusions taken during the hearings – a point which is repeatedly criticised by international NGOs.

Given the current lack of a detailed record, it is particularly important that the organisation of hearings is coordinated with the general framework of EP human rights activities. A well-timed hearing can bring valuable input to policy debates. The need for a better planning of hearings in view of other activities undertaken by the EP and other EU institutions is raised not only by NGOs but also by representatives of the Council and Commission. It is further noted that EP public hearings have occasionally, albeit rarely, conflicted with the agenda or policy concerns of the Council and Commission and have thus resulted in the communication of ambiguous

⁶⁹ For instance, the Committee on Development sent the conclusions of its debate on human rights situation in Angola (held on 24 January 2006) to Commissioner Michel, who replied in a letter to the Chairperson of the Committee on Development and stated EC position (letter of 21 March 2006).

⁷⁰ For example the public hearing on “EP as a Promoter of Parliamentary Democracy”, organised by the Bureau on 26 May 2005.

political signals. The invitation of the Iranian Foreign Minister to a hearing on 20 February 2006, at a time when Iran's relations with the Council and the Commission were tense, is an example.

2.2.2.3. Spurring public debate and mediating in local disputes

This is more a potential than a proper role. In the absence of written records and given the relative lack of visibility of public hearings, there are few expectations that hearings will have any significant impact on a concrete situation within a country or contribute to a public debate in the country. If the main points and conclusions of the hearings were written, disseminated, and perhaps even translated, they could conceivably have such an effect, but this is not the direction taken.

A debate involving a broad range of local actors in a third country situation, one might argue, could benefit from being relocated to the neutral setting of the European Parliament. As observed, an added value of public hearings is their ability to bring different actors together, notably, sometimes, representatives of the countries' Diaspora, civil society, political opponents, together with officials. The EP itself as praised in several occasions the opportunity it can play as a mediator between conflicting parties, in relation with the role played by its delegations⁷¹, and the Parliament has already been identified by some as having mediating potential. As an example, in a letter addressed to EP President Borrell on 10 December 2005, the representatives of exile Lao opponents called on the EP to organise roundtables between opponents and the communist leaders⁷².

Several elements can militate for a deeper exploration in the area of mediating, where the EP could be seen as well-equipped. Most notably, it does not necessitate special formal powers. The EP can be seen as the emanation of the peoples rather than the States, and thus less relying on interests and more on principles. Many MEPs from

⁷¹ See, for instance, the resolution on the results of the Ukraine elections, adopted on 13 January 2005, or the resolution on the situation in Fiji and the Solomon Islands, adopted on 6 July 2000. The mediating role of the EP in Palestine or in Serbia is regularly recognised.

⁷² Opponents in exile, gathered in the *Conseil National Lao pour la Démocratie*, call upon the EP "de bien vouloir exercer son influence sur le gouvernement de Vientiane afin de faciliter les contacts entre le dirigeants communistes laotiens et les responsables de l'opposition sous forme d'une table ronde en vue de l'établissement d'un dialogue constructif qui constitue le meilleur moyen de réaliser l'entente et la réconciliation nationale".

Southern European countries or from new EU Member States can be seen as having special experience of transition, exile and reconciliation, and their contribution as mediating force has already been observed, for instance in Ukraine.

This role, however, requires great investments and efforts. It is a difficult exercise and public hearings have already been proved to be difficult to organise when bringing exile opponents and authorities. Such was the case for the above mentioned public hearing on the EU-Syria Association Agreement, organised on 30/31 March 2005. It was intended to give the opportunity for an open and constructive debate on the issue whether or not to sign in the near future the Association Agreement with Syria. Due to the presence of a representative of the "Reform Party of Syria" (a US-based political opposition party) the participation of Syrian Ambassadors to the Kingdom of Belgium and to the European Union was withdrawn at the last moment. Precautionary measures have to be reinvigorated in the preparation of the public hearings – as well, as developed below, in its follow-up.

2.2.2.4. Impact on participating States

Just as for resolutions, third countries' reactivity is generally taken as a sign of impact of public hearings. This concerns, of course, public hearings where representatives of third countries attend. Compared to resolution, the added value of the public hearing is that the countries' representatives cannot be indifferent and have no choice but to get the message and reply. On the contrary, in the absence of systematic written record and follow-up on public hearings, the impact of the hearing is much more limited in time than the resolutions, which can be referred to by other actors and over time.

Public hearings can be a special opportunity for the MEPs to secure information and commitments from third countries. Many observers state that public hearings make a strong impression on third country diplomats, especially when MEPs' presence is high. The possibility of securing commitments is higher when the hearing is organised in anticipation of the adoption of a resolution, or of the granting of an assent to an agreement with the country in scrutiny. When not linked with a resolution, the follow-up and the results of the hearings are hazardous, and most of the time left to individual

MEPs, depending on their own agenda⁷³.

This requires political willingness, unity in MEPs' views, strategy and a minimal knowledge of the situation in the country. Impact on third countries will be dependent on these factors. In one word, preparation of public hearings is primordial. It should be clear what is the goal of the public hearing, what MEPs want to achieve, and they should join their efforts in this direction. This degree of cohesiveness and strategic thinking is reflected primarily in the questions asked and comments by the MEPs during the hearing.

While human rights are a regular concern expressed by MEPs during public hearings, it is not always taken up with force and coherence. Many interviewees observed that questions concerning human rights issues are vague and unprepared, and fall far short of destabilising third countries. The public hearing with the Iranian Foreign Affairs Minister organised on 20 February 2006 as been taken up several times as an illustration of lack of thoroughness and strategy, and generally as a missed opportunity, despite the assumption that all MEPs wanted to pass on a critical message to Iran for its poor record in the field of human rights.

2.2.2.5. Impact on participants from local civil society

To address the European Parliament is never insignificant. It is an important platform for international and local actors, which can reinforce their voice and visibility. The importance of this tribune is even greater if one can address the plenary sitting. The impossibility for some persons to actually come to the Parliament also presents a symbolic illustration of the violation of their human rights. This is the case for Sakharov Prize laureate Oswaldo José Payá Sardiñas and for Taiwan's President Chen. It was the case for Leyla Zana in the past.

The impact of public hearing on local civil society's participants is an exacerbated version of the impact of resolutions. It reinforces their claims, their international visibility and legitimacy, and to some extent their protection. However, this is much

⁷³ Only a few resolutions refer to hearings or exchanges of views as background activity undertaken by the Parliament. See EP resolution on human rights in Chad adopted on 15 March 2006.

dependent upon the visibility and the importance (attendance) given to the hearings. This has to be carefully reflected upon, since it is also noted that while being mentioned in a resolution rarely impact negatively on the situation of human rights defenders/NGOs, public hearings regularly do. There are various examples when a person or a NGO have been arrested or harassed after having participated in a public hearing at the European Parliament⁷⁴. While the EP has tried to react to these situations, the protection of persons participating in EP activities, such as public hearings, could be a more structural concern. This concern is also more and more tackled at the level of the UN, which try to install reaction and prevention mechanisms regarding “reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies”. In a report on the “question of the violation of human rights and fundamental freedoms in any part of the World and the cooperation with representatives of UN human rights bodies”, of 6 February 2006, the UN Secretary-General “underlines the continued seriousness of such reprisals, as victims suffer violations of the most fundamental human rights, including the right to liberty and security of person, and, at worst, the right to life” and refers to cases concerning Brazil, China, Nepal, Thailand, Tunisia and Uzbekistan. UN mechanisms such as the Working Group on Enforced or Involuntary Disappearances have dedicated mechanisms to deal with the issue of reprisals. Special mechanisms on human rights defenders are also seen as particularly apt to deal with such issues. A possible EP mechanism or working group on human rights defenders could be mandated to follow up and regularly check the situation of individuals and groups collaborating in EP activities, and try to prevent or react to possible reprisals. Possibility of reprisals might also be an element to take into consideration before inviting individuals to testify and contribute. It is worthwhile to note that some EU Member States have identified specific contexts where support to and liaison with civil society is better done through discrete and non-public channels, like in the context of Uzbekistan, in order not to jeopardize the security of specific individuals.

Both preparation and follow-up on the public hearings are important. It has been suggested that the European Parliament should systematically liaise with EC

⁷⁴ See examples *supra* note 41, p. 79.

Delegations and EU Member State Embassies to prepare and follow-up on hearings, especially to ensure anticipate and adequately react to violations against hearings' participants.

Summary of recommendations on public hearings

- Raise the profile of public hearings by improving MEP attendance and media visibility. Disseminate and publicise full reports on the content of the hearings. Link public hearings with other activities such as resolutions and the work of delegations.
- Continue to invite prominent experts and key actors, but investigate extending invitations to third country representatives, EU heads of missions, and well-known actors able to boost attendance and media visibility
- Use hearings to devise concrete joint actions and strategies with like-minded international actors. Consider expanding the number of joint hearings of different parliamentary committees, notably by associating committees such as the committees in charge of budget and international trade.
- Draw operational conclusions from all meetings and exchanges of views with a view to follow-up on commitments and information obtained as well as policy options devised. Follow-up should incorporate a mechanism aimed at checking on the situation of invitees upon return to their countries. The EP could draw inspiration from similar mechanisms developed in the context of UN special procedures.
- Enhance the preparation of public hearings and exchanges of views, notably by gathering expertise in advance of events, with a view to conveying informed and targeted messages to the persons invited.

2.3. Specialised activities in the field of human rights

2.3.1. Sakharov Prize

Since the Sakharov Prize for Freedom of Thought was set up in 1988, 23 laureates internationally have been honoured by the European Parliament for their efforts on behalf of human rights and fundamental freedoms. The award has been presented to both individuals and organisations. The profiles of the individuals awarded varies: some were already internationally renowned, for others this was the first time that their profile was in the international eye; some of them had been directly threatened or imprisoned, while others enjoyed freedom but sought support and recognition of their cause. In one case the prize has been attributed posthumously.

The impact of the prize is intrinsically linked to the individual and the context in which the prize was attributed. It is nonetheless possible to draw certain conclusions, based on contributions from eight Sakharov Prize laureates, and on surveys of a limited number of cases. The story of Oswaldo José Payá Sardiñas (2002 laureate) is explored as a case study.

2.3.1.1. General features observed

Impact on the personal situation of the recipient

The impact of the prize on the personal situation can be analysed in two ways: the impact on the personal circumstances of the recipient and in relation to its international visibility.

In relation with the life of the laureate, impact can be seen in terms of providing protection against violations of his rights, improved standard of living, and morale boosting.

First, the prize confers an “invisible shield” on the rights of its laureates. While it cannot be concluded that the prize improves the situation of the laureates, it is nonetheless observed that the prize generally prevents their deterioration. In certain cases, the prize has had perverse effects: while direct interference may dissipate, a more invidious, institutional repression may take its place.

“The prize has improved our situation in the sense that the Cuban government does not attack us directly, but it has reinforced its methods or changed them. Although the authorities say they do not recognize the prize, in fact they are more cautious in their repression against us.”

Las Damas de Blanco (2005 laureate), 1 June 2006

Second, it is observed that in some cases, the financial grant for those awarded is directly beneficial, in particular for those recipients in exile.

Thirdly, the prize as recognition of one’s activity offers real support, regardless of whether its recipients are renowned or not. Morale boosting can reverberate with the public the beneficiary is associated with, who also appreciates that their circumstances are recognised. In certain cases, the prize has been seminal in the recipient’s decision to continue his/her activities.

**“The prize gave me strength to continue my struggle.
It improved my mental situation.”**

Morale boosting – the Sakharov Prize winners’ own words

“The impact of the prize on my personal situation is quite a lot. The hundreds of thousands of the Muslim fundamentalists had demonstrations where they declared that I must be killed because I had a different view than others. They issued fatwa against me, and set a price on my head. I was forced to leave my own country. I was so devastated. At that time I got Sakharov Prize from European Parliament for freedom of expression. This prize gave me strength to stand up against blind faith and conservative ideas. It is a big recognition that encourages me to continue my struggle for equality and justice.”

Taslima Nasreen (1994 laureate), 7 April 2006

“We are very grateful to the European Parliament for the prize and it has been very important for the international recognition of our cause and in our country, where the media is absolutely controlled by the government, nevertheless the population know more about us and their respect has increased, although it is very dangerous for us to do our peaceful work. It has also increased even more the hope and morale of our prisoners of conscience, and other political prisoners, as well as the families in general.”

Miriam Leiva on behalf of Damas de Blanco (2005 laureate), 4 May 2006

“We received the Sakharov Prize at very difficult moments for our Association and it was really important, due to its repercussions, because it protected our lives, in the strictest sense of the term. It also helped us to publicly denounce the crimes of genocide.”

Hebe de Bonafini, Presidente de la Asociación Madres de Plaza de Mayo (1992 laureate)

19 May 2006 – Original version in Spanish, unofficial translation

Concerning international visibility and support to the laureates, three effects are observed in virtually all cases, but to different degrees.

First, the credibility and the legitimacy of the laureates' claims are reinforced, sometimes at the local, but certainly at the international level.

Second, the prize facilitates laureates' access to certain international actors. This is especially true of European actors. Several Sakharov Prize laureates indicated that access to MEPs was facilitated by the award of the prize, and notably via informal meetings done during the ceremony. Laureates expect that the prize will avail them of similar access to other European institutions and the EU in general. The creation of these channels of access however is an informal process and does not guarantee to the laureate an enduring profile within the EU.

Finally, if international visibility of the laureates is enhanced by the prize, it is however difficult to assess to what extent. The prize contributes to international recognition of the laureate, but usually in tandem with other factors. Inevitably international visibility offered by the prize wanes as the number of laureates grows; on three occasions the EP has attributed the prize simultaneously to several laureates. This observation is confirmed by Reporters Without Borders (2005 laureate), drawing on its own assessment of media coverage for the 2005 Sakharov Prize, as well as on its experience and assessment regarding its own prize (*Prix Reporters Sans Frontières*). The impact of the award is diluted in terms of international profile. Moreover, it seems that media coverage concentrates on winners who already have a visible profile, to the detriment of others with a less established profile, but whose work is as commended.

A related observation is the positive impact that the Sakharov Prize has on the European Parliament itself and the MEPs who associate themselves with the prize in terms of their profiles as promoters of human rights promoter.

Impact on the cause promoted by the laureate

The prize confers recognition and credibility to the voice of the laureates. Arguably when it is conferred to an association, the prize demonstrates the European Parliament and therefore the European peoples' commitment more to the cause than to the individuals promoting it, thereby impacts more on the cause. The visibility conferred to the cause is however, more important at the international level than in the home country of the laureates. Outside the EU, many laureates claim that the prize received sparse media coverage and did not generate a debate in the country. Outside the beneficiary's country, only media of third countries with a special interest in the EU or in a particular laureate have reported on the prize (RSF notes Romania and Hauwa Ibrahim reports that there was coverage in the US press, especially in Yale where she is currently located).

The financial grant associated with the prize contributes to the promotion of activities (on-the-ground operations, publications, etc.). The significance of the grant varies, depending on the resources already at the disposal of the laureate: it ranges from a symbolic gesture in the case of Reporters Without Borders to a welcome contribution to promote a project in other cases (100% of the grant of Hauwa Ibrahim went into endowment for education of children; the editors of the newspaper "Oslobodjenje" used it to buy equipment and raw material necessary to edition). One laureate commented that the allowance of a financial grant might be perceived as patronising and undermining "the moral and distinctive role of the prize".

Impact on third countries

The authorities generally greet the granting of the prize to one of their citizens with indifference. The commendation is unacknowledged, and does not lead to any substantial reform or change in their policies. Concerning direct relations with the laureate, generally the authorities observe a more lenient attitude; at the same time the award of the Sakharov Prize does not in itself lead to the release of a political prisoner or the grant of a visa to come to Strasbourg to receive the prize.

The situation is different with international organisations. Reporters Without Borders

notes that the prize reinforced the renown and credibility of the organisation, notably vis-à-vis third country authorities. One possible explanation for this, they report⁷⁵, is that “there are not many prizes in the world that are awarded by an institution as important as the European Parliament”. The NGO reports that, although there is no definite link, contacts with African Heads of States notably have been facilitated since the granting of the award. While RSF had never previously encountered difficulties arranging to meet with African ministers, in the most recent RSF missions to the Democratic Republic of Congo or Chad, it has been possible to organise meetings with Heads of States. It seems that the Sakharov Prize has improved access to officials in third countries, at least in third countries for which the award has resonance.

2.3.1.2. Case study: Oswaldo José Payá Sardiñas

Impact on the personal situation of Oswaldo José Payá Sardiñas

In May 2002, Oswaldo Payá presented his Varela project to the Cuban parliament. This initiative was comended by the award of the Sakharov Prize in December 2002. Since this award, Oswaldo Payá has been systematically referred to in all EP resolutions in Cuba. Although he is still subject to constant scrutiny, systematic denigration and pressure from the Cuban authorities, the award has indirectly acted as a protective shield and raised his public profile. Payá escaped the massive wave of arrests in March 2003 and has never been arrested for his activities. However there might be other explanations for this, like his constant and explicit demarcation from American policies.

Impact in terms of visibility

Based on an exhaustive analysis of international NGOs⁷⁶ reports and press release on Cuba from 2002 to 2006, the Sakharov Prize is clearly the most visible human rights activity of the EP towards Cuba. A conclusion that arguably extends beyond Cuba.

⁷⁵ Phone interview with Jean-François Julliard, Information Director, RSF, 25 April 2006.

⁷⁶ Amnesty International, International Federation for Human Rights (FIDH), Human Rights Watch and Reporters Without Borders (RSF).

National press has also been analysed. Only one local periodical, *Vitral*, a free and critical newspaper, reported on the award of the Sakharov Prize to Oswaldo Payá. It appears that EP activities are followed and of interest to local opponents to the government. Such coverage has limited impact, since the periodical has a limited market (it is available only under subscription, released at approximately 5000 copies, every two months; it has a website but access to the internet is still limited).

The venue of Oswaldo Payá– An example of inter-institutional co-operation

To facilitate Oswaldo Payá coming to Strasbourg to receive his prize, numerous diplomatic demarches were set in motion at the highest level of EU institutions. This operation offered a good example of successful inter-institutional co-operation, where the EP co-ordinated with both the Commission (especially its Delegation in the Havana) and the Council (and EU Member States missions in Cuba). Various European Heads of States and Governments (José Maria Aznar, Vaclav Havel) were also instrumental. Activities within the Parliament were well co-ordinated, and the matter was consistently recalled, through the EP President and informal groups of MEPs like *Friends of Cuba*, which sent a mission in Cuba at that time.

Since December 2002, Oswaldo Payá has not been able to leave Cuba again, and different actions, like the *Sakharov Initiative* (a parliamentary petition) call for the revival of the inter-institutional co-operative spirit that prevailed in 2002 and request a permanent visa for him. The Council and the Commission seem open to the proposal, but the situation has not evolved. The reception of the Cuban Foreign Affairs Minister in March 2005 has been seen as a missed opportunity.

The above indicates that inter-institutional co-ordination of efforts and activities for the same objective increases the likelihood of impact, but willingness to co-ordinate actions varies over time.

2.3.1.3. Policy options

At the time of the award, intentions and timing are two important factors. The EP can target Sakharov Prize laureates as a function of the intended impact of award: either

protecting an endangered individual or reinforcing official support to a cause or an institution. The cases of Oswaldo Payá or Talisma Nasreen demonstrate that the prize can impact on their cause or personal situation if it is granted at a decisive moment. In contrast, awarding the prize to RSF or a UN institution tends ultimately to be a symbolic gesture only.

An area which is almost unexplored by the EP is follow-up on Sakharov Prize laureates, a state of affairs that is much regretted by previous laureates.

"The impact of Sakharov Prize [...] gave stimuli and a morale support from an important European Institution but it also was quite rapidly forgotten since the EP had other important work to do. We had to continue with our own will and the help [of the] citizens." "If there exists a serious intention [of organising a follow-up to the award of the prize], then there are a lot of ways to compensate the long delay and the little care of the EP for its «deputies and the protégés», i.e. the Sakharov Prize winners. [...] Up to now, the EP made a huge oversight of not using the readiness of its «verified staff» which still sacrifices itself for the good of Europe and of the World. This group of people is not abundant but they have great qualities. Few rare cases excluded, this group of prize-winners is composed of individuals case-hardened in long fights and difficult situations for the freedom of thinking, the freedom of speech and the humanist vision of Europe and the World. Some members of our group are still pursued in the prisons of the backwards regimes. Some other members of our group are already dead. However, some of us are still in good shape, and with serious support, we could continue to promote freedom of thinking, freedom of speech, freedom of witnessing in service of the truth and justice, freedom for all, and a humane vision of the World."

*Adem Demaçi (1991 laureate), 13 June 2006
Original version in Croatian, unofficial translation*

It is left to the initiative of MEPs or EP staff members to enquire about Sakharov Prize laureates' situation. First, there is neither a database on laureates, nor an archive on their situation, nor follow-up, and, most importantly there is no institutionalised contacts with them (when applicable). For some notable cases (Oswaldo Payá, Leyla Zana, Aung San Suu Kyi), the reiteration of EP support is almost systematic, but they are exceptions. EP should have open channel of communications and react promptly to violations or threats of violations of the laureates. Proposals from previous laureates include: regular visits from EP delegations, if not EU officials, to the laureates on-site, formal support of the EP for the main activities or campaign promoted by the laureates, for example send a representative or a support message to the *Madres de Plaza de Mayo* who in 2006 celebrated their 30th anniversary and organised activities for that occasion, convey knowledge to European audience of activities undertaken by previous laureates, help the former laureates with difficulties encountered vis-à-vis his/her government. Talisma Nasreen explained the many

difficulties that she still faces that the EP could denounce.

“If [Sakharov Prize laureates] need to do something for the human rights issue, European Parliament can practically help them to do. For example, Bangladesh Government does not allow me to go back to my country. It is violating my citizen’s right. The government is not renewing my Bangladeshi Passport, not attesting my power of attorney document [...]. Bangladesh Government banned my five books. There are few cases against me on the charges of hurting religious feelings of the people through my books. All these are against freedom of expression and democracy.”

Taslima Nasreen (1994 laureate), 7 April 2006

By awarding the prize, the EP should aim at conferring more than momentary visibility and mobilisation to the laureate, and fulfil the expectations it creates in singling out these individuals, through systematic liaison with former laureates and sustained support.

The question of follow-up and connection with Sakharov Prize laureates is not only a matter of sustained support but also of capitalising on the possible contribution and availability of the laureates. The establishment of a network of all Sakharov Prize laureates would ensure ongoing liaison and has potential to be mutually beneficial, where for example the laureates provide support to other EP initiatives. Different laureates supported similar ideas, going as far, sometimes, as supporting the creation of a “Council of Sakharovs”, as was submitted by Adem Demaçi.

“From living winners of the Sakharov Prize, establish a Council of Sakharovs. This Council will be holding meetings, at least once a year, where they would discuss ways of promoting and protecting human rights in every country. The reports from these Council meetings will be referred to the EP for further action.”

*Adem Demaçi (1991 laureate), 13 June 2006
Original version in Croatian, unofficial translation*

Such an option would face challenges, given the diverse profiles of the laureates. Regardless, the EP should look into ways of co-operating with former laureates. Another possibility would be to gather all living laureates for special events; an interesting time to gather them would be during the award ceremony itself. Associating as many former laureates as possible with the award of the prize would reinforce the symbolic dimension and the importance of the award. According to Zlatko Dizdarevic (*Oslobodjenje*), political symbolism is important for the recipient itself.

“The prize wears Andrei Sakharov’s name and his wife’s speech that she delivered at the ceremony in Strasbourg had a very special importance for Oslobodjenje Editors’ members.”

On that occasion, she stated that she was “sure that her husband would be intimately satisfied by the choice of the winner selected by the jury, because he would also approve high-level prize for this cause”.

*Zlatko Dizdarevic, Editor of the newspaper Oslobodjenje (1993 laureate), 13 June 2006
Original version in Serbian, unofficial translation*

While the main symbolic value of the prize is its being awarded by the representatives of the European people(s) in Strasbourg, and bears the name of Andrei Sakharov, additional symbolic gestures can enhance the overall impact, for example, awarding it on Human Rights Day (10 December), as in 2005, or amplifying association with former laureates, such as Kofi Annan and Nelson Mandela.

Inter-institutional co-operation can be of fundamental importance firstly for follow-up and secondly enhancing the protection scope of the award. Examples in the past of co-ordination with on-site EC Delegations and EU Member States embassies point at some possibilities. Institutional co-operation reinforces potential impact, and should be promoted whenever possible.

Finally, the EP could try to enhance the media coverage of Sakharov Prize, within and outside the European Union. This could start by assessing the existing coverage of the award in a more systematic fashion. Currently there are no systematic press surveys compiling information on media coverage of EP activities in the field of human rights. The Parliament could involve its delegations in EU Member States as well as create working partnerships with EC Delegations in countries concerned to analyse the dissemination of information on the Sakharov Prize award. If successful, such a practice could be enlarged to other EP activities in the field of human rights, which would certainly lead to a better understanding of its impact.

Summary of recommendations on the Sakharov Prize

- Nominations should be a function of the intended impact of the award by either protecting an endangered individual or reinforcing official support to a cause or institution.

- Enhance the visibility of the Prize. One way of achieving this could be to further deepen the symbolic dimension of the award by amplifying its association with former laureates, notably on the occasion of the awarding ceremony itself on Human Rights Day in Strasbourg. The EP should better assess the degree of media coverage of the award by organising press surveys. To do so, the EP could seek the cooperation of EC Delegations and NGOs working in the countries of activity of the laureates. If successful, such surveys could establish a precedent for similar surveys concerning other EP human rights activities.

- Extend the supportive effect of the Prize: the EP should aim at conferring more than a momentary visibility and better fulfil expectations raised, e.g. through systematic liaison with former laureates and sustained support. Inter-institutional cooperation should be further developed to enhance the protection of laureates. EP delegations to countries where laureates are located should have as a standard point on their agenda the liaison with and visits to the laureates.

- Enhance common work between laureates and the EP: the EP should capitalise on the availability and possible contributions of the laureates. The establishment of a network of Sakharov Prize laureates with regular meetings could be facilitated by the EP. The EP and the laureates could support each others work: the EP by supporting laureates' activities and conveying knowledge about them to the European public, and the Sakharov Prize laureates by associating themselves with EP activities in the field of human rights.

2.3.2. Annual Report on Human Rights in the World and the EU's Policy on the Matter

The Annual Report on Human Rights is a specific case of own-initiative report, providing a unique indication of EP priorities in the area. Its structure and focus have varied considerably from year to year. Until 2005 it has contained extensive country-specific and thematic parts; the Annual Report 2005, to the contrary, is organised in relation to the human rights actions of the Parliament itself and of the other EU institutions, thus accentuating the EP's general accountability role.

Own-Initiative Reports

The EP *Annual Report on Human Rights in the World and the EU's Policy on the Matter* is a key example of own-initiative reports. Such reports, based on Rule 45 of the EP Rules of procedure, have the following distinguishing features affecting impact:

- They participate in setting an agenda and send a strong signal to external actors that the topics scrutinized are a central priority. In this line, follow-up activities are more likely to be organised in relation with own-initiative reports, such as was the case recently during the meeting of the Sub-Committee on Human Rights on 10 July 2006 when an exchange of views was organised on the follow-up to own-initiative report on the Human Rights and Democracy Clause in EU agreements (23 January 2006). Once adopted, reports constitute milestones in the activity of EP: they provide guidelines and operational policy objectives, easy to refer to.
- They allow sufficient time to gather expertise and engage in consultations with all relevant parties, most notably NGOs and third country representatives, academics and experts (many own-initiative reports are actually based on external studies commissioned by the EP), main actors involved, and, importantly, a range of different EU and EP actors (different committees usually contribute through written opinions and debates). Generally the process leading to the adoption of an own-initiative report is characterized by diverse input and a high degree of visibility and transparency.
- They single out one contact person, the rapporteur, who facilitates liaison with external entities and input to the Parliament's work as well as pre-adoption dialogue with third countries which, as has also been seen in connection with resolutions, can lead to the securing of important commitments at an early stage. The same person is also well-positioned to perform follow-up activities (contacts with expertise, officials and different actors, identification as main contact person, knowledge of the key issues at stake, motivating sense of ownership over the report, etc.)

Arguably own-initiative reports carry higher significance than regular resolutions and are among the most effective tools for the EP to develop its core positions and command attention from other actors in the field of human rights, including the two other main EU institutions.

The diversity of structures and contents as identified in the different Annual Reports point to an absence of a common understanding of the motives and purposes of the Annual Report within the EP. Viewed another way, such lack of consistency is indicative of a confused interpretation within the EP of its added value and potential contribution in the field of human rights. Until 1996 the Report was entitled “Human Rights in the World”, then “Human Rights in the World and the EU’s Policy on the Matter” (or equivalent phrasing) and one could possibly argue that the first phrase now inadequately reflects the orientation taken in the Annual Report 2005, focusing almost exclusively on EU policy.

The report constitutes a vital focal point for the EP to collectively develop a joint understanding and position on human rights, and highlights the capacity of the different representatives to work together and achieve a common aim. While there is widespread agreement across the political spectrum on most human rights issues, certain themes or country situations are divisive. Voting on the Annual Report 2004 demonstrated the prevalence of political motives and ideology over human rights priorities. Furthermore, while the Annual Report is a common project and an opportunity to exchange views and debate, the participation of committees other than AFET and DROI is unjustifiably erratic. Specifically, the Committee on Development gave opinions in 1995 and 2001, the Committee on Women's Rights and Gender Equality in 1996 and 2006 and the Committee on Budgets in 2001. The Committee on Civil Liberties, Justice and Home Affairs, which has expertise on external consequences of internal policies and could help to bridge the gap between internal and external aspects, has zero involvement. At a minimum, joint public hearings could be organised. “In 2003 and 2004, the Committee on Foreign Affairs organised a hearing in preparation of the Annual Report which concentrated on the main subject, with the participation of representatives of the civil society and international organisations. Hearings were a result of efforts made by former President Cox with the Chairs of the Committees on Foreign Affairs, Development and Civil Liberties as well as with the Chair of Delegation Chairmen, which aimed at increasing visibility, transparency and coordination of human rights activities in the EP”⁷⁷. The Annual Report is a catalyst for EP human rights activities; the contribution of all the relevant

⁷⁷ Internal document of the Human Rights Unit, *EP Annual Report on Human Rights throughout the World and the Union’s Human Rights Policy – Analysis*, authored by Ursula Bausch, 7 June 2005.

Committees (DEVE, FEMM are the most obvious Committees, but also BUDG, LIBE, INTA so far as possible) is fundamental to the fulfilment of this objective.

Depending on the Rapporteur and even more the EP's perception of its role and contribution in the field of human rights, the Annual Report on Human Rights emphasises different levels of analysis.

1. The Annual Report can offer an *overview of human rights situations worldwide* (i.e. paragraphs 1 to 93 of the Annual Report 2004). In this respect similar texts are proliferate (among the most prominent: US State Department, Amnesty International, Human Rights Watch, Observatory for the Protection of Human Rights Defenders – FIDH/OMCT). The EP text does not devote space to background information, but instead is a compilation of “concerns”, “reminders”, “condemnations”... It is not intended as a compendium of information on Russia or China for example, but as a set of requests of the EP regarding third countries. The geographical order of the text does not indicate priorities. This is no surprise since the amendments to the draft reports show different and often conflicting views of political groups or individual members of the EP. Findings indicate that the process of compiling the Annual Report is followed with considerable interest, both by countries named and by NGOs, and has the effect of facilitating dialogue, both internally within the EP/EU and with third parties. There are concrete examples of concessions having been made in previous years by third country officials in order to ameliorate critical mention in the text of the Annual Report. The Rapporteur of the Annual Report 2004 obtained written assurances from competent Iranian authorities that a moratorium would be placed on three practices identified in the draft report as cause for particular concern, namely stoning of women, execution of minors and amputation as punishment; these assurances were mentioned in the final text of the report⁷⁸. Former Annual Report

⁷⁸ Part of paragraph 30, as adopted in the Committee on Foreign Affairs, which read: “30. ...condemns the serious increase in human rights violations, particularly the increasing number of reports of public executions, including those of minors, amputations and floggings, the stifling of press and media freedom, the large number of arrests, particularly of women and young people, on the basis of unclear or minor charges; expresses its deepest concern, following a firm undertaking from Iran for a moratorium on the death penalty by lapidation for adultery, that a minor was recently executed for sexual misconduct” was finally rephrased as follows: “31. ...condemns the serious increase in human rights violations, particularly the increasing number of reports of public executions, and floggings; welcomes the moratorium on stoning and urges the Iranian Parliament to introduce legislation banning this practice without exception; notes assurances given by the Iranian authorities on the introduction of a moratorium on the execution of minors and urges the authorities to pass proposed legislation banning the execution of persons who commit a crime as a minor, this ban must continue to apply after such a person reaches the age of 18; notes assurances given by Iran on a moratorium on amputations; calls on the Council and the Commission to

rapporteurs also note that on controversial issues, the reactions and lobby activity can be robust within the EU, and notably from conservative and religious groups. The Vatican, for instance, had been reacted vehemently to any reference to contraception in refugees' camps and reproductive health as a human right mentioned in Annual Report 2003. The extensive list of country specific concerns has been widely criticized for being too sporadic and superficial to be effective; the impact of a cursory reference to a country is very limited once the report is adopted. Future EP and/or common EU Annual Reports could develop, as proposed by the Parliament, more considered list of Countries of Particular Concern.

2. The Annual Report can offer *a policy statement on thematic issues* (i.e. Annual Report 2003, paragraphs 25 and s.; Annual Report 2004, part 2). There was a marked increase in thematic focuses between 2003 and 2004 – not only in length, but also in the range of topics addressed⁷⁹. The relevant chapters contain statements of a general nature (sometimes legal truisms, such as “slavery is prohibited by Art. 4 of the Universal Declaration”) as well as concrete and operative requests for the EU (for instance “to train law enforcement officials on how to investigate trafficking rings”). The Annual Report 2005 refrains from such a chapter. Its added value was to provide a forum for the EP to express its views on new challenges and developments in international human rights law and policy. In recent years (notably 2003 and 2004) it was problematic, the range of topics being too large (eight issues in 2004) and not limited to recent discussions. The text was too long and unnecessarily burdened with generalities. To enhance their impact, future chapters should be more topical, shorter and more operational.

3. The Annual Report can provide with *an account of EP activities* (notably Annual

closely monitor the implementation of commitments made by Iran to moratoriums in the three key areas of stoning, execution of minors and amputations; is concerned at the large number of arrests, particularly of women and young people, on the basis of unclear or minor charges; expresses its deepest concern, that a minor was recently executed for sexual misconduct”. There are reports that Iranian authorities actually did actively intervene in two or three cases. However, the pledges were made simultaneously to different international actors, and are not honoured by the Iranian government. Still, there is ground to argue that it should be kept in mind that recognition of positive measures and progress on human rights can be used internally by certain parties in own parliament/decision-making entities, to push for further actions.

⁷⁹ Since 2000, many topics have been addressed, being identified either as “main subjects” or as “thematic issues”. These include notably: human rights violations against women, respect for freedom of expression and independent journalism, development, human rights and minority rights in the context of EU enlargement, modern slavery, freedom of thought, conscience and religion, trends in the international war on terrorism, reproductive health, disabled people, discrimination, trafficking in human beings, torture, death penalty, international tribunals and international criminal court, indigenous peoples, children's rights, prison conditions, business responsibility, etc.

Report 2003, Explanatory Statement and Annexes I and II, and Annexes to the Annual Report 2005). The Annual Report 2003 contained a detailed enumeration and analysis of EP activities in its explanatory statement. The 2005 Annual Report presented annexes on “individual cases raised by the European Parliament”, “list of resolutions” and “basic texts”. The 2004 Annual Report opted to overlook EP activities. The value of such a stock-taking exercise is questionable; it is not intended for discussion, nor to act as a foundation for future actions. The list of individual cases provided an update of the situation of the individual, but is not an account of proactive follow-up measures undertaken by the Parliament and was limited to 156 cases out of the 590 appearing in the resolutions listed in the Report’s Annex II. Nor are the list of resolutions and the list of basic texts exhaustive⁸⁰.

4. The Annual Report can offer *a scrutiny of EU policies and hold to account the Commission and the Council* (Annual Report 2004, paragraphs 210 to 231; Annual Report 2005). What had been a surreptitious chapter under “Thematic issues” for 2004, has become the exclusive focus in the draft of the Annual Report 2005. The new experimental text amounts to evaluation of the human rights policy of the EU and its different actors (ranging from “The Council’s Annual Report” to “Resources devoted to human rights work”). Previous Annual Reports had a reduced focus on accountability, and the responses of the Commission to the Annual Reports was never discussed in committee/sub-committee. However, it has been customary for the Commission to issue a follow-up paper shortly after the adoption of the Annual Report. The Council has also been invited to react to Parliament’s Annual Report – but its responses have been less comprehensive than the Commission’s. While the shift in focus is unanimously welcomed by all internal and external commentators, including the Commission and the Council, some note that “it goes from one extreme to the other”, and that depending on the swing of the pendulum the pressure on third

⁸⁰ The list of resolutions does not take into consideration the resolutions following own-initiative reports, based on rule 45 of the EP Rules of procedure. Reports are recorded as a separate activity. They nonetheless give rise to important resolutions, on accession process (with large references to human rights situations), on the Annual Report on Human Rights, or, on important issues such human rights and democracy clause in EU agreements (14 February 2005). A second weakness of the list proposed is its inconsistency in taking into consideration resolutions that are not adopted under Rule 115 of EP Rules of procedure (urgent resolutions). This means that resolutions steaming from Rule 108 (resolutions following questions for oral answer with debate) are not always incorporated. For example, the EP resolution on the Fourth World Water Forum in Mexico City (16-22 March 2006), adopted on 15 March 2006 and which solemnly declares that “access to water constitutes a fundamental human right”, is not enlisted. As far as the list of basic texts is concerned – the inclusion of which was meant to reduce the number of indents to the report – it is striking that there are no mention to important international conventions such as the Geneva Conventions or to the Convention on the Prevention and Punishment of the Crime of Genocide.

countries representatives is diminished. Regardless of the format of the Annual Report 2006, the EP should aim at balancing the depleted pressure on and dialogue with third countries, by adding elements (without losing focus) such as an EU list of Countries of Particular Concern, or enhancing other country-focused activities. Some MEPs have also expressed the fear that, by focusing too much on EU Council and Commission's activities, the EP undermine its capacity to draw attention to new specific themes or category of persons.

The success of the Annual Report in future years will depend on the degree to which the EP keeps itself informed of other EU institutions' activities, and the relevance of the Report as a yardstick and focal point is intrinsically linked to the format adopted. The outcome of the shift in orientation of the Annual Report 2005 remains to be seen and, as it is clearly presented as an experiment, follow-up and assessment activities are necessary. Aspects of the significance of this shift will be further discussed in section 3.2 of the study in relation to the EP's role vis-à-vis EU institutions.

Summary of recommendation on the Annual Report

- Restore the potential for pressure on and dialogue with third countries, as has been alleviated by the new focus adopted in the Annual Report 2005, by adding or reintroducing elements such as an EU list of Countries of Particular Concern and emphasis on activities focused on third countries.
- Enhance follow-up activities: rapporteurs of own-initiative reports are well-positioned to perform such follow-up, as they have contacts with experts, officials and different actors and are already identified as main contact persons, have knowledge of the key issues at stake, and have a motivating sense of ownership over the report.
- Enhance the participation of all concerned actors in the drafting and review of the Report: systematically associate relevant committees, including Committees on Budgets and International Trade, and organise joint public hearings.

2.4. Formal powers of the European Parliament

The formal powers of the EP are primarily exercised within the overall EU architecture, linked with the Commission and the Council's competencies. They do not give the EP any capacity to directly undertake activities or enforce its resolutions in third countries. Regarding the first important formal power, namely the budgetary powers, the Parliament and the Council are "two arms of the budgetary authority"⁸¹, with the Commission proposing and implementing the budget. Regarding the second important formal power of granting assent to international agreements with third countries, the Parliament's competence is limited by the Council's monopoly over negotiations.

EP formal powers are therefore embedded within an intricate EU institutional configuration and might not produce direct impact in third countries, which assessment is the goal of the present study.

Nonetheless, although they have to be contextualised within the EU division of competencies, formal powers offer avenues for the EP to directly participate in shaping concrete policies towards third countries. They can therefore be used as leverage to accentuate political weight and importance of other EP activities. The EP is in position to connect its declaratory activities with formal powers which impact on third country interests and can amount to veto powers detrimental to these interests (co-operation financial support, conclusion of agreements with the EU). On occasion, the Parliament has successfully recalled the possible use of formal powers within declaratory resolutions. The resolution on the defence of multi-ethnicity in Vojvodina adopted on 29 September 2005 is exemplary of this possibility of anchoring non-binding resolutions to more general binding powers. The resolution "reaffirms its willingness to use its budgetary powers both to assist and bring pressure to bear on Serbia-Montenegro, in order to encourage respect for fundamental human rights and

⁸¹ Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure (1999/C 172/01), at paragraph 23.

freedom, including minority rights” and “reminds the government [...] that the principles of liberty, democracy, and respect of human rights and fundamental freedoms, the founding elements of the Stabilisation and Association process and the rule of law are prerequisites for Parliament’s assent to the conclusion of the Stabilisation and Association Agreement and any future partnership with the EU in general”. Before the resolution, a fact-finding mission was organised by the Delegation for Relations with the Countries of South-East Europe, whose conclusions and reports were widely publicised and taken up by NGOs and observers – notably associations of Hungarians minorities – but with the resolution remaining the most salient and visible element. The resolution was rapidly followed up by a public hearing on the situation of minorities in Vojvodina, held on 13 October 2005. Arguably, the resolution and other activities did lead to some changes, noted by the Chairwoman of the EP Delegation for Relations with the Countries of South-East Europe, MEP Doris Pack, and also by other international actors. The US State Department Country Reports on Human Rights Practices 2005 notes that “the European Parliament adopted a resolution asserting that the rights of minorities were being violated in Vojvodina and noting several cases of vandalism, verbal abuse, and physical attacks on ethnic Hungarians. On October 10, the NGO Human Rights Watch released a report on violence against minorities in Serbia that reached similar conclusions. The Serbian and state union government responded with increased engagement with ethnic minority leaders in Vojvodina. The Serbian government agreed to a 10-point strategy for improving ethnic relations in the province, including education and public awareness campaigns, and support for greater representation of minorities in the police and judiciary.”⁸²

⁸² Country Reports on Human Rights Practices - 2005, Released by US State Department Bureau of Democracy, Human Rights, and Labor, 8 March 2006. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2005/61673.htm> (last seen 26.07.2006).

2.4.1. The use of budgetary powers

As an integral part of the overall EU architecture, the Parliament has a wide range of budgetary powers which enable it to shape and control the actions of the Commission (and to a lesser extent the Council) and exercise a general accountability function. With regard to establishing and reinforcing human rights priorities, the EP has three main means at its disposal.

1. The EP may define certain policy priorities at the time of adopting or periodically renewing budgetary instruments. The EP has, in co-operation with the Commission and Council, created as well as consistently defended and utilised a budget line specifically devoted to the promotion of human rights and democracy, the European Initiative for Democracy and Human Rights (EIDHR). The EP has also, albeit to a lesser degree, advocated the inclusion of a human rights dimension in other budget instruments and programs related to the external relations of the EU (such as ALA, TACIS, PHARE, MEDA). More could be done in this area – there may be a tendency for the central importance attributed to EIDHR to obfuscate the fact that it is essentially intended to be complementary to geographical budget lines with human rights programmes. With regard to the European Development Fund, the EP has a formal role in defining policies but is paradoxically excluded from budgetary decisions. While EP has important powers over the budget, and has proven competent to veto even important inter-governmental deals falling short of EP's major orientations⁸³, it is difficult for the Parliament to transform its annual and widely-encompassing powers into a decision-making role within the programming of detailed and concrete policy measures. The comitology procedures have so far excluded the participation of the Parliament, relegating it to a right to be informed about the work of the management committees⁸⁴.

2. When approving budgetary allocations, the EP has the option of attaching *budget*

⁸³ On 18 January 2006 for instance, the EP overwhelmingly rejected the agreement reached by the Heads of States and Governments in December 2005 and called for negotiations over the level of the provisions for 2007-2013 as well as spending plans. MEPs were particularly critical of the €862 billion in funding agreed by leaders, which compared unfavorably with the €975 billion proposed by the Parliament in June 2005.

⁸⁴ Article 7, Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC).

remarks stipulating certain conditions for the utilization of the budget. Such remarks will generally be respected by the EC in their implementation of project activities (in so far as they are consistent with the underlying legal basis). An example of successful use of budget remarks for the advancement of human rights priorities is the request in 2005 to facilitate cross-border broadcasting to Belarus, which was noted and implemented by the Commission. Under Budget Chapter 19 04 (European Initiative for Democracy and Human Rights), budget line 19 04 03 (Development and consolidation of democracy and the rule of law – Respect for human rights and fundamental freedoms), the Parliament inserted a budget remark indicating that:

“the appropriation is also intended to investigate the possibility of setting up a radio network ultimately capable of constituting a ‘Voice of Europe’, so as to produce daily information programmes for broadcast to all countries with totalitarian or authoritarian regimes. The network’s programmes must be geared to the human rights and minorities situation, and to the Union’s activities in those areas, and broadcast in the local language(s) concerned. This appropriation is also intended to support cross-border broadcasting to Belarus.”⁸⁵

This example is also a reminder that the more concrete and reiterated EP calls are, the more likely they are to be implemented. The EP has to promote concrete ideas with consistency, and repeat identical calls over time. The idea of cross-border broadcasting to Belarus was again raised during question time with Commissioner Ferrero-Waldner on 11 January 2005⁸⁶. Paradoxically, the question did not refer to the EIDHR and the budget remark, and the Commissioner answered that “a radio or television station broadcasting to Belarus outside the country [was] an interesting idea, but require[d] further clarification as to whether such an initiative could be supported by EU funds under the existing rules and regulations.” The Commissioner reiterated this position during a plenary sitting debate on 5 July 2005, which preceded the adoption of a resolution on the political situation and the independence of the media in Belarus on 7 July 2005. This resolution, again, without mentioning budget considerations, called “on the Council and the Commission to create a complex, multi-annual programme of support for the independent media in Belarus which will encompass support for the broadcasting of independent radio and television programmes from abroad, as well as support for independent journalists and newspapers”. A few weeks later, the Commission granted a €138,000 contract to the *Deutsche Welle Radio* to broadcast some programmes in Belarus. Clearly consistency

⁸⁵ European Parliament, Final Adoption of the general budget of the European Union for the financial year 2005, 16 December 2004, Official Journal of the European Union, L 60, Volume 48, 8 March 2005, II/1072-II/1073.

⁸⁶ Following question H-0559/04 by MEP Justas Vincas Paleckis.

of calls and especially linkage of budgetary and policy calls are crucial, and reinforce each other.

A third key tool at the disposal of the EP is to place already allocated funds in *budgetary reserve*. This tool is used by the EP for a variety of purposes, but rarely to reinforce human rights priorities (the case of withholding funds for Turkey in 1996 on the grounds of violations of the human rights of the Kurdish population is an exception). It is widely remarked both by MEPs and by external observers that the possibility of placing funds in budgetary reserve is a rather questionable tool for the purpose of human rights promotion, because it is contentious (that is, it may be difficult to obtain broad consent within the Parliament on such measures), because it involves limited scope for dialogue and compromise and risks having counter-productive effects, and in general because it is awkward to enforce policy priorities through technical means. Several observers nevertheless note that the tool could be used more in relation to the enforcement of the human rights clauses, but the current policy direction of the EP in this regard is rather to seek to obtain formal competencies, or at least a well defined informal role, in the general EU monitoring of compliance with the human rights and democracy clauses. In an analysis of EP involvement in Euro-Mediterranean Partnership, Annette Jünemann raises similar concerns concerning the use of budgetary powers:

“The EP is not involved in the distribution of MEDA funds among the [Mediterranean Partner Countries] but, due to its budgetary powers, the final MEDA budget needs the EP’s approval. In other words, the EP has a quasi-veto power it can threaten to use if political conditionality has not sufficiently influenced the allocation of MEDA funds. The veto power, however, is a rather rough instrument, often so negative in its effects that it can only be used as the last resort and not as an instrument for daily practice. It does not allow the development of smart strategies, adjusted to specific and sometimes very sensitive situations. To give an example: in 1996 the EP used its veto power, arguing that the remittance of funds to Turkey should be deferred due to ongoing violations of the Kurdish minority rights. Although the EP was perfectly right in its criticism, there was a discussion whether the EP’s decision might have been counterproductive. On the one hand it confirmed the EU’s political will to insist on political reform but, on the other, pro-European democratic forces in Turkey, that were facing manifold difficulties at that time, felt further weakened by the EU’s brisk punishment. Had the Commission taken the EP’s objections into consideration beforehand, the EU might have developed a more diplomatic and at the same time more efficient strategy towards Turkey at that time.”⁸⁷

Other mechanisms at the disposal of the EP include discharge and participation in

⁸⁷ Jünemann, Annette, *The European Parliament and its impact on the promotion of human rights in the Mediterranean*, Universitat Autònoma de Barcelona, Observatori de Política Exterior Europea, Dossier El Parlamento Europeo en la Política Exterior, n° 08, 2004, p. 5.

flexibility instruments, but are arguably less central to the promotion of human rights priorities.

Since 1997, the EP alone has the right to discharge the accounts of the Community, after the Council has given its recommendation. It is possible that it can refuse it. However, the consequences of such action are so unpredictable that it is not suitable to reinforce specific human rights priorities. As the EP itself explains in its factsheets:

“the EP may decide to defer discharge where it is dissatisfied with particular aspects of the Commission's management of the budget. Refusal of discharge was considered as tantamount to requiring resignation of the Commission; the threat was put into effect in December 1998. Following a vote in plenary at which the discharge motion was rejected, a group of five independent experts was established, which reported on accusations of fraud, mismanagement and nepotism against the European Commission; the latter body then resigned en bloc on 16 March 1999.”⁸⁸

Paradoxically, while the Parliament has no budgetary powers to control the European Development Budget, it is also required to give an annual discharge in respect thereof. This situation has, on several occasions, been deemed extremely unsatisfactory. In a resolution adopted in 17 April 1996, the Parliament refused discharge to the EC in respect of the implementation of the EDF for the 1994 financial year, criticising once again the fact that the Fund was not managed in accordance with regular budgetary provisions. The EDF is not yet “budgetised” although it seems more and more likely that it will be in a near future.

While the annual nature of the financial review is not easily adapted to react to emergencies, the so-called *flexibility instruments*, which importance has been underlined by the Parliament in the discussion over financial perspectives, might offer remedy for unexpected needs. The procedure is set up by paragraph 24 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, and states that it “is intended to allow financing, for a given financial year and up to the amount indicated, of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings.” In 2005 flexibility instruments have notably been used to allocate €95 million for the rehabilitation and reconstruction of Iraq. While the proposal did not

⁸⁸ EP Factsheets, edition 2004, available at: http://www.europarl.europa.eu/facts_2004/1_5_3_en.htm (last seen 28.07.2006).

come from the EP, the Parliament, supporting similar lines developed by the Commission, successfully negotiated that flexibility funds would be used to finance this aid, rather than Community Budget and notably EIDHR lines, as was suggested by the Council⁸⁹. This would have meant that other human rights priorities would have suffered unduly from this allocation. This showed that the Parliament can be successful in negotiating with the Council, especially when the Parliament and the Commission develop similar lines. The Parliament can therefore exercise a watch-dog function in the allocation of human rights and democracy funds. As noted by an international Brussels-based NGO, it is very easy to mobilise attention as well as to increase financial support relating to some countries, such as Afghanistan or Iraq. In contrast, it is more difficult to increase support to other countries, which raises the main question of prioritising countries and themes within human rights and democracy financing scheme.

The capacity of the European Parliament to mobilise budgetary powers successfully and to link it with activities vis-à-vis actors outside the EU is crucial to enhance the profile and political weight of EP declarations, calls and activities in general. For the moment, the EP has not developed abroad an image of decision-maker in the field of budgets. External actors receiving or hoping for financial support identify better the Commission, which as the implementing actor managing EU budgets, acts as the contact institution.

Special Case: EU Financial Support to the UN High Commissioner for Human Rights

The EU through its budget belongs to the biggest donors of the Office of the High Commissioner in Geneva. For 2005 it has pledged (by the Commission) funds amounting to 9,6 mio \$ which is the second highest amount after the contribution of the United States with 11 mio \$. However, the EU (COM) is rather slow in transferring the pledged funds to the High Commissioner. As of 31 December 2005, of the 9,6 mio \$ pledged only 3.5 mio have been paid and are counted as income for the High Commissioner.

⁸⁹ Conciliation meeting between the Parliament and the Council held on 25 November 2004. See Report on the proposal for a decision of the European Parliament and of the Council on the mobilisation of the flexibility instrument according to point 24 of the Interinstitutional Agreement of 6 May 1999, (COM(2004)0402 - C6-0213/2004- 2004-2087 (ACI)), adopted on 8 December 2004, and Decision of the European Parliament and of the Council of 18 December 2003 on the mobilisation of the flexibility instrument in favour of the rehabilitation and reconstruction of Iraq according to point 24 of the Interinstitutional Agreement of 6 May 1999, Official Journal L 054, 23/02/2004 p. 1-2.

Furthermore, the EU contribution comes with detailed conditions and entails often year-long negotiations on rather petty points. This is one of the reasons that the amount and the ranking of the EU contribution varies substantially over the last years.

These variations in the funds committed and the high number of projects and countries which benefit from these funds constitute not only a heavy administrative burden on the two sides. They also diminish the impact of EU money in the promotion of human rights worldwide. The European Parliament can improve the use of the EU budget in cooperation with the EU Commission.

There should be a general switch in EU policy *from “input” to “impact”*; i.e. in detail:

1. The number of projects and countries which benefit from EU funds should be reduced drastically. One could image a concentration of 30% of the contribution on a few priority countries. Such a reduction would obviously require a political choice in which the voice of the EP should be heard.
2. To increase impact even more and to provide the High Commissioner with more financial predictability and stability, funds should be committed for two or more years. This would give an even higher visibility and influence to the EU in the chosen countries.
3. While respecting that mere budget grants are legally excluded, the ear-marking of funds should be more liberal and give the High Commissioner more leeway within the strategic framework recommended above under 1. and 2.

To reinforce its calls and influence, the EP should capitalise on its budgetary powers, and recall as much as possible EP's importance to external actors, notably third countries officials. It also means that the EP must be ready and able to mobilise them. This requires enhanced co-ordination between the different committees of the Parliament, and notably between the Committee on Budgets and the Committee on Foreign Affairs. Several observers, including from other EU institutions and international NGOs, have deplored the lack of streamlined interaction between policy calls made by one committee, and technical financial arrangements proposed by the Committee on Budgets. It is true that the latter must be selective and accommodate calls from all EP committees, thus serving as a filter for other committees, assuming consistency with general EP priorities and aiming at standardising policies. However, more work could be done together, and AFET, but also DROI, could try to develop the use of joint hearings with BUDG on financing human rights situation for instance, in order that references to budgetary powers in the context of human rights activities (some delegations for instance recall, during their visit, that the EP could place aid funds on hold if reforms are not undertaken) match real possibilities and efforts in other committees. However, on occasion, the commitment of committees in charge of external relations and human rights to mobilise their budgetary powers to support

their claims is uncertain. In a study commissioned by the EP on Human Rights and Democracy Clauses in EU agreements with third countries, Lorand Bartels considered:

“one of the significant powers of the EP is the power to adopt the annual budget. In 2004 two MEPs sought to secure a promise by the Commission that it would produce a mandatory biannual report on the implementation of the Human Rights and Democracy clause in the agreements with the Mediterranean countries by promising that otherwise half of all appropriations under a number of budget lines in these chapters be placed in reserve. The proposal was severely watered down by the Foreign Affairs Committee of the EP, which in the end merely called upon the Commission to produce such a report. Even this statement did not find its way into the EP’s final resolution on the adoption of the budget. Clearly, the decision to hold the budget hostage on any policy, including a policy concerning human rights and democracy, is highly political”⁹⁰.

In fine, political groups and internal cohesion of priorities on different files is crucial. For the Committee on Budgets, sound political backing is just as important as other committees’ opinions. Internally, political groups have to mainstream human rights in all different activities, and notably their stances on the use of EP budgetary powers. Some groups have fruitfully created horizontal working groups that work on external affairs having implications on the budget. There is an important role to play for the Budgets and Human Rights/Democracy coordinators of the groups.

The important say of the EP in the discussion of the new financial perspective (2007-13), quite successful with regard to financing of human rights and democracy activities and the creation of a dedicated instrument, illustrates the general willingness and possibilities of EP overall mobilisation for human rights issues. However, in the new financial perspective, it is foreseen that the number of financial instruments related to the external relations of the EU will be radically reduced, and the instruments established will for the most part leave the definition of policy content to the Commission and Council. This points to a possible decrease in the ability of the EP to use budgetary powers as a tool to advance human rights priorities. It is being compensated by the introduction of various consultation procedures, the effects of which, however, remain to be seen. An important exception to this general picture is the preservation of a budget instrument specifically dedicated to the promotion of human rights and democracy in third countries, the successor to EIDHR, which has thus once again been successfully defended by the EP.

⁹⁰ European Parliament, Directorate-General for External Policies of the Union, Directorate B, Policy Department, *Human Rights and Democracy Clauses in the EU’s International Agreements*, prepared by Lorand Bartels, 29 September 2005, p. 58.

2.4.2. The use of the assent procedure to international agreements

Many international agreements undersigned by the European Community are subject to Parliament's assent. Since the Single European Act, such is the case of all treaties marking the accession of a new Member State, as well as association agreements. Complementing this, the SEA also established the assent procedure for international agreements having important budgetary implications for the Community, and the Maastricht Treaty introduced it for agreements establishing a specific institutional framework (mainly co-operation agreements) or entailing modifications to an act adopted under the co-decision procedure⁹¹. Certain important agreements are excluded. Most of the Common Commercial Policy agreements with third countries (sectoral agreements), are not covered by this procedure.

2.4.2.1. Case 1: Refusing the assent – “The nuclear power”

Refusing assent is rare, but it occurs occasionally. The refusal to assent shortly after having been granted this prerogative in 1987, pushed this option to the forefront of EU institutions consciousness. Whenever assent to agreements with third countries have been refused, it has been tied to human rights violations in the third country, or insufficient provisions on human rights monitoring of the agreement in the text submitted, usually both. The refusal to grant assent not only directly implicates the third country concerned, but also its negotiation partners, the Council and the Commission, and jeopardizes important common relations which include trade and market integration developments.

Detailed conditions for the future granting of EP's assent (or, likewise, detailed justifications for having refused it) offer solid instruments of impact assessment. Since the EP ultimately assented where it had initially refused, the EP assesses its own impact, and deems, at least politically, whether its calls have been met, or at least to

⁹¹ Parliament must also give its assent to acts relating to the electoral procedure (since the Maastricht Treaty). Since the Amsterdam Treaty, its assent is further required if the Council wants to declare that a clear danger exists of a Member State committing a serious breach of the European Union's fundamental principles, before addressing recommendations or penalties to this Member State. Reversely, the draft Statute for Members of the European Parliament has to receive the assent of the Council.

an extent judged to be compliance with a condition imposed. An alternative interpretation however, is that the EP is not consistent in its willingness to link the assent procedure to human rights issues. Impact is observed but falls short of meeting all EP demands. Between January 1992 and December 1993, for instance, the EP refused its assent to the third and fourth protocols of the Co-operation Agreement between the EU and Syria until both the Commission and Syria had agreed to put human rights on the agenda of the Co-operation Council. The sequence of events leading to a delayed assent to the Custom Union Agreement between Turkey and the European Community on 13 December 1995 has been singled out as illustrative of the use of the assent procedure in the field of human rights. While the treaty was being negotiated, the EP called on the Council to suspend the negotiations in December 1994, following the deterioration of the human rights situation in Turkey and most notably Turkish's decision to lift the immunity of 13 Kurdish Democratic Party members of the Turkish Parliament. The Council took up some of EP's consideration but did not suspend the negotiations. The EP not only did not change its stance, but granted the 1995 Sakharov Prize to Leyla Zana. Several changes were then undertaken by Turkey: the National Assembly passed a constitutional reform on democratisation and released several political prisoners. Changes were nevertheless criticised as cosmetic, and main calls of the EP had not been met: Leyla Zana was not released – even more, her husband, Mehdi Zana, also a campaigner for Kurdish autonomy, was re-tried in November 1995 for a speech he made at the EP. On 13 December 1995, “as an encouragement to the Turkish Government's commitment to continue the process of democratisation and improvement of the human rights situation”⁹², assent was granted. The EP also placed some calls and detailed demands on the Turkish authorities, which fulfilment is highly debateable⁹³.

⁹² Resolution on the human rights situation in Turkey, adopted on 13 December 1995, paragraph 8.

⁹³ See Flavia Zanon, “The European Parliament: An autonomous foreign policy identity?”, in Barbé & Herranz, 2005, Chapter 6. This episode is sometimes highly valued as an example of EP conditionality policy. It has also been criticised. See for instance Mehmet Ugur (Ugur, 1999, 234-235): “The EP gave its assent to the customs union agreement in December 1995 under intense pressure from the Commission and the Member States. [...] The major factor that made the pressure work was the way in which the Commission, the Council and the Member States blurred the transparency/visibility of the human rights issues by linking them with a ‘European interest’ that the EP was expected to defend. Although the EP adopted a resolution calling for a permanent monitoring of Turkey's human rights record and periodical reporting by the Commission, this attempt remained essentially a face-saving exercise. That was because the conclusion of the customs union, despite declared announcements by both parties that it would improve the prospect for Turkey's integration, was not a comprehensive package that would anchor Turkey's policy reform. It constituted merely a new indicator of the EU's tendency to achieve high returns (i.e., convergence by Turkey) at lower risks. The even the EP was inclined to comply with this policy line was confirmed by a symbolic yet significant gesture: the presentation of the Sakharov Prize to Leyla Zana [...] was postponed so that the presentation would not coincide with the assent on the customs union.”

Arguably, refusing to assent to an agreement leads to other, non visible effects and reinforces the political weight of the Parliament in other areas, mainly in the field of human rights, which is the ground on which the EP justifies its refusal. As Lalone puts it: “the most tangible result of [the refusal of giving assent] has been to further cement the Parliament’s reputation as the guardian of European values and as a strong supporter of human rights issues. While these developments may doubtless contribute to the creation of a unique Parliamentary identity in foreign affairs, the policy consequences have been largely symbolic and rhetorical. As such, this indirect power complemented the Parliament’s alliance with civil society and HR groups.” (Lalone, in Barbé & Herranz, 2005). The refusal of the assent can improve the responsiveness of the Council – to the extent that EP demands are articulated consistently and firmly at an early stage of the negotiations.

The Partnership and Association Agreement and the Interim Agreement with Turkmenistan – Lessons learned

Both a Partnership and Co-operation Agreement (PCA) and Interim Agreement were put before the European Parliament in 1998. The first needed formal assent, and a report was prepared by the Committee on Foreign Affairs (with an opinion from the Committee in charge of international trade – now INTA), while the latter was before the Committee in charge of international trade (with opinion from AFET) and only subjected to consultation procedure (the Commission could proceed with the ratification of the Interim Agreement even with a negative response from the Parliament, or in the absence of a response). On the ground of the poor human rights situation in Turkmenistan, AFET decided not to issue a report, and thus reported *sine die* the ratification of the PCA. On the contrary, AFET, in its opinion for the trade committee report, was in favour of the interim agreement, but the Committee in charge of international trade also decided not to proceed with its report. Ultimately, nothing happened; even the Interim Agreement, which did not require assent, did not enter into force. Whether this is due to the Parliament or to the resistance of certain EU Member States is unclear. The fact is that both agreements are now presented again to the EP, which is divided on the issue and prefers to take time to investigate the issues at stake to forge its position. The Parliament sent a delegation in June 2006, which harshly criticised Turkmenistan’s human rights records. The Interim Agreement is discussed first, in AFET and INTA, which is the leading committee for this Agreement. AFET already contributed its positive opinion. A clear position has however not yet emerged. Some argue that, in general, PCA or Interim Agreement have not been very efficient in promoting human rights issues, even with human rights clauses, and that there should be a minimum requirement to enter such agreements. Others argue that some positive steps have been taken by Turkmenistan since 1998.

Interesting features of the debate include:

- *Questions of formal mandate.* EP is represented (by journalists and MEPs themselves), as having the right of “ratification” (in other words, power of veto) over the Interim Agreement, when it is a simple consultation. This might stem from the congruence in 1998 of EP’s reluctance to deliver a positive opinion and the absence of ratification, or from the alibi offered by the EP to the reluctance of some Member States. Lastly, it can illustrate a larger interpretation of EP formal role in the consultation on Interim Agreement.
- *Question of internal human rights mainstreaming.* Notably the Committee in charge of international trade has been much sensitive to human rights issues, arguably more than the Committee on Foreign Affairs which twice expressed its positive stance vis-à-vis the Interim Agreement.
- *Question of attaching assent/consultation procedures and human rights calls.* The European Parliament did not clearly articulate human rights conditions/minimal standards to be achieved vis-à-vis Turkmenistan in 1998. It did not adopt an unfavourable report nor deliver a resolution linking its refusal to deliver assent to the human rights situation. It did so only in a resolution on 15 March 2001 (reiterated on 23 October 2003). Therefore, it has remiss at clearly linking its possible assent, with a checklist of minimal standards to be respected, or offering constructive support to reform in Turkmenistan. Today, the EP notes that progress has been made by Turkmenistan in the field of human rights since 1998 (law against child labour and acceptance of visit of OSCE rapporteur on national minorities), but it is not in a position to argue that these are linked with the refusal to agree to the conclusion of the PCA and the Interim Agreement in 1998.

However, the impact of a refusal to grant assent is unpredictable, and can be limited and counter-productive. With regard to limitations, notwithstanding the fact that the EP does not have the power to veto purely commercial treaties, the effect of a refusal to grant assent is short-lived and inconsistent. Once the treaty enters into force, EP demands may be unfulfilled. The EP has always granted its assent, sometimes a month after having refused it in the first place (such was the case in December 1987 regarding financial and technical protocols of the Association Agreement with Turkey).

Second, the political cost of refusing assent can be significant, both vis-à-vis the third country concerned and the other two institutions, especially if EP’s claims are not substantiated, or if they are inconsistent, for example ambushing the entities with unexpected claims, or granting the assent without seeing its demands fulfilled. It is also an unwieldy tool to use frequently – the opposite problem being that, if the EP uses it too infrequently, it can be perceived as applying double standards to those whose have been spared its activation. In December 1987, for example, the EP refused its assent to financial and technical protocols with regard to EC-Turkey

Association Agreement, while granting it for similar protocols in the case of Algeria, Cyprus, Egypt, Jordan, Lebanon, Tunisia and Yugoslavia. Ultimately if the EP never uses it, then the mechanism is redundant.

Refusal to assent is a blunt instrument, and certainly has impact. It is the “nuclear bomb” of the EP arsenal, as an interviewee put it. This has led the Parliament to explore alternative strategies to its veto while retaining the political weight conferred by the assent procedure – an exploration that is ongoing.

2.4.2.2. Case 2: Accepting the assent – Conditions strategies

The strategy that the EP has been developing comprises three elements.

1. The EP can threaten to veto the agreement if certain minimal safeguards are not met in the field of human rights, leading to positive developments and showing of good willingness during the negotiations – or, at least, to assurances and commitments. Prior to granting assent, the EP now consistently organises public hearings and exchanges of views on the benefits of possible agreements and assessing human rights records (a stage which resembles a lot to a political impact assessment prior to a decision). This serves as an implicit reminder of the importance of human rights in the assent procedure, and is sometimes used to explicitly condition the assent to specific objectives and launching of reforms. In the absence of a resolution, the clarity of the conditions will depend on MEPs’ co-ordination and common strategy during these public hearings. This was the case for the AFET and DROI public hearings organised on 30 and 31 March 2005 during the assent procedure for the Association Agreement with Syria, where MEPs appeared to have co-ordinated their approach and passed on a clear message⁹⁴. This is not always the case, and many international NGOs deplore that public hearings in the context of assent procedure are done as a formality, and are therefore missed opportunity.

The threat has to be directed at the EU Council too. The possible veto enables the EP

⁹⁴ Multiple conjunctions can be drawn on what could have been the final stance of the EP with regard to the agreement, had it been without the sudden deterioration of the situation in Syria and especially of its relations with the EU (and arguably countries like France) following the assassination of former Lebanese Prime Minister Hariri, which blocked – up to the time of writing – the perspective of the adopting the Agreement.

to be present and influence the negotiation process. This is still very much unexplored. The EP would need to better anticipate the negotiations and seek to take the lead, while adapting its demands as much as possible to the negotiating process. With the Solemn Declaration on European Union of 19 June 1983, concluding the European Council of Stuttgart, the Council has committed to further involve the Parliament in the negotiation and adoption of “all significant international agreements concluded by the Communities” and engaged in “procedures for providing the European Parliament with confidential and unofficial information on progress in negotiations”⁹⁵. The confidential and unofficial nature of some of the information received by the Parliament from the Council makes it difficult for the EP, a collegial and transparent body, to adapt its instruments of influence to the negotiations. It also makes it difficult for external observers to assess the quality of this dialogue. However, given the limited successes of the Parliament in conveying its views in the agreements, it is hypothesised that relations with the Council during the negotiations, if any, are unilateral and mainly aimed at formally briefing the Parliament. The rarefied use of the veto can diminish the reality of the threat.

2. The EP can adjoin conditions, or rather, demands, to its assent. These demands are placed upon the third country, to abide by the commitment that it freely enters while ratifying an agreement which contains a human rights clause⁹⁶, or upon the Council and the Commission, to monitor human rights in the country, take measures if necessary, and above all associate the Parliament with the monitoring of the implementation of the agreement. These demands can be expressed in separate resolutions that are adopted on the same day as the granting of the assent. This has been done on different occasions, notably in relation to the assent given to the Association Agreements with Egypt⁹⁷, Algeria⁹⁸ and Lebanon⁹⁹. These resolutions can

⁹⁵ European Council, *Solemn Declaration on European Union* (Stuttgart, 19 June 1983), at 2.3.7. Some of these commitments were incorporated in the Single European Act, but some agreements (like interim agreements relating to partnership and co-operation agreements) which are not clearly mentioned in the treaty are still submitted to EP consultation under the Stuttgart commitments (this leaves room for flexibility on the Council’s side as to what is a “significant agreement” – the Council, for instance, did not consult the Parliament on Interim Agreement between the EU and Russia, signed on 17 July 1995, while it normally do so for other Interim Agreements. This was harshly criticized by the Parliament in a resolution on the failure to consult the Parliament on the EU-Russia Interim Agreement adopted on 1 February 1996.

⁹⁶ Generic name for the second article of the agreements, which stipulate that respect for democratic principles and fundamental rights inspire the domestic and external policies of the parties and constitute an essential element of the agreements.

⁹⁷ EP resolution on the conclusion of an Association Agreement with Egypt, adopted on 29 November 2001.

⁹⁸ EP resolution on the conclusion of an Association Agreement with Algeria, adopted on 10 October 2002.

be important and have impact if they offer concrete and detailed proposals for measures to be taken and the implementation mechanisms for the agreement, a sort of checklist on the basis of which the fulfilment of the human rights clause can be assessed. The more realistic and concrete the proposals are, the more likely they are to be implemented¹⁰⁰. NGOs have mixed feelings about this procedure, especially when the Parliament does not make its assent conditional on prior commitments and grants its unimpeded assent under the palliative that human rights will be better addressed within the agreement¹⁰¹.

3. The general focus of the Parliament has shifted from simply granting assent to the implementation of the agreements. This is explained by the systematisation, at least in Association and Co-operation Agreements, of the human rights clauses, and the development of more integrated agreements in the context of the Euro-Mediterranean Partnership, where it is felt that more progress can be achieved in the framework of the agreements than in its absence.

“It is the logic of the EMP that democracy and human rights are not a precondition for participating in the EMP but hopefully a long term process. Since the important instruments to pressure authoritarian governments towards democratisation are built into the association agreements, and since they can only be set in motion when both sides have jointly agreed to accept them – by signing the agreement – the EP has finally given its assent to all association agreements with MPCs, no matter how authoritarian they are” (Jünemann, 2004, 4).

Attention is focussed on the implementation of the agreements that contain human rights clauses, which offers ground for numerous calls on the Council and the Commission for a better implementation of the Parliament and inter-parliamentarian monitoring. Joint parliamentary assemblies would be particularly adapted to address these issues when agreements are taken within the framework of a regional policy, but they are not yet fully associated. Positive developments have been observed with

⁹⁹ EP resolution on the conclusion of an Association Agreement with the Republic of Lebanon, adopted on 16 January 2003.

¹⁰⁰ The international NGOs have been extremely attentive to the quality and precision of these resolutions, and have followed up-to-the-minute their writing, tabling of amendments and the votes. See for instance, regarding the Association Agreement with Algeria, the joint Open Letter to the MEPs sent by Amnesty International, the Euro-Mediterranean Human Rights Network, the International Federation for Human Rights (FIDH) and Human Rights Watch on 30 September 2002, available at http://www.fidh.org/article.php3?id_article=1531 (last seen 07.06.2005), and regarding the Association Agreement with Lebanon, the Joint Open Letter to the MEPs sent by the Euro-Mediterranean Human Rights Network, the International Federation for Human Rights (FIDH), Human Rights Watch and World Organisation Against Torture (OMCT), on 24 October 2002, Human Rights and the European Parliament assent procedure concerning the Association Agreement between the European Union and Lebanon, available at: http://www.euromedrights.net/english/emhrn-documents/pressreleases/25_10_2002.htm (last seen 07.06.2006).

¹⁰¹ See comments on the assent given to the agreement with Egypt, by the Euromed network, “EU-Egypt Association Agreement: EU Parliament’s despite debate on human rights”, 29 November 2001. Available at: <http://www.euromedrights.net/english/emhrn-documents/newsletters/december2001.htm> (last seen 29.06.2006).

regard to the specific framework of the EC-ACP partnership, and its ACP-EU Joint Parliamentary Assembly is now granted a role in the political dialogue, since the revision of the ACP-EC Agreement in 2005¹⁰². As far as the EMP is concerned, the Euro-Mediterranean Partnership Assembly does not formally have a role, and is still in its early stages. Limited improvements have been made. For example, the Association Agreement with Lebanon referred to inter-parliamentary (EP/Lebanese Parliament) control of the agreement¹⁰³, when a few months earlier the EP denounced the inadequacy of the “absence of any reference to political dialogue between the European Parliament and the National People’s Assembly of Algeria, given that such a dialogue would guarantee parliamentary monitoring of the implementation of the new agreement”¹⁰⁴. But the developments fall short of answering EP’s calls.

The recent resolution on the human rights and democracy clause in European Union agreements, adopted by the Parliament on 14 February 2006, reiterates EP calls, which link assent to monitoring of the human rights clauses. The principal demands are to extend the assent procedure to all agreements with third countries, to systematise the human rights clauses in all agreements (sectoral agreements especially) and that the European Parliament and parliamentary assemblies are granted a formal role in the monitoring of the agreements, and especially their human rights clauses.

The EP is currently exploring the virtues of a three pronged approach: securing minimum standards and commitments before the assent, adjoining demands to the formal assent, and improving its role in the monitoring of the agreements. As this practice is consolidating, and is very much oriented on longer term strategies, it is difficult to assess the concrete impact of each of its sequence. The impact is diffuse but, one could hypothesise, is ultimately more profound. It depends on several factors: the ability to influence the negotiations, the ability to convey a clear message and

¹⁰² See articles 15 (3) and 17 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, and especially article 8 (6) of the revised agreement concluded on 23 February 2005.

¹⁰³ See article 5 (2) of the Euro-Mediterranean Association Agreement between the European Community and its Member States on the one part, and the Republic of Lebanon, concluded on 17 June 2002.

¹⁰⁴ Resolution on the conclusion of an Association Agreement with Algeria, adopted on 10 October 2002, Recital E. The same criticism had been included in EP resolution on the conclusion of an Association Agreement with Egypt, at article 4.

maximise the threat of a veto and consistency over an extended period (if EP demands concerning a country are coherent over time and correspond to concrete possibilities emerging during the negotiations or in the implementation stage, they are more likely to be taken on board by the Council), upholding its influence over assent and the gravity of its application, notably by avoiding double standards in its activation.

The EP has demonstrated it is capable of sustaining a strict, coherent, serious and enduring political line, regardless of its political composition, notably in the context of enlargement.

2.4.2.3. The specific case of assent for accession of new countries to the European Union

The Parliament has mobilised its assent powers in the specific context of accession. Human rights concerns are a strong focus of the Parliament vis-à-vis candidate countries. This interest has been demonstrated notably by consistently raising the issue, and by drawing on expertise as needed, including from the Council of Europe, OSCE and elsewhere.

Turkey is exemplary of the use of assent procedure to promote a human rights agenda, and also illustrates how the possibility of a threat, however remote, is ever present. Indeed, not only has the EP refused several times to assent to different agreements with Turkey, but it also never misses an opportunity to remind Turkey that its European future is dependent on EP concession to its accession. Should any confusion arise, the EP is not opposed to Turkey's accession; it voted massively for the commencement of negotiation talks, on 13 December 2004, thus demonstrating that the primary interest of the EP is human rights. The Parliament consistently reminds its preoccupations, regardless of the legislatures and the political majorities, since 1987: women's rights, minorities' rights notably, but also the official recognition of the Armenian genocide. While Turkey is a very special case, about which the public opinions of certain countries (most notably France, Germany) are mobilised and therefore the work of their representatives subject to scrutiny, this political willingness could be expanded to other cases and issues.

The necessity of the assent of the European Parliament to any country's accession to the European Union is recalled in its resolutions concerning other European countries, and most notably the Balkans. It is noticeable that vis-à-vis accession and candidate countries, the EP has taken a bolder approach and highlights in its resolutions this direct connection, and the need for candidate countries to be responsive to EP's calls.

Assent can be instrumental in reinforcing the political significance and impact of other EP activities in the field of human rights.

Summary of recommendations on formal powers

- Capitalise on the existing formal powers by linking human rights concerns with the possible use of such powers.
- Better bridge the gap between different policy areas within the EP by linking the work of the committees in charge of human rights, budget and international trade, in a bid to develop multifaceted strategies translating human rights policies into budgetary and trade concerns. Conversely, budgetary and trade issues should be better integrated into the articulation of human rights concerns, so as to make the latter more realistic in terms of achievement and better attuned to EP formal powers.
- Enhance the consistency and clarity of statements and expression of concerns over time: the credibility of a veto threat and ability to influence negotiations and major budgetary developments is dependent upon the EP's capacity to convey clear messages and establish cardinal concerns prior to the enactment of the formal powers.

2.5. Individual actions

While individual actions of EP members might not usually be considered as activities of the Parliament, and are not well documented, the present study concludes that they should be considered in conjunction with other activities and in fact greatly contribute to the general performance and impact of the EP in the field of human rights. This section provides a first assessment of potential role and impact played by individual actions, while exploring challenges and factors that the EP might wish to take into consideration to assist ongoing assessment and enhance their impact. Actions of the EP President are discussed separately, as these are institutionalised and constitute an integral aspect of the action of the Parliament in the area of human rights.

2.5.1. The activities of the EP President

The President of the European Parliament is an important actor for the Parliament's promotion of human rights outside the European Union. Despite the fact that there already exist numerous activities conducted by other entities (committees and delegations especially), the office bears special responsibility in the field, and holds unique competencies.

The President's contributions to EP human rights activities are not restricted to a particular format. It ranges from writing letters, direct telephone communication, to sending a Mediator (for instance in 2001 an MEP was appointed as the President's mediator for transnationally abducted children, responsible for reaching an amicable solution with the Kenyan authorities on an individual case related to EU citizens). The main distinction to be drawn is between public and confidential interventions. The confidential nature of many activities of the EP President is an obstacle to forming a global picture of their scope and effects and therefore to assess their impact. However, some suggestions can be formulated on the activities themselves, and on their

efficiency.

2.5.1.1. EP President's human rights activities

Drawing on interviews and references made to the President's work in different resolutions¹⁰⁵, it seems that EP President's activities in the field of human rights primarily focus on individual cases, with a particular emphasis on human rights violations that involve EU citizens abroad, and some former Sakharov Prize laureates.

The activities undertaken are declaratory, and resolutions from on occasion commend the President for his interventions, or call upon him to perform an action. Committees also call on the President to act and echo their preoccupations, which is apparently done quasi-systematically, by letters. Besides these formal mandates, the confidential as well as, to a large extent, the public interventions of the President are mainly left to his discretion.

It is surmised that a primary factor of impact is the intensity of the President's activities in the field. This is seen as depending on two main variables: the resources at the disposal of the President and his/her willingness to address human rights issues. Coordination with other EP activities is also an important factor, but there appears to be only intermittent cooperation and exchange of information between the Cabinet of the President and the units in the Secretariat in charge of human rights-related issues.

2.5.1.2. Assessing impact

The President's activities have a clear specific added value in the arsenal of human rights related activities of the Parliament. There are not redundant and have an important impact. Confidential activities on individual cases have been referred to, in

¹⁰⁵ See: Resolution on the right to freedom of expression and respect for religious beliefs, adopted on 16 February 2006; Resolution on presumed use of European countries by the CIA for the transportation and illegal detention of prisoners, adopted 15 December 2005; Resolution on the sentencing to death of Francisco Larrañaga, an EU citizen, adopted on 15 November 2005; Resolution on Political prisoners in Syria, adopted 8 September 2005; European Parliament resolution on the fate of the Greek and Filipino sailors in Karachi, adopted on 12 February 2004; European Parliament resolution on the arrest of a group of journalists and their American interpreter and Laotian escorts, adopted on 3 July 2003; Resolution on the situation in Côte d'Ivoire, 10 October 2002; Resolution on Aung San Suu Kyi and Leyla Zana, winners of the Sakharov Prize, 13 December 2001; European Parliament resolution on children abducted by their parents, adopted on 15 March 2001; Resolution on the prisoners facing trial in Iran on charges of espionage on behalf of Israel and the United States, adopted on 13 April 2000.

many interviews, as a very successful activity, palliating the weaknesses of the public “name and shame” strategy. However with respect to the confidential nature of the activities its direct assessment is extremely difficult.

Accordingly, the principal criteria to maximise impact is to realise the optimum match between the objectives and the tools at the disposal of the Parliament: some calls are better carried in by confidential means, while resolutions have their own particular added value. One interviewee explained, that while the President’s interventions might have optimum impact on an individual case, it is most appropriate to address it in a resolution if the desired outcome is to spur debate in the third country where the situation takes place and if the intended result is to use this case as a vehicle for a wider scrutiny of the situation in the country.

It seems that when the Parliament co-ordinates its activities, including with the President’s activities, best results are achieved. The President is best placed to follow up on resolutions, which are in any case forwarded through the Presidency. The President can reiterate calls made in resolutions.

The blogger and the President

The liberation on 11 July 2006 of Chinese internet blogger Hao Wu is a good illustration of how determinant the intervention of the EP President can be, following a resolution of the Parliament. The blogger was arrested and held *incommunicado* since 22 February 2006. The international NGO *Reporter Sans Frontières*, as well as the family of Hao Wu, had been very active in calling for his liberation. RSF had notably sent a letter to the EP President, asking him to raise the issue during his trip to China. The Parliament had also called, in an urgent resolution on freedom of expression on the internet adopted on 6 July 2006, on the liberation of Hao Wu, as well as others internet bloggers in China and around the World. On the 8th, EP President Borrell left for his first trip to China, where he raised human rights issues. On the 11th of July, Hao Wu was released, but not the other Chinese bloggers mentioned in the 6 July resolution.

This illustrates the added value of highlighting specific cases during visits, as well as the greater impact from linking different EP activities with each others. It also exemplifies the difficulty that exists in imputing impact and the difference existing between contributing to improving one’s situation and giving morale support. On the latter, confidential interventions are not sources of morale support but offer better ground to enhance one’s situation. On the issue of imputation of impact, timing of the liberation (a few days after the resolution, during the President’s visit) as well as the clarity of the demand (the mention of individual cases offer concrete and tangible indicator of impact) highlight possible links between the call and the release. Also, NGOs (RSF) and press releases (AFP) associate the release with the action of the Parliament and the presence of President Borrell in China, which is an additional element to impute impact to the credit of Parliament’s actions. The President explained in a press conference that the release of Hao Wu during his presence was probably not a coincidence.

However, it is interesting to note the viewpoint of Hao Wu's family – especially his sister who maintained an internet blog and was pivotal in raising-awareness and militating for the release of her brother, who takes a much more holistic approach to explain the liberation of her brother. She writes on her blog:

“It's impossible to know right now what will happen next, what caused his release at this time, or whether the story is completely over. [...] There is also no doubt that all the expressions of support around the world - from media, politicians, bloggers, and other citizens writing letters and signing petitions - have had an impact. We have made it clear to the Chinese government that their treatment of Hao was a cause for national shame. We have given Hao's family and loved ones moral support in the face of a lot of nastiness and negativity as they worked to get him released. But most importantly, the global show of support will no doubt be a great source of strength as Hao recovers from his ordeal and copes with its aftermath. [...] Support was strong across the blogosphere, with hundreds of fellow bloggers posting on Nina and Hao's story, as well as putting up Free Hao Wu tags. Support was there from some mainstream media, with the *Wall Street Journal* chipping in just a week ago, and a piece written in *The Washington Post* by Global Voices co-founder Rebecca MacKinnon coinciding with Chinese president Hu Jintao's visit to America. [...] Several members of the U.S. Congress wrote letters of concern on Hao's behalf. We are also grateful for some diplomacy - both quiet and open - conducted elsewhere. Late last week free speech group Reporters Without Borders announced a successful lobbying attempt aimed at the European Parliament, which ratified a resolution on freedom of expression on the internet. Included in the resolution is a list of nine imprisoned bloggers and cyberdissidents, including Hao.” (see on www.ethanzuckerman.com/haowu/, translation of <http://wuhaofamily.spaces.live.com/>, last seen 21.09.2006).

Nevertheless, the potential impact of the President's activities is not limited to interventions in individual cases. The President also bears special responsibility to perform specific human rights activities, being the voice of the European Parliament and the main actor in its architecture. As the depositary of the mandate to represent the EP, the President is in the best position to enter in dialogue with third countries authorities, and can insist on securing human rights commitments. Finally, the President is instrumental in mainstreaming human rights concerns into all EP's activities.

2.5.2. Individual actions of the Members

Autonomous individual actions of the MEPs cannot be considered as an official “activity” of the EP, but are nevertheless numerous and almost invariably identified by the relevant actors as having important impact.

2.5.2.1. Multiplication of individual actions

Such actions flow naturally from the political and collegiate character of the Parliament; due to their individualised nature they are divisive and potentially conflict with the messages sent by the Parliament, yet at the same time they enhance follow-up by the Parliament to other human rights activities and offer valuable opportunities for individuals and civil society organisations, external to the operating of the Parliament to influence its work.

Individual actions come from one or several MEPs, and have multiple forms. They range from informal delegations to a country (for example from 9 to 13 April 2006, seven MEPs from different political groups went on a fact-finding mission in Palestine; its members followed up the mission by sending letters to Council and Commission, and holding informal debriefing with Commissioner Ferrero-Waldner), or, typically a joint letter (for example a letter sent by 50 MEPs to the authorities of the Lao People’s Democratic Republic on the sixth anniversary of the “Movement of 26 October 1999”, and urging them to release the leaders of the movement).

Findings show that mainly two variables reinforce the value of individual activities: the number of MEPs involved and the degree of representation across the political spectrum. It is hypothesised that when these two variables are maximised, individual activities come to resemble regular EP activities, and their impact is affected by similar factors (visibility, co-ordination etc.). The difference between a letter signed by 75 MEPs from all political groups and an urgent resolution adopted by the same number of MEPs is limited (morale and political support, etc.), and MEPs own-initiative delegations to third countries are difficult to identify in isolation from the

manifold delegations sent by the Parliament.

Individual actions by single MEPs are also important, and can be confidential, which is sometimes useful. It is found that, just as for regular activities, the co-ordination of individual actions with other activities is important to enhance possible impact¹⁰⁶. Individual actions can create synergies and multiply the voice of the EP, by activating MEPs networks. They can be a palliative for the absence of any other actions.

The main problem of individual actions is that they lack formal entitlement to act, and have not been subject to the EP's political scrutiny (most notably, vote). They are unofficial, but nonetheless have effects. They risk sending contradictory messages that are not backed by the whole assembly. A further risk is that individual voices compound the EP message as a whole. As put by a former Minister of the Palestinian Authority, "there is a low awareness [in Palestine] on the EP and its activities related to Palestine. The Palestinian authority knows little about the activities of the EP, we know people from the EP who pay attention to the Palestinian question and carry out some informal and positive activities." On site interviews with different actors in Palestine confirmed that individual actions taken by MEPs can colour the overall image of the EP.

This, in conjunction with low attendance at meetings and notably in the Subcommittee on Human Rights, as well as the limited number of MEPs participating in the vote on urgent resolutions, raises questions about the ability of the EP to act as a single entity, to plan and implement long-term strategies collectively. Further, commentators, including human rights co-ordinators and advisors have observed that designing common lines and strategies on human rights is a complicated exercise even within each political group.

¹⁰⁶ Such was the case for the liberation of the Moroccan journalist Ali Lmrabet. A solidarity committee coordinated the actions in favour of his liberation, and collaborated with the main international and local NGOs, the national parliaments and the EP. EP's first contribution was brought by a letter of solidarity signed by various MEPs, sent on 30 April 2003, then a letter to the Moroccan Prime Minister was sent by EP President Cox on 19 June 2003. The EP finally adopted a resolution on the Mediterranean region, explicitly mentioning the case, on 7 January. Many other actions have probably been taken but are not documented. This gave input to a wider movement that led to Ali Lmrabet's liberation on 7 January 2004.

2.5.2.2. Personalisation of regular activities

MEPs are also very important in shaping the agenda of the Parliament. Indeed, alongside the multiplication of individual actions, a concomitant movement is the strong personalisation of regular activities, which can spring from the political credit associated with individually identifiable actions, or from the ideological/personal interests of the MEPs. The receptivity of a consistent group of MEPs can allow some issues to be given more attention on the overall agenda of the Parliament, whether it is for example migration or sexual orientation issues. This is manifest in the field of human rights, where the agenda is not so much dictated by the overall EU agenda, and is especially observed during the adoption of subjects for urgent resolutions. Regularly, issues proposed by a limited number of MEPs come through (resolution on the Republic of Mari El adopted on 12 May 2005, for instance).

The specialisation of some MEPs in different areas is in itself a strength and a weakness. Strengths come from the expertise and the contacts accumulated by MEPs in their areas of interest. Willingness to follow up on certain issues could be better exploited by the Parliament. For example, an MEP having pushed for the adoption of a specific resolution could be formally mandated to follow up with the scrutinized countries' authorities and the Commission and the Council on their reactions and actions taken on the basis of the resolution. They could seek to assess the impact of the resolution by liaising with different sources, notably from civil society.

A possible weakness, however, is that the consistency and long-term strategies are dependent on the commitment of a few MEPs and can result in inconsistencies in the EP approach to a topic over time. Human rights are also sometimes perceived as an area of specialisation of some MEPs, which makes it difficult to mainstream concerns in other policy areas.

2.5.2.3. Impact assessment and risk limitations

All observers note that MEPs are “free wheeling” or in French “électrons libres” and that this has consequences on the activities of the EP. Yet, the impact of individual actions on human rights issues and on EP activities as a whole has not been

recognised as an area for in-depth investigation and improvement.

There is however a strong case for a better assessment of individual actions of the MEPs, which could be pulled together and capitalised upon in a more pro-active fashion.

Assessing individual actions could start with establishing a record of these actions. Focal points could be designated on specific issues and try to list and co-ordinate individual actions. This is already done to a certain extent by the delegations, when it comes to country specific issues, and by “inter-groups” where they exist. These are informal and open groups of MEPs, assistants, civil servants of the European institutions, lobbyists and non-governmental organisations who work together on specific issues. They work to put their demands on the European agenda and compare notes on battles won and lost, and have proven to be quite successful in co-ordinating activities, for instance in the field of discrimination based on sexual orientation. They offer a model for the regulation of MEPs individual actions and creation of synergy effects¹⁰⁷.

Summary of recommendations on individual actions

- Reinforce in-house synergies: the contribution of individual MEP actions to EP human rights promotion should better be taken into account and cooperation and exchanges of information between different internal actors should as far as possible be facilitated. Records of actions taken by the MEPs and the President should be established and focal points for particular issues could be identified. The added value of individual actions should be maximised. MEPs can multiply the voice of the EP by activating personal networks and their willingness to invest political capital in a given topic can be beneficial for the EP as a whole: the MEPs in question could, e.g., be engaged in structured follow-up on activities in the area and be appointed to liaise with relevant third parties. The EP President is especially well equipped to follow-up on EP activities with third countries, as she/he carries the mandate to represent the EP and is in contact with third country officials. The President bears special responsibility in mainstreaming human rights concerns into all EP activities and could develop her/his activities in this regard.

- By offering a framework for coordination of individual actions, for instance within inter-groups, the value of such actions can be reinforced while limiting their possible shortcomings, in particular with regard to the risk of conveying conflicting messages.

¹⁰⁷ References to inter-groups activities will be incorporated when relevant in the text of the study, especially in chapter three. Given its experience and successes, the *inter-group on gay and lesbian rights* has been analyzed more in-depth as a case study.

Chapter Three

Cross-cutting factors affecting impact

The general aim of this chapter is to examine a variety of factors of a cross-cutting nature that affect the impact of human rights activities on the European Parliament.

A distinction is made between factors that are internal to the work of the EP, factors that relate to the role of the EP within the wider EU architecture, and factors that relate to the work of the EP in relation to other main international and inter-governmental organisations in the area of human rights.

Although the diversity of EP actors dealing with human rights is taken into consideration, and analysis is not limited to the activities of the Sub-Committee on Human Rights, it is recognised that the latter “has created a focal point for activities on human rights”¹⁰⁸ within the EP. It will be a reference point whenever appropriate, thus reflecting its centrality in the human rights activities of the Parliament. Specific developments in terms of its status are discussed at the end of the first part on cross-cutting factors pertaining to the EP architecture and procedures.

¹⁰⁸ EP Annual Report on Human Rights for 2005, paragraph 102.

3.1. Factors internal to the European Parliament

3.1.1. Participation and support

The active participation by MEPs is essential for the impact of EP activities in the area of human rights, especially in the view of actors implicated in the activities and representatives of third countries. Poor collegiate support involves not only a political element (the degree to which issues and standpoints are able to command broad support within the Parliament) but also an aspect of procedure and timing.

First, there is a problem of lack of attendance to public hearings and committees and delegations meetings, even on occasions when highly significant guests have been invited, such as UN High Commissioner for Human Rights Louise Arbour. This sends a negative signal not only to the guests but also to the wider human rights community. Given the costs, monetary and otherwise (i.e. possibility of reprisals against human rights defenders participating in public hearings), incurred by invitees this reluctance to participate on the part of MEPs is unsympathetic. Furthermore, one cannot but note that, when MEPs want to show their disapproval to a speaker's invitation, the "least complicated way [is] not to show up to hear [the] speech at all", as was argued in May 2006 by MEPs who decided to boycott the intervention in plenary sitting of Bolivian President Evo Morales¹⁰⁹. The problem of securing adequate attendance was one of the reasons for discontinuing the Sub-Committee on Human Rights in the previous Parliament. "At the time the decision was taken, many argued that the Subcommittees were ineffective since they had no decision-making role and, as a consequence, their meetings were poorly attended by members. This precedent calls into question the efficacy of creating a subcommittee structure dedicated to information exchange and

¹⁰⁹ Evo Morales addressed the EP in plenary sitting on 15 May 2006. On the non-attendance as a political signal, see MEPs' views reported by Lucia Kubosova, 'Centre-Right MEPs plan plenary protest against Morales', in *EU Observer*, 11 May 2006). Another way explored by the MEPs to demonstrate their dissatisfaction at the presence of President Morales was to propose an urgent resolution on the human rights situation in Bolivia – a proposal that eventually did not make it through, but illustrates the lack of seriousness and excessive politicization with regard to the implementation of Rule 115 of EP Rules of procedure.

debate only” (Gourlay & Tappert, 2004, 2). Even the most auspicious speaker’s do not appear to promote attendance. In the absence of enlarged powers, the Sub-Committee could look into ways of making its members responsible for following and reporting on specific issues during its meetings, taking advantage of the presence of rapporteurs and human rights co-ordinators. Several NGOs have suggested creating sub-groups, for example in charge of following individual cases or the situation of human rights defenders. DROI members could report to the Sub-Committee on the situation of the countries for which they are part of the delegations, including early warnings of possible important human rights violations. Sub-Committee members represent 55.9% of EP delegations, and 78.5% of the delegations including substitutes – nine of the 34 EP permanent delegations do not have any members on the Sub-Committee on Human Rights¹¹⁰.

It is widely perceived that some resolutions are weakened in authority due to the diminished voting presence of MEPs. This pertains in particular to urgent resolutions, which are without exception adopted towards the end of Thursday afternoon during plenary sessions in Strasbourg. Statistical analysis shows that in 2005 an average of only 88.3 MEPs participated in the vote on urgent resolutions, which took place on average at 16.52hrs Thursday afternoons. By contrast, an average of 563 MEPs participated in the votes scheduled on the same days at 12.10hrs. Opinions vary as to whether this low participation reflects a lack of interest in the resolution, regardless of representation of all political strands, or is simply due to organisational dynamics. It is recommended that the EP investigate whether the underlying problem of attendance in activities and votes, etc., can be remedied through organisational measures. Poor voting participation on these resolutions weakens the political scrutiny of the text, exacerbating the fact that urgent resolutions are not extensively debated in comparison with other resolutions. As urgent resolutions epitomise human rights resolutions of the EP, it can lead to identifying human rights as a specialised area. As an MEP put it, with regard to urgent resolutions, “very few people work on massively complicated issues”.

¹¹⁰ Delegations to: Bulgaria; Former Yugoslav Republic of Macedonia; Switzerland, Iceland and Norway and European Economic Area; Armenia, Azerbaijan and Georgia; Canada; Mercosur; Japan; Australia and New Zealand; NATO.

In addition, as the main actor in the field of EU foreign policy, the EU Council should participate in the debate on urgent resolutions and be present during the vote. Thus far, only the Commission contributes to the debates on urgent resolutions. In the Annual Report on Human Rights 2005, MEPs asked the Bureau of the Parliament and the Conference of Presidents to consider “whether measures could be taken to increase political support given by members in plenary when voting on urgency resolutions of the Parliament pursuant to Rule 115, possibly by moving the voting time to a more appropriate time-slot”. Actions taken upon this call will be an indicator of EP’s ability to follow up on its own calls, and demonstrate the seriousness it attributes to the calls it places in its resolutions.

It is found, finally, that the majority of human rights issues command a remarkable degree of support from MEPs across the political spectrum. Human rights *per se*, are not generally divisive or politicised. On average, urgent resolutions in 2005 were adopted with 94% of the votes in favour, 3.7% against, and 2.3% of abstention. There are a few notable exceptions, such as issues related to reproductive health and rights, or some country situations like Cuba, the right to development, and critics towards Members States. The degree to which political alliances affect the impact of an activity is difficult to assess and is largely circumstantial. The adoption of the EP Annual Report on Human Rights 2004, on 28 April 2005, with 251 votes for, 255 abstentions and 64 votes against, has led to a high level of criticism and it is hypothesised that the greatest impact on third countries was during the period preceding the adoption of the report. On controversial issues, the fact that a resolution passes through with a limited majority can be of symbolic importance. This is illustrated by the adoption of the urgent resolution on Lampedusa, on 14 April 2005, by a majority of one vote (51 against 50); a politically challenging resolution that was nonetheless adopted. Ultimately however, weak political majorities, just like poor voting participation, offer avenues for third countries to disregard the resolution as insufficiently representative of the Parliament’s views.

Summary of recommendations on participation and support

- The EP should follow its own recommendations in the Annual Report for 2005 regarding voting procedure. Specifically, debates and voting time on urgent resolutions should be reorganised so that the EU Council participates in urgent resolution debates and vote is held while MEPs are still present. It needs to be investigated whether participation can be further enhanced through organisational measures.
- The Sub-Committee should look into ways of reinforcing the presence and participation of its members, e.g. by making members responsible for following up and reporting on specific issues. It could also create working groups on topical issues, e.g. on the protection of human rights defenders.

3.1.2. Developing capacities and mobilising expertise

EP resolutions ultimately convey a political message. Parliament's role is to evaluate information and forge a political position, not to provide factual analysis. As Egidijus Vareikis (former Observer to the EP) puts it, resolutions "are generalized reflections of the thinking of European voters, thus important even without further detailed explanations. This is not "statistical", but rather discussed and professionalized opinion."

The drawback is that EP is perceived as too political and insufficiently expert on the issues it tries to tackle, in spite of the finding of the previous paragraph that human rights issues generally attract broad political support. While one international NGO pointed out that "there is a balance to strike between politicisation and the development of expertise"; these need not be mutually exclusive concepts. Expertise-building can be externalized or internalized:

- accessing and bringing in external expertise means developing dialogue with external actors in order to rely of the highest quality of information,
- developing in-house expertise where necessary leads to increase perception of real commitment and possibly EP mandate, and to offer constructive criticism and policy options and investigate issues that EP is well-placed to examine.

3.1.2.1. Quality of information

The information on which the EP bases its opinions and actions must be reliable, and mechanisms should as far as possible be put in place to ensure that data is collected in a systematic fashion. Important/sensitive data and assertions must be scrutinised and counter-checked before being released.

Expert analysis of selected resolutions shows that the quality of information in EP resolutions is generally high. However, findings also show that erroneous information occasionally finds its way into resolutions (and likewise into interventions during visits of EP delegations or during public hearings, etc.). While this is comparatively rare, it has a negative effect on the overall impact of the activities in question, and tarnishes the EP's overall image in the area of human rights.

Debates and amendments are the main procedural steps to ensure scrutiny of content when it comes to resolutions and other written texts¹¹¹; it offers multiple avenues to question the validity of the information. Nonetheless there is the risk that careful scrutiny will be overlooked as political stances are adopted. Further, not all activities are debated, and debates may be formulaic, notably when few MEPs are present or insufficiently prepared. Debate on urgent resolutions, already limited to one session, is in practice equivalent to one MEP presenting the views of each group – which are already largely known beforehand. Many observers, including several MEPs, recognise that urgent resolutions are less well informed than other resolutions. Individual actions, by definition, also lack collegiate scrutiny and the quality of information depends on MEPs own expertise. Fruitful debates and thorough scrutiny

¹¹¹ See Bradley, 1999, p. 852: “where a parliamentary resolution is based on the work of a committee [...] the Parliament’s position will have been subject of detailed and careful scrutiny and considered judgment. The same may not necessarily be said of [urgent resolutions, which] necessarily run the twin dangers of factual errors and platitudinous posing to a much greater extent than the general run of the Parliament’s political initiatives”. “While factual error may be more of a potential than a real problem [...] there is no fail-safe mechanism to stop the Parliament from making hasty judgments on the basis of mistaken, or perhaps deliberately distorted, evidence. In accordance with a principle of ‘institutional subsidiarity’, the Parliament might be well advised to reconsider its rather liberal attitude to the adoption of ‘urgent’ human rights resolutions”. On similar lines, Lousewies van der Laan (*The Case for a Stronger European Parliament*, Working Paper of the Centre for European Reform, November 2003) has proposed that debates on urgent resolutions should be held in a Committee. However, this proposal is made in a bid to rationalize time during plenary sittings. Time is however not such an important issue (urgent debates represented 3.24% of the total debates in plenary sitting in 2005 – see Annex III), but rather the possibility to have a genuine discussion and to associate external expertise and third country authorities, and thus ensure better scrutiny.

are observed in relation with a limited number of activities, as for instance in relation with the Annual Report, own-initiative reports in general, and resolutions based on Rules 91, 103 and 108 of EP Rules of Procedure.

As an alternative, the best tool to verify information is dialogue with external actors (Council and Commission, NGOs, academics, third countries officials, international organisations representatives, etc.). Examples exist where mistakes were avoided and erroneous information dismissed last minute thanks to dialogue with such actors. This has been the case regarding the urgent resolution on refugees in Egypt, where dialogue with the UNHCR prevented wrong facts to be included in the resolution¹¹².

External expertise remains a crucial element for the enhancement of the quality and quantity of information perused by parliamentarians. Although NGO and other EU institutions almost systematically provide information during debates, public hearings and exchanges of views, liaison with external expertise tends however to be left to the initiative of EP staff, as well as individual MEPs. This risks relying excessively on information provided by an external lobby, which typically has a vested interest in the issues under consideration. The line between proactive verification of facts and sources by EP services or members and reception of spontaneous external lobby information is difficult to draw in practice.

The liaison with authorities of third countries concerned is not formally institutionalised and is subject to conflicting interpretations. Alternately, it can be seen as confrontational (where officials are not consulted and any interference on their part is seen as an attempt to avoid criticism), or as aiming at establishing a genuine and constructive dialogue, or at the very least, delivering information and facts (officials are informed about EP activities and invited to give input and provide information, and this exchange is seen as a dialogue where either information or commitments can be secured). Asserting criticism is an option for the expression of Parliament's concerns, and is arguably justified vis-à-vis certain countries, but such practices can be costly. Assertive criticism is reported as making it more difficult to construct

¹¹² See pp. 94-95. Another striking illustration, relating to human rights issues within the EU and the reliance up to the last minute on wrong facts, in the absence of institutionalized checking of information and liaison with countries authorities, is given by Kieran Bradley, in Alston, 1999, pp. 854-856.

genuine dialogue and exchange in the context of joint assemblies like the Euro-Mediterranean Parliamentary Assembly. “While condemnatory resolutions may sound well in the media, and may well give comfort to oppressed groups and individuals, it is difficult to deny that the most effective human rights protection is assured when the government of the country concerned is persuaded to co-operate” (Bradley, 1999, 853). Not all EP activities leave room for dialogue with third countries. Rapid procedures such as is the case for urgent resolutions, do not allocate much time for such dialogue. It is also opined that resolutions work as a foundation for the dialogue between the EP and third countries, by defining the official position of the Parliament vis-à-vis a third country – which therefore does not require previous dialogue with third countries, only exchange of information. In some cases, however, remarks/critics from third countries have been taken into consideration and incorporated into resolutions, for example, the failure of the EP to take into consideration human rights violations within the EU. An interesting and quite unique attempt of the Parliament to address the human rights situation of a country and of its citizens present on EU territory is found in the resolution on Algeria adopted on 18 January 2001, where the EP expressed its deep concern “at the difficulties that a number of Algerian citizens threatened by the terrorist groups are continuing to encounter in obtaining a temporary right of asylum in a Member State, and [drew] attention to the fact that the European Union's Charter of Fundamental Rights makes a new approach possible in this area; but at the same time underline[d] the need for greater vigilance in granting political asylum to Algerian nationals, when it appears that they are using such hospitality to organise operational home bases for the terrorist movements”. Different committees have also various practices. Generally, third countries officials are not invited to talk during the meetings of Sub-Committee on Human Rights; if Ambassadors are present in the room, they can ask for the floor if they so desire, but, contrary to the human rights slot organised during each Committee on Development meeting, third countries officials are never formally invited to attend and participate. The former practice leads to rather confrontational exchanges, even concerning countries which could be encouraged for their reforms and be offered constructive criticisms. Continuing with the example of EP-Algeria relations, and underlining the different treatments that dialogue with third country authorities can be given depending on EP activities and actors, the meeting of the Sub-Committee on 25 April 2005 is illuminating, where the Algerian Ambassador was given the floor after an exchange of views on enforced

disappearances. The Ambassador harshly criticised the fact that Algerian authorities were not formally invited to give input, and moreover denounced the account of the situation given by Amnesty International during the exchange of views and the total credit given to it by the MEPs. This episode led to a firm reaffirmation by DROI presidium of the unequivocal credence given in any circumstances to the NGO by the Sub-Committee.

Generally, accessing expertise means relying on NGO information, and to a lesser extent other international organisations, experts and academics. As NGOs actively lobby and provide unprompted input to the work of the EP, they tend to be the main source of information for EP activities. Requests for information to NGOs happens, but on an *ad hoc* basis and by individual MEPs/EP staff members only¹¹³. The EP is highly regarded as an important and favourable partner, able to politically back NGOs concerns vis-à-vis third countries and other EU institutions, and as a platform for expressing NGO views. On occasion the EP sides with the NGO community against stances and assessments made by the Council¹¹⁴. NGOs are never involved in briefing of delegations (unless they propose it themselves), and express regret in the limited role they are asked to play in the preparation of public hearings. The same can be said of other international organisations.

Potential actors liaising with experts and third parties are numerous. Important actors in cross-checking information used by MEPs are the political group's staff and in particular, MEPs' assistants. The EP Secretariat also has oversight of information available. However, in contrast with the EU Council, which is provided information by EU Member States' foreign services, and the Commission, which has its own delegations, the EP lacks resources. The Human Rights Unit is understaffed compared to the variety of tasks it could perform in this regard. Ultimately it is at the discretion of the individual MEP how (s)he sources and uses information. It is proposed that

¹¹³ As one NGO representative puts it: "au moindre changement d'interlocuteur compétent au sein du PE, il peut ne plus y avoir de coordination avec les ONGs". According to another, "quand [notre ONG] est utilisée comme source d'expertise, elle l'est à travers un contact avec un député ou un autre, mais il n'y a pas de relais systématique". This might be linked to the fact that the EP works in an *ad hoc* fashion itself, when it comes to its human rights agenda.

¹¹⁴ In relation with Russia, for example, the EP has literally taken up the cause and relied on the expertise of NGOs against the evaluation and policies implemented by the Commission and the Council, as seen in the resolution on Chechnya after the elections and civil society in Russia adopted on 19 January 2006 (see recital C), or in its repeated calls for the involvement of civil society and NGOs in the EU-Russia human rights consultations. This does not mean that EP cannot be critical vis-à-vis NGOs (see resolution on the World Conference against Racism in Durban adopted on 3 October 2001, paragraph 3).

additional resources are allocated to the proactive research and verification of information and that structural mechanisms are reinforced to enhance the information input to the human rights work of the EP by resourceful NGOs, independent experts and academics, third country officials (where relevant and appropriate), and well as relevant offices of Commission and Council, delegations of the Commission, and missions of EU Member States.

3.1.2.2. Developing expertise

The EP cannot uniquely rely on external expertise; it also must develop in-house expertise. This is identified by all observers as determinant of its capacity to take the lead on specific issues. Findings lead to the following observations.

First, the development of expertise can compensate for the lack of formal powers. A representative of the UN High Commissioner for Refugees explained that the EP had always been seen as an institution where UNHCR invests efforts and time in terms of monitoring, even when the EP had no co-decision powers relating to asylum/migration issues, for three main reasons: MEPs (or at least some) are seen as allied for the promotion of UNHCR views; UNHCR sees the EP as an institution with expertise that makes sharp and detailed resolutions; and UNHCR has always believed that inevitably the EP would have co-decision on these issues. The dedication and expertise demonstrated in tackling certain issues has frequently been analysed as encouraging the conferral of enhanced competence to the EP. Lalone¹¹⁵ made a comprehensive analysis of how the experience of the extension of EP powers in the field of Common Commercial Policy (CCP) could inspire EP activities in the area of CFSP, and concluded that “change will only come *via* the development of expertise and the concomitant increase in credibility that it will bring”¹¹⁶. EP can take inspiration from its experience in the field of CCP, e.g. by improving knowledge of negotiations processes, notably as far as UN Human Rights promotion mechanisms

¹¹⁵ In Barbé & Herranz, 2005, Chapter 2.

¹¹⁶ Lalone explains that before seriously tackling the problem of development of knowledge and capacity-building, “the EP had developed very little expertise in the area of external economic policy. This lack of expertise put the EP at an acute institutional disadvantage because of the highly technical, highly specialised nature of trade policy. [...] Fewer than three or four MEPs remained on the Committee [in charge of international trade] from one Parliament to another, virtually eliminating all institutional memory and continuity of links”. “EP’s reports were all political non-starters because they bore no resemblance to what was diplomatically possible in the context of WTO at the time.”

are concerned, and finer tuning its resolutions to the feasibility and timing of negotiations¹¹⁷.

Certain activities are specifically dependent upon minimal expertise from the MEPs, notably delegations and public hearings. Public hearings, for example, are a conduit not only for exchange of information between the Parliament and the countries/actors represented, but also to convey political messages. To maximise this opportunity, delegations members need to be knowledgeable and expert prior to departure. External expertise and liaison with appropriate partners is invaluable at this stage, and regrettably not taken advantage of¹¹⁸.

Expertise is vital to offer constructive criticism. When the EP proposes concrete, detailed, and applicable measures, which show an understanding of the situation, texts and political constraints, it has greater impact. This was the case, reportedly, for the reform of the electoral code in the Occupied Palestinian Territories.

Eventually, the EP can act as a catalyst for expertise, by retrieving certain data (notably pertaining to other EU institutions policies) and create new information, notably through own-initiative reports and delegations. Delegations can perform the role of fact-finding missions, provided that they report and publicises their findings. The creation of temporary committees testifies to areas where the Parliament decides to invest efforts, notably in a view to develop the information at its disposal. The Temporary Committee on Alleged use of European Countries by the CIA for the Transport and Illegal Detention of Prisoners, set up by decision of the EP on 18 January 2006, is an example of this; its remit is “to collect and analyse information” on the matter.

In-house expertise can only be increased if actors stay involved in an issue over a sufficient period of time, and if activities on specific issues are developed in tandem with a view to developing a long-term strategy. Rapporteurs, inter-groups are very important in this regard. Amnesty International has consistently advocated the creation of inter-groups, notably on the issue of detention policies. The advantage of

¹¹⁷ See note 57, p. 118.

¹¹⁸ See pp. 113-114.

inter-groups, as seen by the NGO, are that they are permanent, structured, guided by a long-term agenda covering at least one legislature, composed of MEPs from different groups and committees, and offering a framework for *ad hoc* missions. Their remit should be to provide expertise, feed the activities of the different rapporteurs, lead to a better coordinated position of the EP, notably with the view to negotiate with Council and Commission, lead to less media-oriented work and more systematic work. Different NGOs have identified that the external actors looking at the EP's work, starting by the Council, are sensitive to informed viewpoints and detailed facts. Similarly, some UN Special Rapporteurs reported that they are more likely to take up issues referred to them by MEPs, such as alleged repressive measures against Falun Gong, if calls for actions are substantiated with investigation of facts and new data, not just accounts given by NGOs/sources which anyway inform the Special Rapporteurs. The EP could develop its think-tank capacity, notably within its secretariat or inter-groups.

Ultimately, there is balance to strike between promoting in-house expertise and guarding against creating specialised pools of MEPs, which risks disconnecting human rights from the broader deliberations of the Parliament.

Summary of recommendations on developing capacities and mobilising expertise

- More resources need to be devoted to the verification of data and facts in preparation of EP human rights activities.
- Structural mechanisms should be developed to benefit better from the information provided to the EP by NGOs, independent experts and academics, third country officials (where relevant and appropriate), as well as by relevant offices of Commission and Council, delegations of the Commission, and missions of EU Member States.
- The use of rapporteurs should be reinforced and inter-groups should be better developed as a means of enhancing expertise. Inter-groups should be permanent, structured, guided by a long-term agenda covering at least one legislature, composed of MEPs from different groups and committees, and offering a framework for *ad hoc* missions.

3.1.3. Visibility and dissemination

Visibility of activities is crucial for the support and protection given to specific individual and groups, for promoting debates in third countries, and in raising the awareness about human rights priorities and concerns among the Parliament's primary constituency, the citizens of Europe.

Generally, third countries authorities, international NGOs, and representatives of other EU institutions are aware of and acknowledge the human rights activities of the European Parliament. Most other actors and target groups, however, have difficulties in distinguishing the EP from the other EU institutions and show limited awareness of EP activities in the area of human rights. Awareness of these activities is typically limited to those interacting directly with the Parliament only, in spite of expressions of interest from e.g. various COHOM members, as well as external actors such as UN Special Rapporteurs and representatives of NGOs. Unprompted dissemination of information by the Parliament of its activities would capitalise on this opportunity to promote EPs activities.

These observations contrast with the tentative strategy of the Parliament. Official dissemination of EP activities is limited to resolutions, while extensive communication efforts are undertaken in connection with the Sakharov Prize. There is no fixed communication strategy in relation with other activities such as the delegations' reports or the reporting on public hearings save for a cursory internet posting. Political groups also publicise summaries of activities on their websites. As far as resolutions are concerned, the President is instructed to forward each resolution to a cluster of addressees indicated in the last paragraph of the resolutions. This invariably comprises the standard entities called upon (third country officials, Council, Commission), but usually not other parties, which are the subject of the resolution (e.g. liberation movements, regional authorities, or opposition leaders), even if such parties are also called upon to act in 20.6% of the resolutions. This is equally the case for resolutions calling on specific entities, for example on the "European universities" in the resolution on the political situation and the

independence of the media in Belarus adopted on 7 July 2006. General calls on the “people of the country” or on “all parties” remain vain and hypothetical if proactive dissemination is not organised. The official dissemination is therefore limited to the actors who *de facto* already know about the resolution.

Aside from press releases, active public dissemination of information about its activities is not an organisational priority of the EP. The Parliament bases its work on the assumption that once undertaken, an activity of its own accord finds its way into the public arena¹¹⁹. The EP justifiably construes itself as a totally transparent and open institution. It is also efficient at making the EU Council more transparent than it would otherwise be¹²⁰. Most of EP activities are published in the Official Journal and posted on its website. Public hearings and exchanges of views are open to external actors. There is a sense that the Parliament takes responsibility for undertaking an activity, which thereafter has its own life and impact. It is assumed in the EP that external lobby having interest in the activity and benefiting from its adoption will report and disseminate information and use it for their own work, that personal networks of political groups, MEPs or EP staff will be used as tool for dissemination, and finally that media will report upon the activity.

The Parliament does not systematically evaluate its global reach. The press service has neither the resources and mandate to survey press coverage in third countries, nor the capacity to effectively raise the EP profile in international media. EP’s press service is limited to the disseminating digests of activities, and the facilitation of external media reporting on the EP activities. If the EP wants to enhance its in-house capacity to measure its impact, it should try to assess its own visibility. Liaison with EC Delegations, which are better equipped to survey local media and spot references to EU policies, is one possibility.

¹¹⁹ An assumption that is probably common to other international actors. UN Special Procedures, for instance, report that while they highly value the fact that their conclusions are taken up and echoed in other international organisations activities (including EP activities), they do not organise a reach out strategy and assume that their observations are public knowledge – mainly due to lack of resources and time.

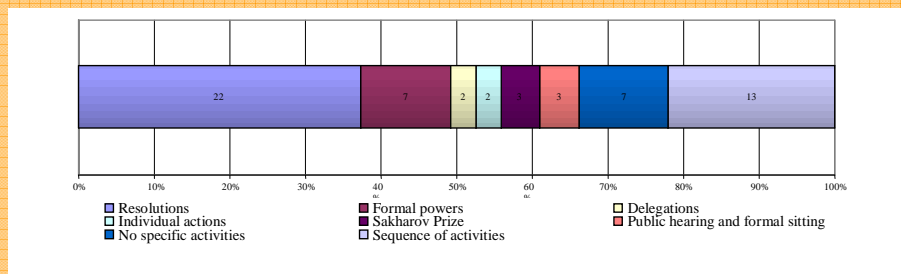
¹²⁰ See Daniel Thym, ‘Beyond Parliament’s Reach? The Role of the European Parliament in the CFSP’, in *European Foreign Affairs Review*, Spring 2006, vol. 11, n° 1, p. 121: “The simple electronic accessibility in comparison to the ‘secretive’ decision-making in the Council moreover makes EP reports a valuable source of information for ordinary citizens, national parliamentarians, journalists and members of the academic community”. Several European Commission actors pointed out that EP naturally enjoys more visibility and attention than other EU institutions, notably when visiting third countries, compared to EC Officials.

While in-depth analysis would be valuable, some preliminary findings can already be noted from the present research, which drew both on two case studies (Cuba and Palestine) and sampling of local and international NGOs. International NGOs often circulate information about the EP’s human rights activities within their networks of national and local chapters and local NGOs, but they do not actively participate in disseminating public knowledge about EP activities. Local NGOs are sometimes more active in this sense exploiting the activity of the EP, if there is no more authoritative statements (from EU Council for instance) or to maintain focus on a situation. Information is accessed via the EP website, direct contacts or international networks. NGOs without international networks as well as wider public in general have only limited awareness of the EP and its activities. Informal contacts with MEPs or staff, which might be crafted when MEPs visit the country or, more exceptionally, when representatives of the civil society come to the EP, are as important as international NGO networks.

**Quantity and quality of references to EP activities by international NGOs:
Survey of the last five annual World Reports of .**

HRW publishes an annual World Report reviewing human rights practice around the globe. For each theme or country the report identifies the position of “key international actors”. An analysis of references to EP human rights policy was conducted as a means of evaluating international NGOs’ perception of its activities as a reference and tool to support their claims, as well as the participation of international NGOs in the diffusion of information about EP activities.

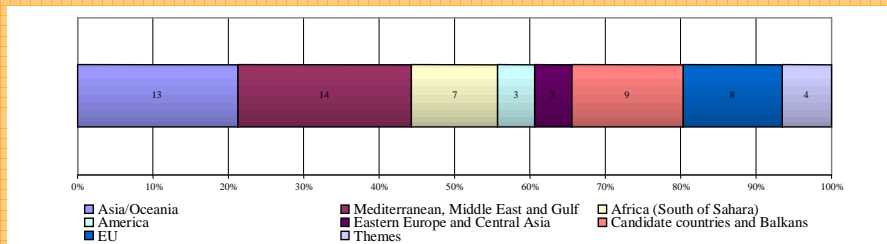
While the EP is referred to as a “key international actor”, but it is infrequent. The 2002 World Report (670 pages) included 26 references, the 2003 World Report (558 pages) 18 references, the 2004 World Report (407 pages) 2 references, the 2005 World Report (527 pages) 5 references and the 2006 World Report (532 pages) 10 references. The overall limited number of references (contrasting with the various and numerous activities undertaken by the EP in the field) may spring from the perception that EP activities are too politicized to be considered a source of information, and too declaratory to deliver concrete changes, especially compared to the activities of the Council and the Commission. Quality and quantity of references depend, lastly, on the EP activities themselves, and the input they give to specific situations or claims. NGO orientation and resources to follow EP work might also be a variable. HRW World Reports refer to the following activities.



Resolutions are the most frequently mentioned. This should not come as a surprise, since they are the authoritative expression of EP positions, and are written documents easy to refer to. EP resolutions are notably mentioned in three situations: when the NGO wants to emphasise the number of activities undertaken by different international organisations (it therefore includes a list of different institutions and does not emphasise on the EP), when the language used by the Parliament is strong, and bolder than other organisations, or contradictory to other international and especially EU institutions, or when it leads to strong reactions or commitments from third country officials, and that these are being made public.

Other activities mentioned are in fact sequences of activities (mix of resolutions, delegations, individual actions, etc.). This supports the view that when the EP develops a line, a sequence of activities with regard to an issue, likeliness to impact is higher and it is perceived as a more significant input to the situation. References to areas where the EP has formal powers (assent, deferral to ECJ, approval of the Commission's college, etc.) are important. Where delegations, individual actions and public hearings lead to written and disseminated reports and conclusions, they can be better used as a tool to support NGO work. For instance, the 2002 World Report refers to commitments made by the Algerian Prime Minister to MEP H el ene Flaute, who paid visit to Algeria in her individual capacity but reported to EP and NGOs on her visit, with emphasis on information and commitments secured. Some references are made to EP views and calls in general without referring to any activity in particular.

In terms of geographical areas where the EP is seen as contributing, the following breakdown applies.



Besides references to some activities of the EP with regard to Cuba (2 references), Venezuela (1), Belarus (2) and Russia (1), the EP has not been seen as a key international actor in the American, Caribbean, Eastern European (except EU candidate countries) and Central Asian regions over the period 2002-2006. It could be that the EP has been less active on these regions (especially on Latin America), but also that its contribution has not been identified as significant, the emphasis being given to the presence of regional mechanisms or major States in the region (i.e. the US).

Full references in Annex IV

The EP website still is the most used tool for information, and is the only source of information for actors who do not have contacts at the Parliament and are not part of an international network represented in Brussels. This means that internet is the only source of information for most actors. Many of third countries officials interviewed on site reported that they predominantly rely on the internet to gather information on EP activities. A number of observations can be made. Firstly, the website presupposes a fairly high level of prior knowledge about the structure and actions of the EP, since information are organised according to activities rather than countries. Some activities

like public hearings and some delegations' reports are simply not reported upon. Secondly the fact of posting information on resolutions and other activities only in the European languages may in some cases impose a language barrier vis-à-vis the countries targeted. The EU Council has understood this shortcoming and translated its EU Guidelines on Human Rights in main non-EU languages. The idea of creating a common website on human rights or even external activities of all three institutions, which has been abandoned, could be reinvigorated, improving readability of EU policies in the area of human rights, and capitalising on the perception of EU as a bloc. A common internet portal exists, but no common human rights pages. Once again, liaison with EC Delegations could be fruitful; they could disseminate information about EP activities and publish resolutions on their websites, which are more frequented than Brussels-based institutions.

Media coverage of EP activities is generally not dependent on the EP itself. Coverage in third countries is highly variable and mainly depends on the degree of state control of the media and receptivity to EP's interventions. EP resolutions are for example, extensively reported upon in Taiwan, but rarely in Cuba or Tunisia. Generally, delegations' visits and the Sakharov Prize award receive more coverage than other activities. Some activities, like public hearings, are seldom reported. European and international media tend primarily to report on EP activities in three instances where:

1. Legally binding issues are concerned (budgetary and international agreements). The recent annulment by the European Court of Justice of the EU-US agreement on air passenger data exchange, put before the Court by the European Parliament for lack of legal basis and violation of citizens' rights, has been widely covered in international media; notably the *International Herald Tribune*, *The Independent*, *BBC*, *Le Monde*, etc. This has reinforced the image of the EP as an active human rights promoter.
2. Controversial issues are at stake and strong reactions elicited. The resolution on Lampedusa (14 April 2005), which was extraordinary since EU Member States are not normally the subject of urgent resolutions, was more extensively covered than others. The same is true of resolutions on Guantanamo, especially when the EP was seen as having a strong language and position, which has since then been taken up by the European Council itself.
3. The symbolic dimension of an EP activity is salient.

Symbolic gestures and visibility

EP activities in the field of human rights send political signals. The more symbolic the gesture, the stronger the support. The EP, being the largest international parliament elected through direct suffrage, is itself symbolic of how democracy has replaced the dark conflicts of the Twentieth Century. There are several examples when enhanced symbolism of EP activities has attracted more visibility, and, arguably, impact, than regular activities.

Example 1 – The Sakharov Prize

The best example of symbolic gesture is the award of the Sakharov Prize, which is the most visible EP human rights activity. Ways of increasing its symbolic dimension have already been discussed in section 2.3.1, for example the association of well-known former laureates with the award ceremony.

Example 2 – The “yes” vote to opening of negotiations with Turkey

The EP voted on 13 December 2004 on the Eurlings Report, which contained recommendations for opening accession negotiations with Turkey without delay. This report was not binding on the European Council, which convened to take its decision four days after the EP vote. As an exception to the rule, voting was in secret. As a reaction to this unusual practice, MEPs in favour of the report (it was perceived that the secret vote was an attempt by opponents to attract more votes) held “Yes” posters in different languages (including Turkish). “The image of a significant number of MEPs holding posters announcing the direction of their vote (nearly all in favour) ended up being a powerful political message for both the European Council and Turkish public opinion. [...] It caught the attention of the media all over Europe and gave a great visibility to the EP’s advice recommending the start of negotiations without delay” (Soler i Lecha, in Barbé and Herranz, 2005). In a context where Member States were divided, and opponents to the opening of the negotiations repeatedly argued that most EU citizens were against Turkey’s accession, the vote (407 for, 262 against, 29 abstentions) and the message it put out, contributed to the European Council’s decision to open the negotiations with Turkey.

Example 3 – No visa, Mr. Chen

The different occasions when human rights defenders or politicians have been refused visas to come to the EP has been covered in the media, and also raised visibility *via* international NGOs. The refusal of authorities to let one or several of their nationals to come to the EP and receive the Sakharov Prize usually attracts widespread attention. It also happened that EU Member States refused to grant visa to EP guests. The case of Taiwan President Chen Shui-bian attracted much visibility, notably when the EP decided to host in November 2001 the award of the Liberal International’s Prize of Freedom, granted to President Chen. France’s refusal to grant a visa was seen as very symbolic, and President Chen underlined the “irony” of the impossibility to come to Strasbourg to accept the Prize of Freedom in Strasbourg, at the seat of an internationally elected body. This led to more coverage than for usual activities (especially since it was not, *per se*, an EP activity), notably in French and Taiwanese newspapers. The episode is still extensively referred to as symbolic of the conflicting views between the EP on the one side and EU Member States and China on the other side, over the Taiwan Strait.

It is difficult to manipulate symbolic gestures, and the Parliament competes in this arena with the European Council, which traditional “family picture” with Heads of States or Governments usually gets wide coverage. The EP is nonetheless intrinsically in a good position to make such gestures, and could explore ways of “spicing up its activities and take some risks to have an attractive wrapping for the media”, as a former *fonctionnaire* puts it. The EP does it on occasion, by linking its activities with popular personalities or sports. The pop singer Juanes was invited to give a concert in plenary sitting in support of anti-mine campaign, in April 2006. In other examples, the EP sought to link its calls on Iranian authorities to the very popular soccer and the World Cup 2006 organised in Germany. MEPs sent a letter to the President of the FIFA, Joseph Blatter, “urging him to take action in the light of Iranian President Mahmoud Ahmadinejad’s calls for the destruction of Israel, denial of the Holocaust and refusal to halt his country’s nuclear activity”, and “calling for Iran to be banned from the football World Cup finals” in 2006. While Iran was not banned from the World Cup, EP call received wider attention, and notably in other Arab countries, such as in Bahrain, which would have replaced Iran if banned. It attracted comments from soccer players and local newspapers coverage there.

The Parliament could develop more attractive activities, as long as it is backed up with sound political message, and short term media visibility is not a substitute for the development of long-term and serious profile of the European Parliament.

There is a balance to strike. On the one hand, EP should ensure that its activities are visible. Raising visibility demands a proactive strategy and enhanced communication

strategy, with less reliance on external actors' behaviours. On the other hand, short-term media hype that is not followed up by concerted political action is undesirable. The EP should try to build consistent relationship with the media and audiences by attractive but also politically sound statements, reinforced by follow-up activities.

Summary recommendations on visibility and dissemination

The EP must ensure that its activities are visible to the public. It should further develop its communication strategy with a view to ensuring a consistent and stable relationship with the media and audiences and focusing on evocative but also politically sound statements.

- Systematise the dissemination of information about its activities, notably to organisations, individuals and officials who are directly or indirectly affected by them, or who work in related areas.
- Devise mechanisms to assess the EP's visibility and media coverage in third countries, in particular by enhancing in-house surveying capacity and by liaising with EC Delegations in the countries in question.
- Translate resolutions and other key documents into the languages spoken in countries targeted.
- Improve the access to information related to human rights activities on the EP website. Consider organising information by country/region and themes rather than by activity. Explore the possibility of having one EU common website on human rights activities.

3.1.4. Monitoring and follow-up

The follow-up to EP activities is a vital cross-cutting factor of impact entailing:

- monitoring the consequences and effects of a given activity and inviting entities called upon to react;
- ensuring that commitments are honoured and that priorities and objectives established in conjunction with a given activity are taken into account and reinforced during subsequent activities (including subsequent resolutions revisiting issues previously addressed).

3.1.4.1. Proactively investigating effects and reactions

Effective and co-ordinated follow-up can greatly contribute to enhancing the impact of EP activities in the area of human rights. It also contributes to coalescing in-house capacity to assess impact of human rights activities – follow-up is indeed an essential step in evaluating impact, learning from experience and adjusting future activities and decisions. However, a significant proportion of actors interviewed have commented that follow-up to human rights activities of the EP is often lacking or insufficient. This is expressed both by beneficiaries of EP actions, for example Sakharov Prize laureates and local NGOs named in resolutions or contacted during delegation visits, and by human rights promoters, including international NGOs. Only few observers and MEPs, drawing on the idea that overall EP activities in the field of human rights are only declaratory and do not entail that external actors should take up or conform to EP views, have pointed out that follow-up is unnecessary and unjustified, and saw it as a futile exercise. Endorsing these views would however mean that the EP is not impact- or result-oriented. In the absence of follow-up, it appears that the Parliament is interested more in the perception of activism and visibility rather than actual results. Follow-up activities are not an organisational concern but are rather left to the discretion of actors with a particular interest.

For some actors within the EP, “it is the responsibility of MEPs who promote a given resolution to ensure that follow-up happens” – but as rightly observed by the same

persons, “this in turn often requires external pressure” – some MEPs being more interested in visible actions of lobbying for the adoption of a resolution than less perceptible and time-consuming follow-up activities. While MEPs may have more incentive to exercise follow-up on the issues of interest to them, they should be formally mandated to do so and report to the Parliament, otherwise follow-up exercise is likely to be subjugated to MEPs’ own agenda. Political groups also assume part of the follow-up activities.

Another idea present in the Parliament is that follow-up is implicitly left to NGOs and other groups having lobbied for an outcome, and who will be reporting back to the EP accordingly. The perception that NGOs, seen as allies of the Parliament, will assume a sort of follow-up, is reinforced by occasional incidents of such follow-up¹²¹. Nonetheless, the EP cannot rely on NGO follow-up activities. They lack formal authority and resources to do so, and this role is categorically dismissed by international NGOs’ practice and role. Further, it equates for the EP to forfeiting its own role and responsibilities.

Lastly, the Sub-Committee on Human Rights increasingly identifies follow-up activities as part of its mandate, including in the last EP Annual Report, where the Sub-Committee was requested “to follow up human rights resolutions adopted pursuant to Rule 115 in a systematic manner” (paragraph 106). Its Chairperson occasionally refers to changes or replies to resolutions at the outset of the meetings, and its Secretariat attempts to keep track of official replies and changes observed on site. Furthermore, the Sub-Committee increasingly organises follow-up exchanges of views. This has happened for at least one urgent resolution and an own-initiative report: an exchange of views was held during the meeting on 31 January 2005 on EP resolution on trafficking of women and children in Cambodia adopted on 13 January 2005; a second was held during 10 July 2006 meeting on the follow-up to EP report on the Human Rights and Democracy Clause in international agreements, adopted on 23 January 2006. However, this is not complemented by follow-up, which is by sending letters to third countries, asking for further information, and liaising with

¹²¹ Some NGOs do identify concrete changes brought about by EP activities. For instance the letter sent by several organisations representing the “officials of the Lao Diaspora” (convened by the *Lao Movement for Human Rights*) on 20 February 2006, see p. 99.

officials. Moreover, the role of the Sub-Committee to follow-up on resolutions in which it played no part is dubious.

Besides identifying who is in charge of following up, another question is what should be followed up upon. In the case of resolutions and calls the parties the subject of the resolution are clearly identified. But not all activities are reported upon in written with operational conclusions and recommendation for actions; this varies according to delegations, public hearings or exchanges of views. An example of good practice is done for instance by the Committee on Development, which usually adopts a report and operational conclusions after its human rights slots, and follows up on this.

Rationalisation and enhancement EP follow-up activities at all levels are clearly required. There is no systematic record of reactions and responses from third countries, nor EU institutions nor other actors to a given call. Currently follow-up is *ad hoc* and incidental.

The overall situation could be ameliorated by the adoption of explicit guidelines on follow-up activities, and a systematic identification of an entity responsible for monitoring and facilitating follow-up (this could be a named MEP, the EP President, Sub-Committee on Human Rights, etc.). A final paragraph could be added to all resolutions, identifying the entity responsible, thus anticipating follow-up activities to the resolutions' addressees. This person or office would also serve as the reference point for third parties called upon in the resolution as well as for MEPs and external actors wishing to provide or receive information on the activity. Similar clarifications could be made for other activities of the EP.

Institutionalised follow-up procedures of this nature have been identified as a central factor of impact and have been adopted by other international bodies dealing with human rights, for instance the committees monitoring the implementation of the UN treaties on human rights. The lessons learned by these treaty monitoring bodies could *mutatis mutandis* inspire the practice of the European Parliament.

Keeping track: Examples of follow-up at the international level Practice of the United Nations treaty-based monitoring committees

Most of the committees in charge of monitoring the implementation of the UN treaties on human rights have tried, in the recent years, to develop more effective mechanisms to follow-up on their views. They set up institutional frameworks providing systematic follow-up. This development, initiated by the Human Rights Committee in 1990, draws on observations that the committees were seldom informed of actions taken by States with respect to their views, and on the recognition that follow-up improves States' reactivity to the committees' views and more generally the committees' impact on third countries. Before that, follow-up was performed with minimal transparency and effort, and mainly *ad hoc*, or left to NGOs or the States' themselves. There was a poor record of compliance with Committees' views. The Human Rights Committee, which has the longest experience of institutionalised follow-up (over 15 years, it has sought follow-up to 384 of its views relating to individual complaints), has already positively assessed the follow-up, even if it notes that States' reactions to follow-up are diverse and sometimes resistant. Follow-up procedure is viewed as a constructive mechanism through which dialogue initiated prior to the adoption of views can be continued, and simplifies future activities on the country in question.

Four committees set up such mechanisms with regard to the views expressed in relation to individual complaints (the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Discrimination against Women and the Committee against Racial Discrimination) and three in relation to concluding observations on States parties reports (CAT, HRC and CERD).

The general features of follow-up mechanisms are the following:

- Specific members are appointed for follow-up. It is either a "rapporteur on follow-up", a "co-ordinator" or it could be (only theoretically in the text of CEDAW Optional Protocol) a "working group". There can be one or several members in charge of follow-up. They liaise with the chairman of the committee, the country rapporteurs and are assisted by the Secretariat. In the case of the Human Rights Committee the rapporteurs on follow-up are appointed for two year (renewable) term(s).
- Follow-up frameworks are institutionalised and set up in committees' rules of procedures.
- States are notified in writing of follow-up procedures, incorporated in committees' views.
- Follow-up procedures are implemented whether there is a finding of a violation or not.
- Deadlines and activities to be carried out are precise. The follow-up procedure starts by exchanges of letters, repeated where no, or inadequate, response. The rapporteur on follow-up can communicate with other parties, such as victims in respect of whom findings of violations have been made, to seek information on actions taken. If no information is forthcoming, the rapporteur can seek to organise meetings with a State party representative. It can offer to facilitate the implementation of the committee's views. The rapporteur, ultimately, can organise a follow-up mission to a State party.
- The rapporteurs in charge of follow-up report to the committees and their findings are incorporated in a specific chapter of the committees' annual reports to the UN General Assembly, when possible (some follow-up mechanisms are still too recent). Comprehensive tables of follow-up activities and answers done over a year are presented in the report, and could inspire other institutions' practices.
- The rapporteurs on follow-up can advise the committees on actions to be taken.

Differences between committees essentially concern the public or confidential nature of the follow-up and organisational specificities. For instance, unlike the Human Rights Committee, the CAT rules of procedure do not allow for the consideration of follow-up in public but rather private meetings, and do not indicate the term of the rapporteur's mandate. In the case of follow-up on observing conclusions, which are based on country reports and therefore constitute large documents covering a wide range of issues, a developing practice, notably of the Human Rights Committee, has been to identify a limited cluster of priority concerns with a view to following.

Although the situation of the UN treaty monitoring bodies is unique, the EP can learn from their experiences. Main features are in fact common. UN Committees' views are not legally binding on third States, they are primarily recommendatory. Further, while only a limited number of treaties explicitly mention follow-up in either their main body or optional protocols, no State has challenged the committees' authority to set up follow-up mechanisms, mainly derived from the doctrine of implied powers of the committees. Similarly, once the EP adopts resolutions on a third country, this is usually not resisted by the country (especially when it is done under the monitoring of Co-operation or Association Agreements), and as the aim is to impact on States' behaviours, the institution of a follow-up framework should be considered. The collegiate nature of the EP lends itself to the establishment of a "rapporteur" or "working group", as it is done by the UN committees.

3.1.4.2. Ensuring consistency with commitments, priorities and language

Responding adequately to expectations raised among third parties by resolutions and other human rights activities of the EP is a delicate matter. Findings show that many actors targeted and aided by EP actions are encouraged by the support but by the same token discouraged when the level of attention and support subsequently wanes. Sentiments of this nature have been expressed by Sakharov Prize laureates and NGOs and public officials in countries visited by EP delegations. High expectations are vested first on activities and their impact. Often this is due to a lack of understanding of EU institutional arrangements and distribution of powers. Examples abound of NGOs or individuals calling the Council and the Commission to "enforce" a resolution adopted by the EP¹²². For instance, the *Lao Movement for Human Rights*-led Open Letter to the European Parliament, sent on 20 February 2006, where the signatories recalled the importance of EU's market and external aid for Lao, argued that "Europe has at its disposal strong arguments to bring the Lao regime to conform itself with the recommendations of the European Parliament regarding democracy and human rights." Expected legal consequences of resolutions have even led certain individuals and NGOs to challenge before the European courts EU institutions

¹²² Open letter, "European Jews for a Just Peace", 15 May 2003.

reluctance to respect specific resolutions¹²³. Even parliamentary questions to the Council and the Commission can raise expectations, their political weight overestimated. In a press release of 11 April 2006, the *Asian Human Rights Commission* (AHRC) reported that two MEPs had lodged a written question to the Commission and the Council about actions taken regarding a missing Thai human rights lawyer. The MEPs in their questions also raised the issue of torture by security forces in Thailand and its effect on relations with the EU. The AHRC press release comments, “this is an enormous embarrassment for the government of Thailand”, and “a test case for the Thai government”. Clearly it is expected that the Parliament will follow-up on its own initiative, and take up the case again if necessary.

Questionnaire survey to local Non-Governmental Organisations Perception of the EP from Palestinian NGOs as a case-study

Do you know about the resolutions and activities of the EP related to your country/region?

8 Yes 4 No

However, it is hypothesised that most of the NGOs that did not know about the EP did not reply to the questionnaire. 24 Palestinian NGOs were contacted to fill in the questionnaire. Only half of them replied, despite direct contact with each of them. Several (at least 3) explicitly declared that they could not fill the questionnaire precisely because they did know anything about the EP activities.

If so, how do you get the information about these activities?

2 Via direct contacts with the European Parliament services
2 Via direct contacts with Members of the European Parliament
7 Via international NGOs networks/websites
2 Via local media reports
3 Via international media reports
3 Via the European Parliament's website

From your perspective, is it easy to isolate the activities of the European Parliament from the overall European Union's policy regarding human rights violations in your country/region?

1 Yes 2 Fairly easy 6 Rather difficult 3 Very difficult

Do you have the feeling that your NGO has given or can give input to the work of the European Parliament?

6 Yes 5 It depends, sometimes 1 No

If so, how?

- through international NGOs network (especially the EMHRN)
- give information and opinions, briefings papers
- being consulted
- visits to Brussels
- MEPs visits in the field
- Direct contacts and meetings

Do you use resolutions of the European Parliament to support your claims at the national or regional level?

1 Yes 5 Frequently 3 Rarely 3 No

How helpful do you think it is?

1 Very helpful 5 Rather helpful 3 Rarely helpful 3 Never helpful

Do you know what the European Parliament's Sakharov Prize is?

2 Yes 10 No

¹²³ Court of First Instance, *G. Krikorian and others v Parliament, Council and Commission*, See Box 3, p. 88.

Can you name any other activities undertaken by the European Parliament which could concern the human rights situation in your country/region?

- public hearings
- missions

Do you think that the resolutions and other activities of the European Parliament concerning your country/region:

- Are accurate/reflect correctly the situation?

6 Yes 5 No

- Place emphasis on the right priorities?

5 Yes 6 No

- Are generally welcome by civil society/people?

8 Yes 2 No

- Impact on the situation of individual cases?

2 Yes 10 No

- Impact on the general human rights situation and the authorities' actions?

3 Yes 8 No

If you answered yes to one of the last 2 questions, could you please mention the most relevant examples?

- influence on restriction of movements imposed by the Israeli occupation forces
- monitoring human rights by scoop visit reports

Your NGO or a human rights defender who is linked to your NGO might have been mentioned in one of the resolutions of the European Parliament, have participated in a public hearing organised by the European Parliament or have been visited by a EP delegations. If applicable, how did it impact on the situation of your NGO/this human rights defender?

- related to election Code of Conduct, provided added value in this regard

In your opinion, after the European Parliament has adopted a resolution or initiated any other activities on the human rights situation in your country/region, is there an adequate follow-up?

1 Yes 3 Sometimes 3 Rarely 3 No

According to you, what are the priorities of the European Parliament when interacting with your country? How would you rank the order of its priorities? (1 = top priority, 2 = second priority...)

- 9 Economic co-operation
- 8 Development co-operation
- 7 Cultural relations and dialogue
- 6 Diplomatic relations
- 5 Security issues (incl. fight against terrorism)
- 4 Human rights issues
- 3 Humanitarian issues
- 2 Conflict resolution and peace making
- 1 Democracy and institution building
- 1 I don't know

When it addresses human rights, do you have the impression that the European Parliament is more interested in:

- 7 Civil and political rights or 1 Economic and social rights
- 3 Individual cases or 5 Human rights situation in general
- 7 "European" rights or 3 Universal rights

One NGO said that EP promoted "Israeli rights".

What suggestions would you propose for the improvement of the work of the European Parliament in relation to your NGO and to the human rights situation in your country?

- involve NGOs in advance in raising issues
- inform NGOs about initiatives, develop information about EP in Arabic, more visible work.
- make it easier to attend meetings, to have more opportunities to brief and engage with MEPs
- use NGO reports; give platform for NGOs
- more delegations to be briefed, meet NGOs
- reorganise website in such a way that it gives an overview of relevant activities per regions
- act without delays
- take a clear international-law based approach
- support the funding of NGOs
- organise workshops with Palestinian human rights institutions
- conduct public hearings and invite NGOs for feedback
- more emphasis on the rule of law, democracy and human rights
- enforce resolutions, by sanctions
- apply single standards to both Israel and OPTs

Undeniably a body that speaks with multiple voices such as the EP cannot be expected to repeatedly reinforce past expressions of support, yet renewed attention to a problem enhances impact. Several NGOs have noted that while follow-up on resolutions is scattered, the one on public hearings is worse, virtually non-existent¹²⁴. Interviewed Palestinian officials deemed that there should be a better follow-up for translating visits or resolutions into future activities. Explicitly, virtually all EP activities refer to past initiatives on the same country or theme; 87.3% of the resolutions refer to previous activities, and EP President and delegations can take up calls raised in former resolutions. For this restatement to occur there must be awareness of past initiatives. There must be a genuine relationship between the activities, not a purely formal reference. Lastly, it presupposes written records of past activities, which is not always the case regarding public hearings for instance, and is contrary to the confidential nature of some of the President's activities.

Generally, the EP maintains consistent positions on issues. A good example is recognition of the Armenian genocide, which has consistently been addressed by the EP in its activities towards Turkey since 1987. A thematic example is the violation of rights of minorities, to which the EP is attentive. Inconsistencies are nonetheless numerous, both in the language used and the substance of EP precise concerns.

Regarding language, consistent terminology is not used to denounce violations. Language adopted is the result of political discussions, and leads to inconsistencies in the way situations are understood. The appellation of Taiwan is one example¹²⁵. Regarding EP activities vis-à-vis Turkey, Nas analyses terminology used concerning minorities and concludes:

¹²⁴ See also Amnesty International, *Towards the Full and Effective Implementation of the EU Guidelines on Human Rights Defenders – A Study of Experiences to Date*, Discussion paper presented at the 7th EU Human Rights Discussion Forum, London, 8-9 December 2005, p. 9: It welcomes the exchange of views held with UN Special Representative on Human Rights Defenders Hina Jilani, on 11 July 2005, “although no clear decision appear to have been made regarding the follow-up to these meetings”. This could well be linked with Ms. Jilani comments on the two meetings she held at the EP. “I have had two occasions on which I got the opportunity to interact with committees and members of Parliament on human rights issues. Both times it was at their invitation. While the contact has not been consistent and no channels of co-ordination or exchange are in existence, the mandate on human rights defenders has been supported by the Parliament. This support has largely manifested itself in the increasing space for human rights defenders to raise human rights concerns with the Parliament or its institutions. This support can improve with the Parliament taking note of reports highlighting the threats to defenders and encouraging cooperation of its member states with the mandate. The EP should take more steps to enforce the European Guidelines on human rights defenders.” (Full contribution in Box 22, pp. 292-293).

¹²⁵ MEPs use its official title: the Republic of China (ROC), or Taiwan. This has consequences on China's reactions. For details, see Yuchun Lan, 2004, p. 123.

“A careful examination of the terminology used by the EP in the resolutions reveals that the EP failed to use a consistent jargon regarding minorities in Turkey. [...] In the resolutions adopted on 14 March 1991, 18 April 1991, and 12 June 1992, the EP refers to the rights of the ‘Kurdish people’ in Iraq, Iran and Turkey. In the resolutions adopted afterwards, the following terms are used interchangeably: Kurdish minority, Kurds in Turkey, Kurdish parliamentarians, and Turkish parliamentarians of Kurdish origin. One expects the EP to be more conscious of its use of such terms. The term ‘Kurdish people’ denotes a linkage to the right of self-determination and secession. To speak of ‘Kurdish people in Iraq, Iran and Turkey’ brings to mind the creation of a Kurdish State on part of the territories of these three countries. However, in international law, the term ‘people’ denotes citizens of a nation-state while minorities imply groups with different ethnic, religious, cultural or linguistic origins than the majority. In issuing such resolutions the EP should be more careful in its rhetoric so as not to constitute an inappropriate intervention into the terms of statehood of other countries. It should foresee the implications of its acts”.¹²⁶

Other examples relate to the attitude of the European Parliament to human rights of specific groups over a period of time. The resolution on Women in South-East Europe adopted on 22 April 2004 is illustrative. In this resolution, the EP addresses in general terms, from paragraphs 1 to 17, issues that are of general importance and cannot be disregarded when dealing with the advancement of women and their rights. A second, country specific part addresses explicit problems and positive developments in Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Greece, FYROM, Romania, Serbia and Montenegro and Turkey. Concerns vary and should be considered in the respective national context. Issues raised concern the revival of customary law in Northern Albania and its negative effects on women, the lowest regional level of female employment in Bulgaria, trafficking of women in Bosnia-Herzegovina, enforcement problems both in the judiciary and in the police in Croatia, the lack of female representation in politics in Greece, the neglected sexual abuse of girls in FYROM, the numbers of ethnically motivated crimes against Roma women in Romania, the lack of compliance with even minimum standards to eliminate sex trade in Serbia and Montenegro as well as the still existing tradition of forced marriages in Turkey, to name but a few points. The degree to which these concerns have been taken up in later country-specific resolutions – which extensively deal with human rights issues notably concerning candidate countries such as Bulgaria, Croatia, Romania and Turkey – has been analysed. These concerns are not always upheld in later EP activities. In 2005, the EP adopted a resolution on the accession process of Bulgaria and Romania¹²⁷ that does not refer to any of the issues raised in general by

¹²⁶ Nas, Çigdem, “The Approach of the EP to the Issue of Ethnic Minorities and Minority Rights in Turkey Within the Context of the European Minority Rights Sub-Regime”, *Jean Monnet Working Paper*, 18/98, Università di Catania, Italy. Available at: <http://www.fscpo.unict.it/EuroMed/jmwp18.htm> (last seen: 27.06.2006).

¹²⁷ Resolution on the accession process of Bulgaria and Romania, adopted on 7 July 2005.

the resolution, but also not to those of concern to the specific country. Besides a reference to the increased prosecution of the crime of trafficking in human beings, the resolution on the state of the preparedness for EU membership of Bulgaria does also not contain any female specific content¹²⁸. This is also applicable to the resolution on Romania's preparedness for accession to the EU, as it also contains references to combating trafficking in human beings¹²⁹. On 16 February 2006, the EP adopted a resolution on the outlook for Bosnia and Herzegovina in which human rights and the equality among the citizens of Bosnia and Herzegovina are mentioned in paragraph 3¹³⁰. However, women in Bosnia and especially the specific problem of trafficking in women have not been included in this document. Turkey seems to be an exception in this case, as there was not only a report¹³¹ on the role of women in Turkey by a specially appointed rapporteur, but also a specific resolution on the role of women in Turkey in social, economic and political life¹³². Women and their situation in the areas mentioned are examined more closely and more detailed concerns are raised.

Different activities on similar issues should not send conflicting messages. The multiplication of individual actions and the liberal approach taken by MEPs to communications during delegations' visits have already been singled out as increasing the risk of sending out messages that do not necessarily reflect the opinion of the Parliament, but can be interpreted as such. Third countries officials with sufficient knowledge of the Parliament have identified a discrepancy between, on one side, the boldness and strong interest of specific MEPs acting in their individual capacity, who frequently also constitute the *ad hoc* delegations' members, and on the other side, poor attendance for exchanges of views and public hearings, and weak participation in urgent resolutions, resulting in questioning interest of EP as a whole on human rights issues. Conversely, similar activities concerning different situations and countries should be treated the same. The fact that different entities (MEPs, delegations, committees) run different human rights activities creates the risk that human rights are given different priority and substance according to the country/situation under consideration. This creates double standards: similar events and contexts can lead to

¹²⁸ Resolution on the state of preparedness for EU-membership of Bulgaria, adopted on 15 December 2005.

¹²⁹ Resolution on the state extent of Romania's readiness for accession to the European Union, para. 7 and 10.

¹³⁰ Resolution on the outlook for Bosnia and Herzegovina, adopted on 16 February 2006

¹³¹ Emine Bozkurt, *Report on the role of Women in Turkey in social, economic and political life*, A6-0175/2005, European Parliament – Committee on Women's Rights and Equal Opportunities, 10 June 2005.

¹³² Resolution on the role of women in Turkey in social, economic and political life, adopted on 6 July 2005.

different reactions and activities of the EP, and similar activities can lead to different languages and concerns. Major discrepancies are recognised and in general promptly denounced by third country officials. But less patent ones, such as the diversity of behaviours and concerns raised by delegations are also important, and not necessarily the product of a voluntary/politically motivated difference in treatment. The difference in approach and efficacy of the *ad hoc* delegations sent to Lampedusa, Libya, Ceuta and Melilla, Malta, have been severely criticised by external observers, although the EP has been able to create a serious political line of sending delegations to these different migrants' detention centres. International NGOs like Amnesty International regret that even if the EP is consolidating a practice on this issue, it is still difficult to mobilise the Parliament on factually consistent issues, for example Chios, Greece. The need for benchmarks and an "objectification" of the human rights approach of the EP is identified within the Parliament and has led to the proposal by the Sub-Committee and taken up by the Conference of Delegations' Chairmen, of a catalogue of standard actions to perform by the delegations.

Summary of recommendations on monitoring and follow-up

- Institutionalise follow-up activities. Each activity should incorporate provisions for its follow-up, including the procedures to be followed.
- Activities in the area of human rights should furthermore, as a matter of standard procedure, entail the identification of persons or groups in charge of follow-up and a specification of actions to be performed. The collegial nature of the EP lends itself to the establishment of rapporteurs or working groups on follow-up. The EP could in this regard draw inspiration from the practice of the UN human rights treaty monitoring committees.
 - Avoid, as far as possible, to raise expectations that cannot be met through realistic follow-up activities.
 - Objectify the human rights approach and set up benchmarks, in the vein of the Guidelines established for EP delegations. Enhance the consistency of similar activities, or different activities on similar issues, over time.

3.1.5. Co-ordination of EP's human rights agenda

When seen in isolation from each other, the potential of EP activities is not maximised. The impact of activities is likely to be reinforced if the European Parliament is able to coordinate its actions and strategically mobilise its different activities over a sufficient period of time. This requires adopting a systemic or holistic approach to the human rights activities of the EP – where an activity does not constitute a goal in itself but is part of a greater strategy. Moreover, the key actors within the EP must be ensured the necessary resources required to coordinate the different activities over a significant period of time. DROI has a central role to play in this regard.

3.1.5.1. Systemic approach to human rights activities – developing strategies

The Parliament has developed a wide range of activities it can mobilise to address the human rights situation outside the EU. Each of them has specific added value and potential impact: the resolutions are a written record, the Sakharov Prize attracts international attention, delegations have more concrete impact on the spot, the President's confidential actions are an avenue for diplomatic engagement, and so on.

Almost without exception, there is no impact when the EP engages in an activity which is not linked with any other previous or follow-up activities, or a consistent strategy. Addressing issues in an *ad hoc* manner compromises credibility, notwithstanding occasional exceptions. Of course despite this, consistent support to democratic forces and respect for human rights is not a guarantee of impact. To take two examples, one can observe that despite a strong and consistent mobilisation from the Parliament, the situation of Aung San Suu Kyi has not changed, and the situation may even be described as deteriorating in Tunisia, which still receives support from certain EU Member States. Recent positive examples include the conditions of detention for migrants, the situation in Serbia and notably Vojvodina, or the individual cases of Francesco Larrañaga and Hao Wu. In all these cases, there has

been a sustained mobilisation of different activities. Cambodia is a case in point, where EP mobilisation has been strong and as far as possible well-timed with international action vis-à-vis the country (an urgent resolution on the situation of political dissidents was passed just before an international donors' conference). Cambodia has, during the current two-year old legislature, already been the subject of four resolutions on human rights, all preceded or followed by exchange of views, delegations, follow-up activities, letters from the EP President, invitation of Cambodian opposition leader Sam Rainsy in EP Plenary sitting (February 2005), individual actions from the MEPs. On the 5 February 2006, Cheam Channy was released and charges were dropped against Sam Rainsy.

A systemic approach to human rights activities presupposes different elements operating contemporaneously. First, strategic overall planning requires viewing all activities in unison, including self-contained activities such as the Sakharov Prize. However the Sakharov Prize has increased visibility and follow-up when it is granted to recipients associated with a situation that consistently command the Parliament's attention. The situations of Aung San Suu Kyi in Burma, Leyla Zana in Turkey and Oswaldo José Payá Sardiñas in Cuba are thoroughly monitored by the Parliament. It is also important to find ways of taking into consideration and whenever possible mobilising individual actions of the MEPs. Second, a systemic approach means adopting a strategy over a specific issue. The gradation of instruments is usually very fruitful: request for information can be sent to a government, then an exchange of views organised, then if necessary a fact-finding mission, a resolution adopted, follow-up activities, and so on. This was the case for Cambodia. A gradation of instruments is frequently used in relation to the topics taken up by the Committee on Development for its human rights slot. Ultimately, the Parliament can threaten to use, or actually use, its budgetary powers and its power to give assent to certain international agreements, if applicable. Another technique is repetition. The Parliament, for instance, has been hammering its condemnation of the continuous detention of Aung San Suu Kyi, via numerous resolutions as well as the award of the Sakharov Prize, although concrete impact seems unlikely. Nonetheless, according to EP staff, contacts with the laureate and her relatives show that they deem it useful to increase such calls and resolutions, maintaining international attention focused on her case. Statistics show that violations against politicians and political parties are more

likely to be taken up and repeated in different EP resolutions than other individual cases (including human rights defenders and journalists). Concerning individual cases, the increase in confidential activities and individual actions, whether by the President or by different members (notably chairmen of delegations), can be fruitful.

Most importantly, taking a serious and systematic approach to EP human rights activities requires a clear understanding of the added value of each activity, a clear identification of actors, backed with adequate resources, able to orchestrate the use of different activities, over a significant period of time, as well as appropriate procedures. At present, diverse complicating factors impede the full realisation of the EP's potential in the area. These include the high number of situations or issues that could be dealt with – contrasting with the limited room existing to engage in long term and general mobilisation over an issue, the politicisation of certain themes/country cases, the influence of lobbies and current affairs in agenda setting, the flexibility of certain procedures and their likelihood of being used by MEPs for particular ends, the multiplicity of actors and procedures possibly dealing with human rights within the Parliament.

3.1.5.2. Procedural problems – the example of urgent resolutions

While generally the willingness to raise an issue leads to the launching of an activity and to the identification of relevant procedures (public hearing, intervention of EP President, own-initiative report, etc.), it also happens that the choice of an activity's content is determined during the running of the activity itself and according to its procedures. The latter possibility is epitomised by urgent resolutions and the award of the Sakharov Prize. While these two activities are seen as cornerstone human rights activities of the Parliament, the fact that the choice of the recipient/issues addressed is a consequence of the launching of the activities creates a risk of disconnection between activities, seen in isolation from each others. The procedure for the selection of Sakharov Prize laureates is being reformed.

The primary shortcoming of urgent resolutions is how the subject is decided – a shortcoming which is widely recognised by inner EP actors themselves. Urgent resolutions risk being only tentatively linked to overall EP agenda. Current affairs are

seminal in the choice of subject. The reactivity of the EP can lead to one-shot activities on issues which the EP is not equipped to follow-up on. On the other hand, one cannot but observe that a significant proportion of urgent resolutions actually address ongoing violations (Burma, Sierra Leone, Taiwan, North Korea, etc.) which could be better addressed through other means. This might stem from the distorted view of the nature and role of the urgent resolutions, which to some extent are perceived as the regular human rights instrument of the Parliament. It is symptomatic that the list of “human rights resolutions” provided by the Annual Report or the Human Rights Unit website makes reference to all urgent resolutions, but more inconsistently to resolutions on human rights issues based on Rule 103¹³³, that non-urgent issues are addressed by this mechanism, and that external pressure for the adoption of an urgent resolution rather than in-depth consideration characterises its use. Urgent resolutions are characterised by their adaptability, and the absence of real debate. This devalues the flexibility and specificities of urgent resolutions in the arsenal of instruments at the disposal of the EP in the area of human rights. The guidelines and general principles to be followed when choosing the subjects under Rule 115 (Annex III of EP Rules of procedure) provide that “priority shall be given to motions for resolutions intended to lead to a vote [...] before a particular event, provided that the current part-session is the only part-session of the European Parliament at which a vote can be held in time” (article one). This is almost never the case. The EP would be well-advised to adopt a less liberal interpretation of its own Rules, in order to maximise the effectiveness of the implementation of its instrument.

There are insufficient procedural guaranties that synergy with overall EP human rights agenda will be maximised in the choice of urgent topics. Ideological factors and political groups’ influence is pregnant in the choice of the topics, as criticised by the different groups themselves. The choice is left to political groups represented by their human rights coordinators and advisors, or to committees (generally Committee on Development). The Sub-Committee on Human Rights is *de jure* and *de facto* excluded from the proposing urgent resolutions (it is not a committee and is not composed of

¹³³ See comments and critique of the list of resolutions related to human rights, realized by EP Human Rights Unit, which unduly focused on urgent resolutions initially, and then enlarged to resolutions based on Rules 103 or 108, but not systematically. This tendency to consider urgent resolutions as encapsulating the resolutions work of the EP in the field of human rights can be misleading as it distracts the observer from more important resolutions and tends to blur the specificity of the urgent resolutions.

the 37 members necessary to table an urgent resolution, the time line also prevents the meeting of the Sub-Committee – but not the bureau – the week before the plenary sitting to supervise the choice of topics), although ideas have been advanced to enhance its role¹³⁴. For instance, the recurrence of resolutions on Taiwan, pushed by one political group especially, raises questions about the urgency of the case (it is an ongoing situation) and the human rights nature of these resolutions (aimed at the recognition of Taiwan's participation in certain international organisations). While the human rights priorities of the EP are and should be the result of a political choice, it has to be done on a less casuistic basis, and more reflection of an overall policy design. The EP is maybe too permeable to lobbying when it comes to urgent resolutions, which are quickly passed and not widely scrutinised. As one MEP puts it, “urgent resolutions are not controlled from above [...], they primarily reflect well on the party sponsoring them”.

Political groups' human rights coordinators and advisors try to address these issues, and to impose different filters in the selection of the topics under Rule 115. One such filter is to take into consideration other activities on similar issues by the EP at the same time: if there is an in-depth resolution being prepared on a country/situation, human rights issues are better addressed in this context rather than through an urgent resolution. Some coordinators would also like to take into consideration the wider EU agenda, for instance the agenda of Javier Solana, in order not to create confusing signal and messages. Another filter would be to avoid being too reactive to headline grabbing news or fleeting preoccupations of certain MEPs. The EP has to reflect on where it can have an added value, taking into consideration the actions of other actors, where it can provide sustained on-going scrutiny, where an urgent resolution can have impact, etc.

This is not to diminish the role of urgent resolutions. On the contrary, when they are focused on an urgent human rights situation which can be addressed in subsequent activities of the EP, their impact is very high. The resolution on Lampedusa, adopted

¹³⁴ See paragraph 109 of the EP Annual Report on Human Rights for 2005, where the EP “calls for a more constructive role for the Subcommittee on Human Rights in the development of consistent and transparent criteria for the selection of urgency topics, so as to ensure that parliamentary interventions are timely and have maximum impact; calls for members of the Subcommittee to share their expertise in this field and to play a more active and decisive role in the drafting of urgency resolutions; proposes the creation of a permanent working group of members of the Subcommittee for these purposes”.

on 14 April 2005, is the best example of an effective urgent resolution. It was well-timed, quickly adopted, and led to many subsequent activities (delegations, debates and other resolutions on similar issues).

3.1.5.3. EP human rights agenda: issues at stake

Many observers opined that there are too many items on the agenda of the Parliament, diluting its concrete contribution and impact. This is one explanation for the diminution of human rights resolutions over the years¹³⁵, and notably of urgent resolutions. Focusing on certain priorities enhances the political significance of adopting some resolutions and not others. The same argument applies to own-initiative reports. In a discussion paper on possible internal reforms circulated in early 2006, the Presidency of the Parliament recalled that own-initiative reports played an important role in underlying priorities of the EP, and proposed limiting them to one per committee every year. Many MEPs regularly echo this, recalling that “it is better to say less and to do more, because if we say too much people will stop believing us”¹³⁶. The Annual Report on Human Rights illustrates this, which thus far has been a superabundance of country and thematic concerns.

Prioritisation of human rights concern can lead to difficult choice. Seven major policy options have been identified.

1. *Focus on activities related to EP agenda and be less permeable to external factors such as lobby activities and news.* This would involve general programming of the EP, which appears to be absent in the human rights domain, as it is absent for the Parliament in its entirety – as noted by the Presidency itself¹³⁷. The EP should refrain from engaging in activities on which it is not prepared to have follow-up activities and/or subsequent activities. This means imposing filters vis-à-vis external stimuli. In

¹³⁵ See Annex II.

¹³⁶ MEP Elena Valenciano Martinez-Orozco, during the debate on EU Annual Report presented by the Council in plenary sitting, 13 December 2005.

¹³⁷ As noted rightly in an internal discussion document, “Le Parlement européen, seul parmi les institutions, n’adopte pas de programme de travail annuel et n’arrête pas ses priorités politiques propres. En conséquence, ses travaux peuvent donner l’impression d’être quelque peu passifs et flous. D’aucuns constatent que les initiatives parlementaires sont issues d’un processus ascendant assez largement dépourvu de filtre, imposé ou induit dans les faits par de multiples mécanismes de quotas qui régissent les activités des organes parlementaires. Il est donc inévitable qu’elles reflètent parfois les priorités de groupes d’intérêt plutôt restreints ou spécialisés au sein du Parlement. Même si ces activités politiques peuvent être tout à fait valables en elles-mêmes, il n’est pas forcément opportun que le travail du Parlement dans son ensemble soit piloté de cette manière.”

the absence of long-term strategies, it is easier to react to the news, whenever human rights violations take place. As encapsulated by MEP Luisa Morgantini, in the Sub-Committee on Human Rights on 28 September 2004, “political vision should not be determined by urgency”.

2. *Focus on politically consensual issues.* This was the point of departure of the rapporteur for the EP Annual Report on Human Rights for 2004, which deliberately chose to avoid “impossible areas”, such as reproductive health or abortion in the developing world – which led to contentious discussions for the Annual Report for 2003. The later irruption of ideological motives in the final vote on the Annual Report for 2004 however showed that political motivations and conflicts are always likely to disrupt consensus. “The European Parliament has just as many priority definition problems as the Council does. The EP is divided. Everybody agrees when it is about massive violations, or violations against minorities. The Parliament should come up with a stable doctrine in the field of human rights”, summarised MEP Véronique de Keyser in the Sub-Committee on Human Rights on 28 September 2004.

3. *Follow other EU institutions’ agenda and concentrate on performing accountability functions.* This questions the perception of the EP as an *avant-garde*, focusing on and debating emerging or controversial issues and thereby conceding to the limits of the Commission and the Council’s agendas. Relations to wider EU agenda will be further discussed in section 3.2.

4. *Better identify the added value of an EP activity on a specific issue.* Depending on the context, and also on the activities of other international organisations, the EP could better identify when and how to give input on a specific issue. A recurrent tension, which is not specific to the Parliament, concerns the interest one organisation has in intervening on a situation where it cannot reasonably expect to have impact. For some, “where it is clear that the Parliament will not, in fact, be able to make any contribution to preventing or remedying a breach, it should abstain from taking a position on the matter rather than nourishing expectations it cannot hope to fulfil” (Bradley, 1999, 854). This should however be considered in the context of stating principled opinions, not intended to have impact but to express views that might be seen as supporting human rights promoters or international law. To maximise its input the EP should have a comprehensive understanding of the situation and other actors’ attitudes. Arguably, the best tool to analyse EP added value in a specific area is to understand its general impact, and what it has been on similar issues in the past.

5. *Link the consideration of internal and external dimensions of human rights policies.* The gap between external and internal aspects of human rights promotion needs to be bridged, as has already been identified by a variety of actors, including by the EP itself with regard to EU policies. However, the EP has not led the charge for better co-ordination of human rights promotion inside and outside the EU; conditions of detention of migrants, CIA illegal activities or more generally fight against terrorism are sometimes presented as examples of co-operation between LIBE and AFET/DROI, but almost all external and internal observers define this co-operation as superficial. For instance, the EP's ability to deliver a common report covering all the different visits paid to migrants detention centres by MEPs, within and outside the EU and defining a common thread, was seen by NGOs as the test for the EP to take ownership of the debate, and benefit from all instruments at its disposal. Despite being anticipated, there has been no single report. Similarly, it is not clear whether that the Temporary Committee on Alleged use of European countries by the CIA for the Transport and Illegal Detention of Prisoners (composed of AFET and LIBE members mainly) will set a precedent for common work on internal and external issues, unless the experience is repeated in the future.

6. *Focus on thematic activities.* This is controversial. For many, the more precise a resolution is, the more likely it is to have impact. "Good resolutions with a sharp focus can be useful, whereas too broad resolutions are not effective, rather the opposite", says an NGO. There is wide consensus on the bigger impact of resolutions when they mention names. For example, following the release on the 5 February 2006 of Cheam Channy and dropping of charges against Sam Rainsy, ALDE leader Graham Watson said that "the royal pardon of Sam Rainsy and Cheam Channy [...] shows how urgency resolutions (sic) of the European Parliament can have a concrete impact if the timing is right and if it 'names and shames' in the reports and resolutions it adopts. [...] When someone's name appears on a resolution, that person is protected – even on the other side of the planet"¹³⁸. For sure, mentioning concrete cases makes it easier to measure impact: when the Parliament calls on general issues, it is much more difficult to assess the influence of its call on the situation. Nonetheless, other observers insist more on the high number of resolutions and the subsequent dissolution of visibility, symbolic dimension and prioritisation, and the double

¹³⁸ Press release of the ALDE group, 6 February 2006, "Liberals and Democrats welcome the dropped charges against Sam Rainsy".

standards created by focusing on only some cases (homosexuals, but only in Egypt, violence against religious women, but only Christian nuns, etc.) and would prefer the Parliament to adopt broad resolutions, if not thematic resolutions. Individual cases (thus precise calls) however can be mentioned in all kinds of resolutions, thematic or country focused alike. Up to now, individual cases are mentioned in about half the resolutions only – approximately 10% focusing exclusively on the case.

7. Focus on certain geographical areas. While the idea conflicts with the universal vocation of EP promotion of human rights, a criterion to focus the activities of the EP is to delimit the geographical scope for its attention. There is an explicit and strong tendency within the Parliament and within EU institutions, to focus on neighbourhood countries, either on the East or across the Mediterranean Sea, especially since the 2004 enlargement and the higher profile of security concerns. ACP countries are also a focus being the main target zones for development policies, which include a strong human rights component. In contrast, Central and Latin America countries, despite ongoing human rights violations¹³⁹ and the existence of human rights clauses in framework Cooperation or Association Agreements covering 17 Central and Latin American countries¹⁴⁰, received considerably less attention than other zones in the recent years. From September 1999 to March 2006, 8.5% of EP “human rights resolutions” with a geographic focus concerned Central and Latin America, against 28.7% for Asian countries. In its summary of one year of activity, the Sub-Committee explains that it deliberately focused on Mediterranean countries (2005 being the tenth anniversary of the Barcelona process) but nonetheless dealt with European and Asian countries; it spent one, out of its 14 exchanges of views and hearings it identifies, on Central and Latin America (on Cuba). As a consequence, it does not come as a

¹³⁹ Notwithstanding controversial political developments at the governmental levels, notably in Venezuela, it is possible to refer NGO reports on the zone to observe that the limited expression of concerns vis-à-vis this region is not the consequence of fewer or less important violations. To take the example of human rights defenders, which protection is one of the priority set to themselves by the EU and the EP, it is possible to refer to the last two Annual Reports of the Observatory for the protection of human rights defenders (FIDH/OMCT). The 2004 report (available at: <http://www.fidh.org/IMG/pdf/America.pdf> - last seen on 02.08.2006) noted that “This year again, the Americas were one of the most dangerous regions in the world for human rights defenders. In 2004, defenders and their families were victims of assassination (Argentina, Brazil, Colombia, Guatemala), enforced disappearance (Colombia), torture (Colombia), attacks and death threats (Bolivia, Colombia, Ecuador, Guatemala, Haiti, Honduras, Mexico, Peru), as well as harassment and surveillance (Colombia, Guatemala, Honduras, Mexico). The perpetrators of these violations (representatives of the government authorities, the army, and armed or private groups) continued to enjoy the greatest impunity”. The 2005 report (<http://www.fidh.org/IMG/pdf/fullobs2005a.pdf> - last seen on 02.08.2006) opened its section on “Americas” by repeating that “in Latin America, the defence of human rights remains an extremely dangerous commitment. In 2005, in this region more than in others, human rights defenders continued to face a very high level of violence and insecurity because of their work to promote and protect fundamental freedoms.”

¹⁴⁰ Andean Community (Bolivia, Colombia, Ecuador, Peru and Venezuela), Chile, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Mercosur (Argentina, Brazil, Paraguay and Uruguay), Nicaragua and Panama.

surprise that the Parliament is not identified by international NGOs as a “main international actor” in the field of human rights in the region. The last five HRW Annual Reports, which mention the work of the EP 61 times, only refer to its input vis-à-vis Central and Latin American countries three times. It is not clear whether this geographical focus is an explicit policy choice or is just a default to the absence of an holistic approach to the human rights agenda of the European Parliament. It is most likely that the EP is following the trend of the EU as a whole, which is more committed to neighbouring regions and has at its disposal more sophisticated tools vis-à-vis Central and Eastern European countries/CIS, Mediterranean and ACP countries. Central and Latin America countries are also part of an integrated and rather efficient human rights promotion regional system (the system of the American Convention on Human Rights), which is a fundamental difference compared to the situation in Asia and Central Asia. It might also be that the EU is not seen as having strong vocation to intervene in Latin America. Eurobarometer pools show, as far as development aid is concerned (with human rights components identified), that Europeans (with the notable exception of Spanish and Portuguese citizens) believe that EU is much better positioned to provide aid to African countries than to Latin America, which is better supported by the United States, thus underling the vocation of EU to focus on closer regions¹⁴¹. Many Spanish MEPs, who represent most of the membership of EP delegations to Central and Latin American countries, have deplored the fact that EP “attention given to this area has dramatically decreased and claimed that renewed policies are crucial, because there are still severe problems in Latin America, despite the resolution of most of the bloody conflicts that affected the region during the 1980s.”¹⁴²

3.1.5.4. EP actors responsible for human rights issues

Orchestrating human rights strategies and building impact depends on procedures, and also on the actors involved. In 1999, Bradley wrote that “responsibility within the Parliament for human rights matters is distributed amongst a bewildering variety of

¹⁴¹ See Eurobarometer, Special 222, “Attitude towards development aid”, February 2005, p. 56. Available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_222_en.pdf (last seen 02.08.2006).

¹⁴² In Anna Herranz, “The Inter-parliamentary Delegations of the European Parliament: National and European Priorities at Work”, in Barbé, Esther & Herranz Anna (eds.), *The Role of Parliaments in the European Foreign Policy, Debating on Accountability and Legitimacy*, Barcelona: Office of the European Parliament in Barcelona, 2005, Chapter 5.

officers, committees, political authorities, and services” and further recalled that “unlike most of the other institutional considerations [...], the solution to this diffusion of internal responsibility is a matter for the Parliament itself” (Bradley, 1999, 842). In reality, this means that different actors are potentially in charge of activities dealing with similar issues: the delegation’s chairpersons for the delegation, rapporteurs for own-initiative reports, group coordinators and advisors for urgent resolutions, groups’ presidents for the Sakharov Prize, etc. This is useful in focussing attention on human rights issues and diffusing responsibility for their promotion in all bodies of the Parliament. Certainly, the propensity of human rights being taken up by various EP actors is partially responsible for shaping the perception of the Parliament as being “activist” in the area. It can also be detrimental to co-ordination and effectiveness of activities. At best, the present situation can be described as a loose network, within which different actors take the lead on certain issues. For instance, the EP inter-group on gay and lesbian rights has been active and successful in taking the lead for the advancement of sexual minorities’ rights in all activities of the Parliament, and in consistently mobilising all actors, including individual actions of MEPs or the EP President¹⁴³. The Sub-Committee on Human Rights’ organisation of activities with regard to Laos, Cambodia and Vietnam is also exemplary. It highlighted the importance of having a single entity coordinating a sequence of activities, the value of follow-up activities, and also the significance of a public hearing, which, in the case of Laos/Cambodia/Vietnam, was instrumental in stimulating the interest of MEPs. Overall the EP organisation as a “network” of entities working on human rights does function and leads to the emergence of consistent strategies on specific themes. But the wider identification of a human rights agenda presumes leadership within the EP that prioritises concerns, plans policy and systematically monitors EP activities in the field of human rights. Mobilising different actors is a difficult exercise. The Parliament cannot rally its different branches on all issues at will – there is a limited reserve of resources and energy to be spent, which requires decisions and the concentration of efforts. External actors, including the Commission, NGOs and UN Special Mechanisms, also underline the importance of localising within the EP one single interlocutor on human rights issues.

¹⁴³ See <http://www.gayandlesbianrightsintergroup.com> (last seen 02.08.2006).

These considerations lead to a discussion of the importance of the re-creation of the Sub-Committee on Human Rights in the sixth legislature of the Parliament and its prospective added value to EP entities working on human rights: is it a forum to address additional issues, or more encompassing tool to monitor and offer leadership to EP human rights activities? Possible functions include: follow-up on human rights activities; long-term strategic planning; mainstream human rights concerns within the EP; (co-)organise public hearings and exchanges of views and raise expertise and awareness on specific topics within the EP; act as a contact point for civil society and external actors in general; enhance dialogue, synergies and means of holding accountable the Commission and the Council.

It is widely acknowledged that the Sub-Committee has been very active since 2004. To a considerable extent, the above functions have been taken up by the Sub-Committee. It has: proved competent to plan activities and co-ordinate EP human rights instruments on issues, such as Cambodia/Laos/Vietnam; upgraded dialogue and accountability instruments vis-à-vis the Commission and the Council, with higher priority given to dialogue and identification of human rights portfolio in other institutions (more contacts with the COHOM, upholding of the EU Guidelines on Human Rights, insistence on human rights and democracy clauses, shift of focus in Annual Report on Human Rights towards more accountability); organised follow-up to some EP activities; endeavoured to incorporate human rights concerns into other activities of the Parliament, starting with the delegations, sending *ad hoc* delegations focusing on human rights issues.

However, some difficulties limit the potential role of the Sub-Committee.

1. The formal powers of the Sub-Committee are limited, since it is intended chiefly as providing input to the Committee on Foreign Affairs. The limitation of powers makes it difficult for the Sub-Committee not only to mobilise diverse instruments if necessary, but also to guarantee the consistency and strategic planning of EP activities. The Sub-Committee has limited competence concerning the Sakharov Prize, resolutions (no possibility to table urgent resolutions, the tabling of urgent resolutions is mainly left to political groups), the delegations (despite the proposal of Guidelines on human rights to the delegations, these are not binding, and contrary to the Chairpersons of the Committees on Foreign Affairs and on Development, the

Chairperson of the Sub-Committee is not a member of the Conference of Delegations Chairpersons).

2. Each committee dealing with human rights issues (AFET, DROI, DEVE, LIBE, FEMM and also the Committee on Petitions) has its field of competence (Africa for Committee on Development, etc.). This leads to a certain degree of specialisation within and between the committees and makes co-ordination and mainstreaming difficult. Political groups' co-ordinators are well placed to mainstream human rights within the political groups, arguably more than the Sub-Committee within Committees. In practice the Sub-Committee does not systematically follow or address issues that fall within the competence of other committees¹⁴⁴.

3. The Sub-Committee has limited resources to conduct its own activities, whether it relates to hearings (e.g. the Sub-Committee had to be sponsored by international NGOs in order to invite UN Special Representative on Human Rights Defenders Hina Jilani), delegations (very limited budget and competence only to cover candidate countries¹⁴⁵), or staff. Nonetheless, it is noted that the EP has committed to reinforce these resources (with regard to meeting time and delegations).

4. Attendance of MEPs is low, the consequences of which have already been discussed in section 3.1.1.

5. On accountability, much has been done but some options have remained unexplored. The Sub-Committee is one of the only parliamentary Committees that does not actively seek to develop contacts with equivalent committees of EU Member States national parliaments. However, the latter are instrumental in the democratic control of CFSP. Furthermore, while the members of the Sub-Committee might have done so in their personal capacity, DROI has not actively tried to mobilise its members to use the procedure of questions to the Commission and the Council. The Sub-Committee had initiated a 'structured dialogue on human rights' with the Commission, which first meeting took place with former Commissioner Chris Patten on 28 September 2004, but such meetings with the Commissioners were not repeated.

¹⁴⁴ Even sometimes what is done in AFET, as is argued by certain NGOs, mentioning the example of AFET's work on Columbia.

¹⁴⁵ In terms of organisation of delegations, the Sub-Committee on Human Rights has the possibility of sending delegation missions for a maximum of 13 members per year, within the EU and/or accession countries. This is in contradiction with the formal mandate of the Sub-Committee, and has already led to the formulation of formal complaints. In 2005, DROI sent one delegation to Romania (5-8 October 2005), and a second to Turkey (5-8 October 2005). DROI members, of course, might have participated in other permanent or *ad hoc* delegations. I.e., the *ad hoc* delegation to the UN Commission on Human Rights was led by the chairwoman of the Sub-Committee.

6. Follow-up activities are not completely organised and proactive, despite a few meetings specially dedicated to follow-up activities on specific issues. They remain incidental, depending on the issues and relying heavily on the information that unprompted is brought to the awareness of secretariat/members. Hearings and exchanges of views do not lead to proactive reporting, dissemination of information and rarely to operational conclusions.

In view of these obstacles, some commentators suggest that the Sub-Committee should be upgraded into a full Committee. The Parliament itself supported this in its resolution on the Communication from the Commission to the Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third countries, adopted 25 April 2002, where the EP “proposes that the Parliament produced by the 2004 elections should establish a Committee on Human Rights responsible for problems relating to human rights, democratisation in third countries and relations with international organisations active in the sphere of human rights” (para. 24). This is one of two classical options adopted by parliamentary assemblies: mainstreaming human rights in all committees and thus diffusing responsibility for the promotion of human rights, or establishing a parliamentary committee with an exclusive human rights mandate. According to the National Democratic Institute for International Affairs in a paper presented at the Inter-Parliamentary Union seminar ‘Seminar for Chairpersons and Members of Parliamentary Human Rights Bodies’, the later option sends “a strong political message not only to the people but also to the [executive]. It provides an effective means of ensuring that human rights issues are indeed taken into account by all other parliamentary committees and that specific human rights knowledge exists within parliament, making it more independent from governmental expertise”¹⁴⁶. Assemblies like the German Bundestag or the US Congress have opted for this solution, with standing committees in charge of human rights promotion outside the national borders. Nonetheless, the status of the Sub-Committee is not a live concern and there are no consolidated views on the matter. This was evident in interviews with major international NGOs: one representative claimed to have “no clear answer”, another

¹⁴⁶ National Democratic Institute for International Affairs, *Parliamentary Human Rights Mechanisms*, Series paper presented at the Inter-Parliamentary Union seminar ‘Seminar for Chairpersons and Members of Parliamentary Human Rights Bodies’, 15-17 March 2004, p. 8.

that it was absolutely fundamental that the Sub-Committee became a committee in its own right and a last, that it was an aimless controversy, fomenting more conflicts of competence than anything else.

Proposals therefore mainly focus on elements of reform which are needed for the Sub-Committee to better perform its tasks, regardless of its formal status. Above all, more resources are needed (notably a travel and missions budget) and less constraints in organising delegations and hearings, as well as in tabling resolutions pertaining to human rights. Other elements of reflection could include: finding ways of promoting better attendance; institutionalising follow-up activities; enlarging the membership of the conference of delegations chairpersons to the chairperson of the Sub-Committee; devising formal procedures for the Sub-Committee to better and directly feed the work of other committees with regard to human rights aspects. Regarding the last point, the Sub-Committee has limited instruments to overcome the divisions that exist in the EP as to which committees are responsible for human rights, which are generally perceived as a necessary evil. While AFET, DEVE, LIBE and so on can better work together via opinions to reports or reinforced co-operation, the Sub-Committee is limited in its ability to contribute to other committees' activities, confined to the co-organisation of joint public hearings. However joint public hearings are an effective tool to co-ordinate activities, and should be encouraged, possibly by providing committees with meeting time specifically meant for joint activities. Joint hearings could be usefully organised with the Committees on Budgets and on International Trade. The need to establish a "horizontal mechanism" to ensure that human rights aspects are taken into consideration in all EP activities is recognised, exercised by either DROI or a full committee¹⁴⁷. A single entity should deal with all issues that have implications for the protection of human rights. It should contribute to the activities of any other committee. One concrete proposal would be to emulate the Committee on Budgets, which submits a "fiche financière" (financial sheet) for all reports/resolutions under review if they can have an impact on budgetary issues. The same could be done vis-à-vis human rights issues.

¹⁴⁷ This point joins EP Annual Report on Human Rights for 2005. In paragraph 106, the EP asks the Sub-Committee "to strengthen efforts to address actively the external human rights considerations of all Parliament's activities, including the work of other committees as well as parliamentary delegations".

Summary of recommendations on coordination of EP's human rights agenda

- Uphold the specificities of each activity, in particular the urgent resolutions. While the human rights priorities of the EP are, and should be, the result of a political choice, more should be done to reflect an overall policy design.

- The EP needs to establish priorities for its actions in the area of human rights. The following seven policy options mark possibilities for strategic decision-making:

- Focus on activities related to a core EP agenda and be less permeable to external factors such as lobby activities and news.

- Focus on issues where it is possible to reach a broad political consensus within the EP.

- Follow the human rights agenda of other EU institutions and concentrate on democratic control functions.

- Better identify the added value of an EP activity on a specific issue.

- Be more consistent in linking internal and external dimensions of human rights policies.

- Focus on selected thematic activities.

- Focus on certain geographical areas. The EP should clarify whether the fewer activities vis-à-vis Latin and Central American countries is an explicit policy choice or a default consequence of absence of a holistic approach to human rights programming.

- Explore the issue of leadership and coordination of human rights issues within the EP. This may entail reinforcing the means and role of the Sub-Committee on Human Rights, or even upgrade the Sub-Committee into a full-fledged Committee, as was asked by the EP in its resolution of 25 April 2002 on the Communication from the Commission to the Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third countries. It is crucial that DROI is less constrained in its resources and procedures, notably with regard to its capacity to table resolutions and to feed the work of other committees/delegations. Joint hearings should be encouraged, also with such committees as BUDG and INTA. The EP should set up a "horizontal mechanism" to ensure that human rights aspects are taken into consideration in all EP policy areas, for instance – following the example of the Committee on Budgets' financial sheets – by providing a human rights sheet for all activities in case they can have an impact on human rights situations.

3.2. The Parliament in the European Union

An important aspect of the impact of the EP in the area of human rights is the role it plays in interacting with the other main institutions of the EU, notably the Commission and the Council. Actions of Member States and other EU institutions can contradict EP human rights policies. EP positions on granting visas to representatives from Taiwan, Hamas or Zimbabwe, or the consistency of EP monitoring of the human rights situation in Tunisia, have e.g. been frustrated by contradictory policies of some EU Member States and/or the Council. Conversely, the ability of the Parliament to take the lead and translate its own policy lines into general EU policy considerably reinforces its political weight, including vis-à-vis third country authorities. There is a recognised competence of the EP to exhort other EU actors (institutions or States) to action. Findings confirm that impact in the field of human rights is maximised when EU institutions coordinate their actions, and that EU inter-institutional configuration is largely ignored by external actors: impact that is a result of activities by any of the EU institutions is generally perceived as being generated by the EU as a whole. These two elements militate for the development of synergies between EU institutions, or at least for the highest possible degree of consistency of actions.

Consistency between EU policies and pledges to respect and promote human rights in its external relations is also of prime importance, and guarantees that EU commitments in the field of human rights are not merely declaratory. In this respect, the power to check consistency of action with commitments is fundamental. To exercise political control is a primary function of democratically elected MEPs. This power legitimates the pursuit of EU activities in the field of external affairs. It entails the right to be fully informed, and the right to assess policy options taken by EU institutions. As failure to act may constitute a breach of human rights commitments of the EU, the option of exhorting the Council and the Commission to act in a vacuum of previous actions from the EU institutions can be seen as part of the accountability functions of the EP.

The EP is fully equipped to perform accountability functions, and arguably has harder powers in this regard than vis-à-vis third countries. When the EU has a whole did not have consolidated human rights policy and instruments, the EP led the way in terms of human rights promotion abroad and logically sought to develop its own policy in the field. However, since the nineties “constitutional” developments of the EU have contributed to enriching and defining EU commitments in that area, most recently with the adoption of the diverse EU Guidelines on Human Rights and the EU Charter on Fundamental Rights. For this reason, accountability functions of the EP in the field of human rights have increased significance: having pushed for an enhanced level of commitment in the field of human rights, the EP now has to verify that these commitments are adequately reflected in EU practice. The importance of this function is underlined by international NGOs, which place the EP’s main contribution to human rights issues in the remit of its accountability functions rather than in its direct calls on third countries. As recalled by the platform of NGOs gathered in the Human Rights and Democracy NGOs network, “it is the role of the European Parliament to hold the Council and the Commission to account for the way in which they conduct the EU’s human rights policies, domestically as well as globally”¹⁴⁸. During its fifth legislature, the EP began to focus on its role as the body that holds the Council and the Commission to account for the way in which they conduct the EU human rights policies. This focus has further developed during the current legislature, with the Sub-Committee on Human Rights devoting resources to political control, and especially in 2006 with the shift in focus of the EP Annual Report on Human Rights, which assesses EU institutions’ performance in the field of promotion of human rights rather than human rights records of third countries.

There is now a two-pronged approach taken by the EP, seeking to develop both its own policy lines and direct impact in third countries, and the development of its accountability role. This dual approach is very much reflected in the analysis of the resolutions of the EP, which sometimes only call on third states to act, and sometimes only on the Commission and the Council to act and to call themselves on third states.

¹⁴⁸ Act4Europe Campaign and the Civil Society Contact Group, *Civil Society and the European Parliament elections 2004 – What is at stake?*, March 2004. Available at: <http://act4europe.horus.be/module/FileLib/EPelectionsPartI-III.pdf> (last seen 19.05.2006), p. 24.

This can be perceived as an uncertainty in EP's own understanding of its role and position in the promotion of human rights.

Analysis of resolutions as cursor of EP relations with Council and Commission

References to the Council and the Commission activities as background information

Besides factual information and previous activities of the EP, background information of EP resolutions is principally previous activities of the Commission and the Council. References to actions or stances taken by the institutions are the prerequisite for their consideration by the EP. In more than 40% of the resolutions, however, there is no mention of previous activities or positions taken.

References to	Number of resolutions	Share of total resolutions
Previous actions/positions of any of the other two EU institutions	220	58.2%
Previous activities/positions of the Council only	199	52.7%
Previous activities/positions of the Commission only	90	23.8%

Calls for action placed upon the other EU institutions

Calls placed on EU institutions are more numerous and take different forms. Generally resolutions will call upon the Council/Presidency or the Commission, but also will make a general call to "the EU". Other calls are placed upon the Member States. Occasional calls aim at: the European Investment Bank (1.3%), the European Bank for Reconstruction and Development, the European Economic and Social Committee and the European Agency for Reconstruction (0.3% of the resolutions each).

Calls upon	Number of resolutions	Share of total resolutions
Any EU entity ("EU" in general, Commission, Council/Presidency or Member States)	337	89.2%
Council/Presidency	256	67.7%
Commission	226	59.8%
Member State(s)	154	40.7%
"EU" only, without further detail	20	5.3%

The statistical discrepancy between references to and calls on EU institutions activities is an indicator that resolutions are primarily used as a tool to exhort EU institutions for action, rather than assessing their activities undertaken on a given situation.

Cross-statistics on entities called upon

Within human rights resolutions with country focus only, calls on EU institutions are slightly less important. The nature of the entity called upon is an indication of how the EP perceives its own role in the field of external relations and human rights: do its calls have to be mediated through other EU institutions, or can the EP directly call upon third countries to act?

Calls upon	Number of resolutions	Share of resolutions
EU (any EU body) AND Third countries authorities	279	81.6%
Third countries authorities only	34	9.9%
EU only	25	7.3%
Other entities only	4	1.2%
Total	342	100%

Calls on third countries only are usually observed in application of Rule 115 (urgent resolutions) and are used as a direct “parliamentary diplomacy” instrument, without requiring the Council or the Commission to act. The standard structure of these resolutions is: facts – condemnation or (re-)affirmation of principles – calls on the authorities to act.

In contrast, certain resolutions call only on the Council and the Commission to act, in recognition of the indirect relation established between the EP and third countries, and emphasising EP role of scrutinizing the policies of the Council and the Commission. The most typical example in this regard is the resolution on the Moluccan Islands adopted by the 6 July 2000, where the EP:

- “1. Asks the Commission and Council to support the process of re-establishing democracy in Indonesia and to support the present government and its honest efforts to establish democracy and respect for human rights;*
- 2. Asks the Commission and Council to warn the forces which are trying to destabilise the present government that the international community will not accept a relapse in Indonesia;*
- 3. Asks the Commission and Council to call on the Indonesian Government to do all within its power to put an end to the violence on the Moluccan Islands in order to re-establish peaceful co-existence between the Muslim and Christian population, as has proved possible for many years;*
- 4. Asks the Commission and Council to call on the Indonesian authorities to open humanitarian aid corridors so that assistance can reach people displaced by the fighting and others in need of relief, and to stress in their contacts with the Indonesian Government the importance of strict requirements in ports and airports of the Moluccans, including thorough checks for weapons coming into and out of the Moluccans;*
- 5. Asks the Commission and Council to urge ECHO to increase support for relief efforts, considering the recent deterioration of conditions on the Moluccan Islands;*
- 6. Asks the Commission and Council to examine ways in which the international community can help to restore calm to the Islands, for instance by sending international observers;*
- 7. Asks the Commission and Council to call on the Indonesian Government to suspend from duty members of the security forces suspected of directly or indirectly taking sides in the conflict and to judge and punish all those guilty of these provocations and violence, if necessary by establishing a special national or international court;*
- 8. Instructs its President to forward this resolution to the Commission and Council, the governments of the applicant states and the Indonesian Government.”*

There are differences in approach from one resolution to another, even when it concerns the same country and the same issue. Approach change over time. This is the case for resolutions on Laos (resolution on 15 February 2001 calls on the authorities only; resolution on 15 November 2001 on the EU institutions only), the USA (out of eight resolutions passed over the period under consideration, three resolutions call on both EU and the USA, three only on US authorities, one only on the EU Council, and a last one on neither the EU nor the USA) and Indonesia (see resolutions adopted on 5 June 2003 and 6 July 2000).

There is no either-or choice to be made between the pursuit of EP own policy and the development of its accountability functions. In complement with previous chapters of the study, this chapter discusses the accountability activities, but also explore a third way, which is to consider that EU institutions, while retaining their specificities and autonomy, can create synergies and run joint, or at least co-ordinated activities. This is seen as a major factor of impact, for each institution as well as for the EU as a whole.

3.2.1. Holding the Commission and Council accountable to established human rights standards

3.2.1.1. Principle of accountability in the European Union context

The European Union is a unique organisation, inspired to an extent by classical constitutional mechanisms, those fundamental in a democratic environment: direct election of representatives, who hold accountable other institutions and monitor their actions. However, the complexity of the EU framework has led to specific arrangements. While EP's right to be informed, assess and criticise other institutions fully applies to both the Commission and the Council, the ultimate steps of confirming and challenging institutions' legitimacy only applies to the Commission (vote of approval and dismissal of the college). Contrary to other legislative assemblies, the Parliament is also in the odd position of holding accountable part of the European legislative power (most of the legislative power as far as human rights activities are concerned) as exercised by the Council¹⁴⁹. The fact that the Council exercises autonomously the bulk of the decision-making powers in the area of CFSP feeds an academic and political debate on whether the Council, constituted of representatives of national executives, is accountable before national parliaments rather than before the EP in this domain.

Co-operation with EU National Parliaments: Trends, Benefits, Resistance

While more than 40% of EP resolutions on human rights call on EU Member States to act, and while the Parliament is a fervent promoter of parliamentary monitoring of the executive branches in general, the EP has been tentative in involving its national counterparts in its supervision of EU States performance, individually or within the Council, even in the intergovernmental pillars of the Union. This is especially true in the field of human rights. Only a few resolutions call on national parliamentarians. The EP Sub-Committee on Human Rights has never invited members from national parliaments to its meetings. Eight national chambers have committees specifically in charge of human rights issues (notably) outside the EU: Austria, the Czech Republic, Germany, Greece, Hungary, Ireland, Poland and Slovakia. Three EU MS (Belgium, France and the UK) have a cross-party parliamentary group dealing with human rights, notably or exclusively outside the country.

¹⁴⁹ It is sometimes argued that the position of the Council was thought as the equivalent of the US Senate with the EP resembling the House of Representatives. See Reginald Dale, "Its Struggle Reflects the Quest for Accountability as Europe Unites: EU's Parliament Grows More Assertive", in *International Herald Tribune*, 2 February 1999, available at: <http://www.iht.com/articles/1999/02/02/think.t.php> (last seen: 13.08.2006).

Other EP committees have developed such relations, notably AFET which invites the chairpersons of national foreign affairs committees to joint meetings in the EP twice of three times a year. This is fundamental in the area of CFSP, where the source of democratic legitimacy and accountability is still subjected to vivid debate. Some academics go as far as stating that “there is no discussion about the main source of democratic legitimacy of the CFSP and ESDP, which comes from national parliaments, since these policies were conceived as intergovernmental” (Barbé & Herranz, 2005). However, the EP has a privileged position compared to national parliaments regarding access to information relating to CFSP, and can use specifically devised accountability mechanisms (questions) and formal powers (budgetary powers). Some MEPs see the collaboration with national parliaments as unnecessary, if not as interfering in EP own competence. Kirk reports that the public commitment of EC President Barroso to send all new EU proposals and consultation papers to national parliaments and to invite them to react at an earlier stage, was welcomed by the eurosceptic MEPs, while “other members of the EP’s constitutional affairs committee have strongly criticised plans by national parliaments to play a stronger role in the EU legislation process”*. Similar reactions were observed to the First Protocol of the signed Constitutional Treaty, which aimed at promoting effective and regular inter-parliamentary co-operation between the EP and national parliaments, and required the Conference of Parliamentary Committees of Union Affairs to organise inter-parliamentary conferences to debate CFSP issues. Some MEPs and academics criticised the provision, seen as a breach of the subsidiarity principle**.

This defiance contrasts with the plentiful informal links existing between the political groups and individual members at the national and European levels, and with the benefits that could stem from enhanced co-operation between parliaments. The importance of the national parliaments has already been recognised by NGOs. The EMNHR for instance reports that debates were organised in Dutch and British parliaments on the Association Agreement with Israel. Encouraging efforts of co-ordination are observed with parliamentarians of the country holding EU Presidency. On 6 December 2005, the British government was questioned in the House of Lords on the Larrañaga case. The question concerned actions taken by the Presidency, and expressly referred the activities of the EP on this case (especially letters from previous and current EP Presidents). National parliaments can echo and support EP calls in relevant fora. Rare calls specifically placed on national parliaments by the EP are found in resolutions on the ICC, which therefore coincides with an area where the EP adopted a successful strategy. National parliamentarians are called on to “carefully scrutinize any activity their respective governments may undertake”. In the resolution on the draft American Servicemembers’ Protection Act (ASPA) adopted on 4 July 2002, the EP referred to a resolution adopted by the Netherlands Parliament. Cross-referencing can reinforce the accountability of the Council, and also build parliamentary coalitions vis-à-vis actors outside the EU. Such co-operation would also be valuable for the monitoring of States’ performance in the UN Human Rights Council. The EP should develop links with parliamentarians from the eight MS participating in the Council, for instance by inviting them for the discussions on the Council and possible debriefings on EP visits to the HR Council. National and European Parliaments could better pool expertise.

Ways of enhancing co-operation could be devised, in addition to informal links already existing. MEPs have e.g. the right to participate in national parliaments’ activities, depending on the rules of procedures of each chamber. There is no indication that MEPs use, or even know about, the standing invitation offered to them to participate in regular meetings of European Affairs Committees of 19 MS parliamentary chambers, or of any sectoral committees of 8 chambers***. It is believed that contacts of even meetings with national parliamentary committees equivalent to DROI would allow exchange of best practices and create a parliamentary network able to pull strings on similar issues at the same time.

* Kirk, Lisbeth, ‘Barroso to strengthen partnership with national parliaments’, in *EU Observer*, 10 May 2006.

** See intervention of Prof. Sonja Puntischer Riekman during EP Public Hearing on “the EP as a promoter of parliamentary democracy” on 26 May 2005

*** For full details on the role of MEPs in national parliaments and rules of procedure country by country, see COSAC Secretariat, *Third bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny*, Presented to XXXII Conference of Community and European Affairs Committees of Parliaments of the European Union, 17-18 May 2005, Luxembourg, pp. 95-99.

The accountability principle can be analysed as subdivided in four powers, or rights:

- to seek information, which guarantees the transparency of the decision-making process and of the implementation of policies, and provides with necessary data to evaluate policies;
- to assess policy lines and/or measures implemented, with regard to human rights commitments of the EU, notably measures' efficacy in addressing human rights concretely;
- to endorse or to criticise policy lines and measures taken – eventually the absence of actions, calling upon other EU institutions when appropriate;
- if necessary, and to the extent possible, to take appropriate measures to withdraw support to an institution that persists in ignoring EP assessment and recommendations.

3.2.1.2. Specific instruments and mechanisms of accountability

Regular activities boost accountability. Resolutions express approval or criticism and above all place on calls upon institutions; delegations can assess the efficacy and impact of human rights projects and policy measures taken either by the Council or the Commission; public hearings and exchanges of views provide avenues for receiving and critically processing information; own-initiative reports and studies provide detailed and expert analysis on effectiveness of EU policies. In addition, specific mechanisms exist specifically to operationalise the accountability principle.

Questions to the Commission and the Council

The mechanism is explicitly enshrined in the text of the treaties. In the Community area, article 197 ECT provides that “the Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members”. Article 21 TEU states that “the European Parliament shall be kept regularly informed by the Presidency and the Commission of the development of the Union's foreign and security policy. The European Parliament may ask questions of the Council or make recommendations to it.” There are four basic different kinds of questions:

- Question for written answer (Rule 110 of EP Rules of Procedure) asked by individual members; invoked with the greatest frequency (from 1 January to 10 August 2006, 3644 questions tabled);
- “Question time” (Rule 109 and Annex II of EP Rules of procedure) allows individual members to table questions which will be answered orally (unless time is insufficient) in plenary sitting, allowing MEPs from all political groups to add supplementary questions (697 questions tabled on the same period);
- Oral questions (Rule 108) tabled by a committee, a political group or at least thirty-seven members, with the request that they are placed on the agenda of Parliament and answered in plenary (86 questions tabled);
- Questions posed to Council and Commission during exchanges of views and public hearings organised by parliamentary committees, according to their own rules and specific arrangements.

While parliamentary questions are at the heart of the accountability function and considered a key instrument to maintain scrutiny and pressure on the institutions, questions are highly individualised activities. The procedure for tabling questions is straightforward, but their personalised nature makes it difficult to incorporate them in wider strategies. They reflect the views of the MEP more than EP views in general. The volume of questions renders their assessment difficult, but some observations can be made, drawing on interviews with all actors involved and the detailed analysis a sample of questions.

Question time and human rights

The 1158 questions tabled under Rule 109 in 2005 were taken as a sample for the analysis of the use of parliamentary questions for scrutinizing EU institutions, and addressing human rights issues.

General presentation of activity under Rule 109 in 2005

- More questions were directed at the Commission (725 questions, 62.6% of the questions) than to the Council (433 questions, 37.4%). The same tendency is observed in application of Rules 108 and 110 of EP Rules of procedure.
- However, 154 questions to the Council were replied in plenary, against 140 questions to the Commission. Other questions were replied in writing. Aggregated question time in 2005 represented 12.10hrs for the Council (2.9% of the total time of plenary sittings), and 16.35hrs for the Commission (3.9%). This suggests that replies from Council are considerably shorter.
- In most cases, questions addressed in plenary were followed by supplementary questions (103 to the Commission, 119 for the Council).

Questions concerning human rights issues

- 155 questions (14% of the questions answered) concerned human rights issues outside the EU. They were principally asked to the Council (85 questions, that is 20.9% of the questions to the Council; 41 were answered orally during the plenary), rather than to the Commission (70 questions, that is 10% of the questions to the Commission; 13 were answered orally).
- 155 questions had a correlation with human rights issues outside the EU (with prime focus e.g. on foreign affairs issues, ACP, HIV/AIDS, enlargement, peace, development aid...).
- 68 questions concerned internal, EU human rights issues.

Focus of the questions on human rights outside the EU

- 15.5% of the questions were purely thematic. 84.5% of the human rights questions had a country focus – sometimes focusing on a specific theme in the country under scrutiny.
- Main themes addressed were: minorities and indigenous (18 questions), women and children (12 questions), elections (11 questions) and freedom of religion (9 questions).
- Human rights questions with a country focus primarily dealt with candidate countries and the Balkans (29%), Mediterranean countries, Middle East and Gulf (24.4%), Latin America and Caribbean (13%), Africa (except North Africa) (12.2%), Eastern Europe and Central Asia (9.2%), Asia/Oceania (8.4%), and US/Canada/Australia (3.8%). This regional breakdown contrasts with the general geographical divide of EP resolutions on human rights on 1999-2006, and even more with the geographical focus of urgent resolutions over 2005, which concerned Asia/Oceania (36.1% of the urgent resolutions), equally followed by Africa and Mediterranean countries, Middle East and Gulf (19.4% for each group), Eastern Europe and Central Asia (13.9%), Latin America and Caribbean (5.6%), and candidate countries and Balkans (2.8%).
- Focus on specific countries boosted the number of questions for certain regions. Questions on Latin America and Caribbean, only concerned two countries: Colombia and Cuba. Iraq and Turkey are referred to in respectively 17 and 24 questions. In total, questions on Iraq, Israel/Palestine, Turkey, Colombia and Cuba represent more than half (52.7%) of the questions on human rights issues with a geographical focus.
- 30 questions are specifically focused on individual cases. In more than half the cases, the individual case referred to an EU citizen abroad (i.e. Carlos Ayala Saavedra; José Couso; Dawit Isaak). Concerns for EU citizens or Christians abroad are at the centre of 23 questions (14.8% of the questions). Besides individual cases already mentioned, they concern the protection of Patriarchate and of Christians in Turkey and the fundamental rights of Greeks in Georgia.

Questioners and connections with national or ideological concerns

- As far as human rights are concerned, Rule 109 is not evenly used by all groups (PSE and GUE/NGL asked more than half of the questions), all nationalities (Greek, Irish, British and Swedish MEPs asked more than half of the questions) or individual MEPs (more than half of these questions were asked by 20 MEPs only, some using the mechanisms up to seven times).
- Certain trends are observed. Greek members asked one third of the questions on Turkey, and most of the questions on Christians abroad, while Spanish MEPs asked most of the questions concerning the individual cases of two Spanish abroad (Iraq, Colombia). GUE/NGL MEPs asked most of the questions on the USA (especially US policy towards Cuba).

The primary function of the questions is for the EP to be informed on EU policies and actions taken on specific issues. Annex II of EP Rules of Procedure on the Conduct of Question Time reminds members that “questions shall be admissible where they [...] do not contain assertions or opinions”. The mechanism functions quite well in this

regard, although some limits are observed. First, answers can be vague and general. Other EU institutions are bound by their answers, and accordingly tone down language that can be interpreted as concrete commitments. Second, written responses to questions are received long after they are requested. While EP Rules of procedure impose deadlines for the receipt of responses, the Council has stated that it was not bound by EP internal procedures. The EC replies more quickly. Questions are described by Commission and Council staff as a “disturbing working burden” – a factor that might contribute to delays in answering and to the impoverished quality of the responses. MEPs and assistants report that consequently MEPs hesitate to pose questions to the Council. Many questions indeed concern urgent issues, requiring rapid reactions: this is especially true concerning topics high on national agendas, when it is expedient for MEPs to be seen as active – e.g. journalists’ disappearances in countries in conflict. Further, on occasion replies from Council are received when the Presidency already changed. Written question E-2272/02 (24 July 2002) of MEP Pere Esteve is illustrative of this. The MEP sent a question to the Council, on its intended action during the 2002 UN Commission on Human Rights; he received the answer two months after the CHR, a few days before the end of the incumbent Presidency. This diminishes the role of questions to hold a particular Presidency accountable, at least as far as written questions are concerned. Questions occasionally express the frustrations of the MEPs towards the failure of the Council and the Commission to respond expeditiously and provide satisfactory information¹⁵⁰. Lastly, not all information can be released through answers to parliamentary questions: EP Rules of procedure themselves set parameters as to what information should be asked. The Commission and the Council have a degree of discretion to decide whether to communicate confidential information in a reply to a question, which was confirmed by the Court of First Instance¹⁵¹.

¹⁵⁰ The EC indicates in an answer that in 2002, it “has received 32 written questions (out of a total 3,962 written and oral questions) raising issues related to the quality of the replies”. See: Written Question E-0856/03 by Christopher Huhne to the Commission, 20 March 2003; Written Question P-2640/02 by Daniel Hannan to the Commission, 12 September 2002; Written Question E-2808/01 by Erik Meijer to the Commission, 10 October 2001; Written Question P-1385/01 by Daniel Hannan to the Commission, 27 April 2001; Written Question E-2384/00 by Christopher Huhne to the Council, 24 July 2000; Written Question E-1299/00 by Charles Tannock to the Council, 27 April 2000; Written Question E-1300/00 by Charles Tannock to the Council, 27 April 2000; Written Question P-1541/00 by Michl Ebner to the Council, 12 May 2000; Written Question E-1214/00 by Daniel Hannan to the Commission, 14 April 2000; Written Question E-0230/00 by Chris Davies to the Commission, 4 February 2000; Written Question E-1923/99 by Chris Davies to the Commission, 4 November 1999.

¹⁵¹ In his order of 15 January 2001 in Case T-236/00 *R Gabriele Stauner and others v. Parliament and Commission*, the President of the Court of First Instance finds in grounds 49 to 51 as follows: “The fact that the framework agreement states that certain information may be provided only to the parliamentary bodies listed at paragraph 1.4 of annex 3, namely the President of the Parliament, the chairpersons of the parliamentary

It is expected that parliamentary questions and their answers cultivate the doctrine of accountability. Nonetheless, it does not seem that parliamentary questions are entirely linked to calls placed upon the EU institutions or with EU specific commitments. Out of the 378 EP “human rights resolutions” analysed, only three refer to information and/or possible commitments secured through parliamentary questions¹⁵². Conversely, although the Parliament has identified the importance of exercising accountability with regard to new specific commitments made through human rights and democracy clauses and EU Guidelines on Human Rights, analysis of the questions tabled in question time in 2005 shows that only three questions referred to the clauses and three to the Guidelines. The Council and the Commission had themselves to refer to the clauses in two answers and to the Guidelines in two others. Overall, it seems that parliamentary questions are only tenuously related to human rights priorities of the Parliament. While analysis of 2005 Question Time shows that about 10% of the questions refer to a previous resolution adopted by the Parliament and ask for follow-up activities undertaken either by the Council or by the Commission, it also illustrates that issues relevant to the electorate of individual MEPs are a strong incentive in the use of parliamentary question. This is perfectly justified, since it reinforces the democratic control of the Council and the Commission. The cost is that questions are plentiful and do not necessarily focus on EP lines and priorities. They reflect more MEPs own agenda than the EPs, which can be interpreted as a missed opportunity in terms of propagating the EP message.

committees concerned, the Bureau and the Conference of Presidents, does not strip individual Members of Parliament of their right to put questions to the Commission and to receive answers from it, even where these involve the transmission of confidential information, as was the case before the adoption of the framework agreement. It should be pointed out in this connection that the Commission's discretion to decide whether to communicate confidential information in its reply to a question put by an individual Member of Parliament under the third paragraph of Article 197 EC and in accordance with the relevant provisions of Parliament's Rules of procedure is not affected even indirectly by the framework agreement. However, where a request for confidential information is made by Parliament, that is, by one of the parliamentary bodies referred to in paragraph 1.4 of annex 3 to the framework agreement, the forwarding of this information by the Commission is now governed by the provisions of the framework agreement. It follows that, at first sight, the framework agreement, which is confined to regulating relations between the Commission and Parliament, has not changed the legal situation of individual Members as regards their right under the third paragraph of Article 197 EC, does not affect the right there established and thus has no legal effect on individual Members of Parliament.”

¹⁵² Resolution on Lampedusa, 14 April 2005; resolution on presumed use of European countries by the CIA for the transportation and illegal detention of prisoners, 15 December 2005; resolution on the third UN Conference on the Least Developed Countries in Brussels (14-20 May 2001), 5 April 2001.

Nonetheless, it is widely acknowledged within the EP that parliamentary questions are an auxiliary means to convey EP message to the Council and the Commission. Five observations can be made.

1. Impact is possible only if there is a critical mass of questions on a specific issue, coming from different MEPs of diverse groups, on a sufficient period of time. For instance, it is reported that “after Parliament had tabled a large number of questions on the HR situation in Myanmar (Burma) to both the Commission and the Council, the latter withdrew GSP entitlement from that country because of its forced-labour practices” (Rack & Lausegger, 1999, 819).

2. Impact on the Commission is more likely than on the Council. This might be explained by the powers (approval, dismissal) that EP holds vis-à-vis the Commission, and also the fact that questions in the Council are answered by the Secretariat, not COHOM members. This changes concerning oral questions and question time, answered by Commissioners and EU Council Presidency. Questions answered in plenary, and to an extent in committees, offer better opportunity to question high-ranking officials, and avoids the problem of delayed replies. It also enables a form of dialogue, through supplementary questions.

3. Questions are more likely to have impact when they are precise, targeted and well-timed. Paradoxically, questions that are already well-informed pass on better EP’s message. However, questions are on occasion vague and do not reflect a sound understanding of policies and possibilities. Regarding human rights issues the EIDHR is for instance often referred to, but much less regional programmes like TACIS, ALA, MEDA-Democracy, which are arguably also important, notably given their considerably larger budgetary envelopes. In response to certain questions, the Commission has to recall its activities and existing programmes¹⁵³.

4. Questions lead to impact when linked with other EP activities and calls. Although it is difficult, parliamentary questions can be mobilised within strategies built around specific issues, in tandem with other activities of the EP, notably to recall and follow up on EP views and maintain pressure on EU institutions. A good example is the question asked to Commissioner Ferrero-Waldner during the January 2005 question time to the Commission, on cross-border broadcasting to Belarus¹⁵⁴.

¹⁵³ See for instance question H-0571/04 and its answer.

¹⁵⁴ See p. 145.

5. Parliamentary questions might support Council or Commission willingness to deal with an issue, but questions do not guarantee that these institutions will go in the direction suggested in the questions. Questions can lead to actions, but actions do not necessarily follow the direction propagated by the EP. This notably comes from the fact that questions reflect different ideological views and can send out different messages. The example of Cuba is notorious. Another concerns the issue corporate social responsibility and is illustrated by a question debated in Question Time with Commissioner McCreevy in plenary in January 2005¹⁵⁵.

There is a need, as was also argued by an international NGO, to rationalise the use of questions and have them exercised in the name of the EP rather than too much relying on individual members. Possible criteria could be to impose that questions are tabled by several members, from different nationalities or from at least three different groups. For the moment, parliamentary questions are almost autonomous individual actions from MEPs, and it might be difficult to mobilise this instrument within strategies built around specific issues. However, it is not impossible. The practice developed by EP inter-group on gay and lesbian rights is instructive. Although the inter-group is not in a position to impede the tabling of questions promoting opposite views, it is successful at channelling efforts of like-minded MEPs and linking questions with other instruments developed. Since the beginning of the sixth legislature, the members of inter-group have tabled approximately 50 questions on these issues. Characteristically they are: consistent in their message, numerous – creating a critical mass that demonstrates EP’s interest on the issue, including standard references to EU policies and programmes and other EP activities, relying on reliable information, facts and analysis based on expertise developed in the inter-group, and almost exclusively co-tabled by several MEPs from at least the four main political groups, thus diminishing the reliance on personal ideologies and agendas.

¹⁵⁵ Question H-0509/04 was about slavery in chocolate production and about measures intended to be taken by the Commission. Using its right to a supplementary question the socialist MEP took the opportunity to enlarge its question to Commission’s agenda with regard to companies, notably European, which violate human rights. Would the Commission take a more positive agenda on this issue? Besides the gap between the question and the Commissioner’s response (who replied that poverty-reduction through development aid and human rights dialogue in the context of Cotonou agreements were the means of ending forced labour and children trafficking), the discrepancy between the initial questioner and the supplementary question asked by an EPP-ED MEP is even more striking (asking the Commission to let the corporations deal with the issue, and to actually commend the steps already voluntarily endorsed by the Chocolate Manufacturers Association), and ends in a question on the legitimacy of the initial question itself. The messages sent by the MEPs can be radically opposite. It is easy to imagine that, while these contractions appear in the light during plenary debates, they probably are not less obvious when Commission and Council deal with written questions.

Nothing prevents the members of the Sub-Committee on Human Rights from getting organised and operating the same way. Meetings of the Sub-Committee, or at least of its Bureau, are ideal locations to discuss common strategies and co-ordination of activities, including individual actions. Also, the Sub-Committee should be allowed to table question under Rule 108 of EP Rules of procedure (oral question).

“Hard” accountability powers

Following articles 193, 201 and 214 ECT, the European Parliament:

- approves or rejects the appointment of the President of the Commission;
- approves the nomination of the Commission members, designated by the President-elect of the Commission and the Council;
- may set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of EC law;
- has the right to censure the Commission, leading to its collective resignation.

These powers have been used with some success and arguably helped develop an enhanced capacity to take into account of EP views in all policy areas, especially after the collective resignation of the Santer Commission on 15 March 1999. In October 2004, the EP refused to approve the college of Commissioners first presented by current EC President Barroso, because of declarations made in the EP by Commissioner-designate for the portfolio of Justice, Freedom and Security Rocco Buttiglione, contradicting EP human rights standards concerning gender and sexual orientation.

However, these are rarely used measures of last resort. While their mere existence draws attention to the positions of the EP, it remains difficult for the EP to activate these powers with in a targeted way, linking them with precise policy lines. Furthermore, these powers are strictly delimited, and equivalent procedures do not exist vis-à-vis the Council. The EP is not consulted in the nomination of EU Special Representatives, starting with the EU High Representative for the CFSP, despite numerous calls to do so and Rules of procedure dictates¹⁵⁶. Even the EU

¹⁵⁶ Rule 86 on Appointment of Special Representatives for the purposes of the Common Foreign and Security Policy: “1. Where the Council intends to appoint a Special Representative under Article 18(5) of the EU Treaty,

Constitution's proposal to create a Foreign Affairs Minister who dons two hats, that of Chairperson of the Council of Ministers of Foreign Affairs and Vice-President of the Commission, adopted a system for the Minister to sidestep EP's supervision. The EC also strictly delimits EP accountability powers. Heads of EC Delegations are excluded from any appointment-and-recall powers, and even from being auditioned before appointment. Commissioner Ferrero-Waldner rejected EP's plea for such a move¹⁵⁷.

As a substitute for the lack of formal accountability powers vis-à-vis the Council, the Parliament seeks to maximise its legislative powers (assent, budgetary powers, co-decision powers in some areas) as means of enhancing other EU institution attentiveness to EP calls and critics. The use of its budgetary powers and right to give assent is an expeditious way to guarantee that its opinion is taken in account, refusal to discharge or assent could be instrumental in sanctioning EU institutions' unwillingness to take into consideration EP views. However, given the ramifications of using these powers, the EP is reluctant to use them solely with the aim of securing an ascendant position in inter-institutional dynamics¹⁵⁸. Dissatisfaction can also be expressed by taking a case before the European Court of Justice. The EP has done so in cases pertaining to civil liberties and home affairs where there is an external human

the President, at the request of the committee responsible, shall invite the Council to make a statement and answer questions concerning the mandate, the objectives and other relevant matters relating to the tasks and role to be performed by the Special Representative. 2. Once the Special Representative has been appointed, but prior to taking up the position, the appointee may be invited to appear before the committee responsible to make a statement and answer questions. 3. Within three months of the hearing, the committee may propose a recommendation pursuant to Rule 114 relating directly to the statement made and answers provided."

¹⁵⁷ In her response to specific question n° 3 of EP questionnaire (received prior to the approval of the whole EC by the EP in 2004), Commissioner designate Ferrero-Waldner explained: "Within the present Commission organisational structure, the Heads of Delegation are officials or temporary agents subject to the same nomination procedures as all Commission officials. It would be difficult to justify a specific procedure for this type of appointments, involving prior hearings in the Foreign Affairs Committee, when more senior appointments of officials in the headquarters' services remain internal management decisions. It is already an established practice that when Heads of Delegation are in Brussels the Foreign Affairs Committee, in coordination with the Commission, may invite them for an exchange of views on the different subject areas for which they are responsible. I will encourage the active pursuit of this practice, which allows the Members of the European Parliament to benefit from the experience of the Commission in third countries. For the future, the Constitutional Treaty establishes a European External Action Service and nominates a Vice-President for External Relations, although at this stage the structure is not defined so that new operational methods which may be implemented within this new framework are unknown. I am keen to discuss these issues with the European Parliament, in the spirit of the Constitutional Treaty."

¹⁵⁸ See comments of Zanon, in Barbé & Herranz, 2005: "The structural absence of a parliamentary majority linked by loyalty to a government [...] plays a fundamental role in making the Members of the European Parliament less reluctant than their national colleagues to undermine the body that negotiates an international agreement (in the national systems usually the executive) by rejecting it." However, "the EP has proved reluctant to enter into clear opposition with the Council, always preferring to adopt a constructive rather than a competitive approach (after refusing to approve Community agreements with Turkey, for instance, the MEPs gave their assent even if their requests had not been substantially met). The EP's reluctance can be explained by its unwillingness to jeopardize the Union's credibility in the international arena." "Parliament has to be careful not to create a climate of mistrust in the Council. [...] The EP is aware that it is the Council that has the final say on EU treaty revision and, therefore, on the EP's future role within the Union."

rights aspect. The EP has notably brought an action to annul Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status¹⁵⁹. The directive was not subjected to co-decision. While the action is based on a relatively minor procedural matter, it is also the manifestation of widely conflicting views on asylum procedures: the EP considers that the directive breaches with the Geneva Conventions, notably the concept of “safe countries of origin”. The action was unanimously endorsed by all organs of the Parliament involved in reaction to the Council’s unwillingness to take into consideration EP views. In October 2005, the EP had adopted an opinion on the draft directive, proposing approximately 150 amendments. The debate in the EP on the directive dragged out over four years, yet the Council adopted the directive without referring to the EP, and moreover, only one week after EP presented its opinion, choosing to adopt the procedure in writing. This move was perceived in some quarters as a challenge to the moral and political authority of the EP. A similar court case proved effective. The EP challenged the validity of the agreement between the US and the EU on air passenger data exchange, signed on 17 May 2004 following decisions made by the Commission and the Council, but against the advice of the Parliament, which interpreted the agreement as an excessive and unjustified violation of civil rights. While the ECJ annulled the agreement on 30 May 2006, it did not take up EP’s grieves; it argued that handing over the information concerned fell under Member States’ legislation and not under EU scope. The Court did not recognise wider powers to the EP (such as co-decision), and it does not seem that the judgement will fundamentally change the issues at stake, as the agreement is likely to be signed by individual Member States. However, the case was widely covered by international media and it raised the human rights profile of the EP. It was also perceived as a public/political sanction for the uncooperative procedures used by the Council.

¹⁵⁹ Official Journal L 326, 13/12/2005 p. 13, also known as Directive on Asylum. The EP challenges the legality of only one provision, and does not aim at annulling the whole directive, but only that provision, i.e. Article 29 “Minimum common list of third countries regarded as safe countries of origin”, first and second indents: “1. The Council shall, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, adopt a minimum common list of third countries which shall be regarded by Member States as safe countries of origin in accordance with Annex II. 2. The Council may, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, amend the minimum common list by adding or removing third countries, in accordance with Annex II. The Commission shall examine any request made by the Council or by a Member State to submit a proposal to amend the minimum common list”. According to the EP, there are two options: either there is no co-decision and then unanimity is required at the Council, or there is co-decision and consultation of the EP is not sufficient.

3.2.1.3. Impact

Assessing the degree to which the Council and the Commission feel accountable and take into consideration the views of the EP is difficult. This is however a major concern of the Parliament, which regularly compares in its resolutions Council and Commission actions against EP calls. Resolutions often criticise the other institutions, such as its resolution on Zimbabwe adopted on 7 July 2005, where the EP “deplores the failure of the Council to respond to Parliament's consistent calls for increased pressure on against the Mugabe regime”, but also, less frequently, commends the Council and the Commission for their actions and imputes these to EP calls. The resolution on Azerbaijan of 27 October 2005, for instance, assesses the “Council's decision on Parliament's request to extend the ENP to the three countries of the South Caucasus”.

Assessing follow-up on EP recommendations by the Council and the Commission

Methodological problems and examples from EP Annual Report for 2004

Sixteen recommendations included in the EP Annual Report on Human Rights for 2004 have been identified as a sample of calls addressing the Council and/or the Commission, and their impact analysed. In selecting the paragraphs this study sought to choose only those containing “very specific wording” – namely, paragraphs indicating concrete measures or steps to be undertaken by the Commission and the Council. “Specific wording” criteria scales down the arbitrary character of the selection process and facilitates follow-up evaluation. Follow-up to the calls in the EP Annual Report is assessed through desk research and interviews with NGO members and EU officials, and in light of the EP Annual Report for 2005 and recent Commission and Council documents. The analytical difficulty of establishing a direct link between EP recommendations and actions/measures taken by the main EU bodies should be borne in mind. In some cases this was possible, whereas in others, a more remote connection, “indirect follow-up”, was found. Overall, 5 of the 16 recommendations identified could be described as having coincided with actions in the recommended direction.

As far as the **Council's** activity is concerned, research highlights that generally EP recommendations are not followed up. In some cases, in fact, the Council's activity contradicts what the EP has suggested. In others, Council's initiatives have the same direction as the Annual report but without having been spurred by the EP. The initiatives seem to highlight an indirect link between the practices of the two bodies. They can be then regarded as indirect ways of fulfilling EP recommendations or parallel developments indicating that both the EP and Council share the same concerns on certain human rights issues. A few examples follow:

- An indirect link has been found between paragraph 31 urging the Council to closely monitor Iran's commitment to moratoriums vis-à-vis executions of minors and the Council's initiatives described in the EU Annual Report. It may be maintained that the raising of cases of death penalty with the Iranian government are evidence of the Council's awareness of the same problematic issues pointed out in paragraph 31. This is also confirmed by the 20 December 2005 Declaration on the EU-Iran Human Rights Dialogue of the UK Presidency expressing concern for the frequent use of death penalty and the fact that in 2005 Iran executed more child offenders than in 2004.

- Paragraph 73 on Sudan, requesting the EU to impose targeted sanctions against Sudan “until such time as there is verifiable evidence showing an end to the policy of ethnic cleansing and mass murder of its citizens” has received an indirect follow-up. The EU Annual Report states that the Council adopted on 30 May 2005 a Common Position concerning targeted sanctions against Sudan in pursuance of UN Security Council Resolution 1591 (2005). Clearly, the adoption of the Common Position is the result of EU compliance and implementation of the UN decision specifically requesting the imposition of restrictive measures rather than a follow-up to paragraph 73. However, compliance with the UN resolution indirectly fulfilled the EP recommendation.
- Paragraph 220 under heading Institutional and Policy Developments, in which the EP urges the EU bodies to identify key areas of concern to be dealt with in the ENP action plans, highlights an indirect link with the Council’s activity. Paragraph 46 of the Annual Report 2005 welcomes the introduction of human rights, democracy, the rule of law and good governance concerns with specific benchmarks in all National Action Plans drawn up in the framework of ENP. It has not been possible to prove that the EP provoked such a development.
- Paragraph 58 recommending the Council not to lift arms embargo on China until significant progress is made on human rights issues has not been taken into account by the Council. The joint statement issued in September 2005 on the EU-China dialogue appears indicative in this regard. The EU reaffirmed “its willingness to continue to work towards lifting the embargo on the basis of the Joint Statement of the 2004 EU-China Summit and the subsequent European Council conclusions on this subject”.

Turning to the **Commission’s** reaction, the body has consistently replied to the recommendations made in EP Annual Reports, in follow-up documents including a part on “Analysis of the text and of Parliament’s requests, reply to these requests and outlook regarding the action that the Commission has taken or intends to take”. It is observed that this document has never been discussed by MEPs, and that knowledge of the Commission’s reply is very limited within the EP. The reply is occasionally very general. See for instance the above paragraph 31 on Iran also addressed to the Commission: the reply shows that the body is aware of the concerns the EP raised but does not specifically address them. It acknowledges that little progress has been made by Iran in the field of human rights and expresses the expectation that the human rights dialogue will be resumed as soon as possible. The Commission commits to closely monitor the human rights situation in Iran and to take measures to address individual cases. In a few cases the Commission has specifically followed up to the EP recommendation. Paragraph 30, in which the EP urges the Commission to increase support to Iraqi authorities, is the first case in point. In other cases EP recommendations have been indirectly fulfilled or not followed-up. Paragraph 185 requesting the Commission to take action in key transit countries such as, Russian Federation, Moldova, Ukraine, and Belarus has been indirectly implemented in the case of Moldova. The 2005-2006 National Indicative Programme for Moldova included trafficking of women and children among its main priorities and objectives. The Parliament has not induced the above introduction but it has at least highlighted a problematic issue that also the Commission has taken into consideration. Paragraph 101 requesting the EC to promote the drafting of a UN Convention for the protection and assistance to victims of terrorism, and paragraph 194 on the adoption of a code of conduct for European companies operating internationally and in particular in developing countries have not been followed-up.

The investigation of the Council’s follow-up to the Annual Report allows the conclusion that the body does not take into consideration the recommendations made by the Parliament. As the above analysis shows the recommendations are either indirectly fulfilled or not realized at all. Only the EU Annual Report might be seen as way of tackling, to a certain extent, the Parliament’s proposals and concerns included in the EP Annual Report. The Commission on the other hand appears to be more reactive to the EP Annual report. However, its replies are sometimes too general. The above lacuna seems to be addressed by the new structure of the Annual report 2005 with a specific focus on the Council and Commission’s performances and their effectiveness. Another solution might be to “rationalize” the formulation of the EP recommendations by significantly reducing their number, phrasing them with more concise, and developing a coherent monitoring procedure for their follow-up to be implemented by the Sub-Committee on Human Rights.

The EP is very successful in retrieving information from the Council and the Commission. Information released regarding foreign affairs compares favourably with that disclosed to parliaments by national executives¹⁶⁰. In the area of CFSP, Thym goes as far as saying that “even if the EP formally has only information and consultation rights, the intensity and regularity of debate with the SG/HR and other officials ideally results in effective scrutiny through intensity – although the exact degree of influence is of course difficult to measure”¹⁶¹. Approbation for this success is due to EP pro-actively requesting information, rather than waiting for its delivery. The EP is prompt to reproach when insufficient information is received. Limitations exist. It is the Council’s view that, since the conduct of foreign policy is not dictated solely by the objective of human rights promotion and entails a necessary degree of secrecy, debate cannot be completely in the public domain, for fear of torpedoing relations with third countries, or even having negative impact on specific human rights cases. It is also claimed that foreign affairs demand rapid decisions and difficult choices that do not sit well with slow parliamentary deliberations. The EP acknowledges the necessary confidentiality of sensitive information, and has gained access even to classified CFSP information, via confidential procedures¹⁶². The EP is now seeking to apply a similar strategy to human rights demarches¹⁶³. It has also successfully claimed access to EU human rights factsheets, granted by General Affairs Council’s conclusions on 12 December 2005. NGOs see the EP as the appropriate platform to publicise the Commission and the Council’s work. By retrieving information and rendering decision making and concrete activities transparent, the EP also helps other actors like NGOs to assess and evaluate the Commission and the Council’s work. Answers to questions can be taken up, as for instance is done in the HRW World Report 2003 concerning EU activities regarding Tunisia. The report notes that “responding to a parliamentary question, Commissioner in Charge of External Relations Chris Patten said on July 26 that the European

¹⁶⁰ Diedrichs, Udo, ‘The European Parliament in CFSP: More than a Marginal Player?’, in *The International Spectator*, n°2, 2004, p. 35.

¹⁶¹ Thym, Daniel, ‘Beyond Parliament’s Reach? The Role of the European Parliament in the CFSP’, in *European Foreign Affairs Review*, Spring 2006, vol. 11, n° 1, p. 119.

¹⁶² Point 3.3 of the Interinstitutional Agreement of 20 November 2002.

¹⁶³ In paragraph 50 of the Annual Report for 2005, the EP “asks the Council and the Commission to develop, together with Parliament, a confidential system whereby selected Members of the European Parliament can be kept informed of the demarches of Member States, the Presidency, the High Representative for CFSP, the Personal Representative on Human Rights, the Special Representatives or the Commission regarding individual human rights cases or situations raised in resolutions of the European Parliament; suggests that such a system could be modelled on the system for informing selected MEPs about classified material regarding security and defence”.

Commission had earlier that month “raised in very clear terms the problem of human rights with various Tunisian ministers and high officials”. In addition to diplomatic communications, he said, the commission’s financial co-operation program with Tunisia emphasized human rights, democratization, and the primacy of law”¹⁶⁴. Some NGOs consider that more debriefings should be organised by the EP; the results of the dialogues pertaining to human rights and democracy clauses could for instance be made public through reporting to the EP. It is recognised by the Council and the Commission that the EP accountability mechanisms offer them valuable avenues to explain and enhance visibility about their work.

Formally it is a treaty obligation to take into consideration the opinion of the EP, but there are no formal obligations to adopt them. Commentators argue that this creates a “virtual parliamentary reality or parallels worlds in the EP and the Council”¹⁶⁵ in the area of CFSP. To avoid a divorce, that would undermine the democratic accountability of the Council, the EP tries to maximise its ability to influence the other EU institutions. Findings show that parameters influencing EP success in communicating its objectives to other EU institutions policies are roughly the same as the cross-cutting factors identified concerning EP’s impact on third countries: sustained political will, clarity of the message, relevance of the proposals to the context (realistic and constructive detailed proposals) and the agenda (timing), expertise, consistency over time, systemic association with different EP activities, and mobilisation of formal powers. The willingness of EU institutions to listen to and take into account the Parliament’s views is naturally also a factor.

Formally at least, all EP views are taken into account. The Commission and to a lesser extent, the Council, always participate in EP debates and reply to the Parliament. It is not clear however, what mechanisms are set up internally in both institutions to consider EP views, and communicate them beyond the persons actually liaising with the EP. Many COHOM members, for instance, do not automatically receive information about the EP, though they express interest in it. Illustrative of this is the question posed by MEP Geoffrey Van Orden and the response from the Council:

¹⁶⁴ Human Rights Watch, *World Report 2003*, p. 494. Available at: <http://hrw.org/doc/?t=pubs> (last seen 16.08.06).

¹⁶⁵ Thym, *op. cit.*, p. 120.

- “- In the interests of transparency and respect for the elected Parliament, what measures are being introduced in Council to ensure that Parliament's views, as expressed in resolutions, are taken fully into account and properly addressed? I am thinking in particular of Parliament's recent resolution on Zimbabwe.
- The Council can assure the Honourary Parliamentarian that the Resolutions adopted by the European Parliament are always studied with the outmost interest and attention.”¹⁶⁶

Generally the Commission better follows on EP views than the Council¹⁶⁷. This is certainly due to the inter-institutional configuration that confers clearer accountability mechanisms vis-à-vis the Commission. Another reason for this is the diffused responsibility for devising policies within the Council, which takes its decisions at the level of 25 Member States. In the Commission, a handful of Commissioners, and especially the Commissioner for External Relations, are responsible for human rights policies. In the Council, intricate decision-making processes makes it difficult to identify individuals responsible, despite the presence of the Secretary-General/High Representative for CFSP, his Personal Representative for Human Rights, and the Presidency of the EU. As a general observation, the clearer the policies, commitments and those responsible and their mandates, the easier the exercise of accountability.

While the institutions might be analysed as competing, one should not underestimate the impact of internal discussions on policy options within each EU institution. A key element to understanding the dynamics of EU inter-institutional relations is that institutions are not internally monolithic, and divergent viewpoints may exist within. This is true for the Parliament, whose stance on an issue is determined by its ability to mobilise all actors and activities and send consistent messages. The Parliament has many successes where it showed its capacity to act as a single entity and use its supervisory mechanisms imaginatively, such as for the management of the BSE inquiry, and the supervision of alleged fraud in Commission and OLAF. In the field of human rights, the intensity of EP resolutions and reports¹⁶⁸ on human rights have led to constitutional changes and the upgrading of EU commitments in the field, and, more recently to the unification of specific budget lines. A counter-example where EP

¹⁶⁶ Question time, September 2005, ref. H-0648/05.

¹⁶⁷ Although the subjective assessment of many observers is that the current Commission in general and also Commissioners dealing with human rights issues in particular are less taking into account the Parliament's views than former Commission and Commissioners, under the Presidency of Romano Prodi. Some MEPs observe that uncooperative approach of other institutions in fact reinforces EP willingness to use all accountability means available, notably by asking more questions. As one put it, “the European Commission is driving the Parliament down this road due to its self-confident and non-cooperative stance”.

¹⁶⁸ For full analysis of EP role in the development of EU commitments and policies in the field of human rights, and analysis of key resolutions and reports, see Rack & Laussegger, 1999.

has been sharply divided and unsuccessful in challenging other institutions' policies is Cuba. On occasions, EP opinions are perceived as excessively politicised and are not always seen as meaningful or as inspired by a willingness to hold the institutions accountable to their own commitments.

The Parliament, Cuba, and the Council

The European Parliament is very active on Cuba. Resolutions are frequent (approx. two per year) and individual actions from MEPs plentiful. The analysis of the impact of resolutions on both Cuban authorities and other EU institutions since 2003 reveals interesting characteristics.

In terms of taking into account EP views in the formulation of EU policy vis-à-vis Cuba, the EP had very limited impact. In November 2004, the EP adopted a widely supported resolution calling on the Council to sustain its position vis-à-vis Cuba and uphold the sanctions. Nonetheless, on 31 January 2005 the Council lifted its sanctions and resumed high-level diplomatic relations. This shift was explicitly condemned by the Parliament in its Annual Report for 2004, adopted on 28 April 2005. The language was strong, but the collegiate support feeble. Due to this paragraph, along with other contentious issues, 255 MEPs abstained during the vote, while 251 members voted for and 64 against the report. In June 2005, the Council extended EU Common Position with the suspension of sanctions until June 2006, although accompanying it with two declarations from the UK Presidency on 15 and 22 July 2005, denouncing the harshening of repression and dissidents' detention in Cuba. On 2 February 2006, the EP called again on the Council to reconsider its position on the sanctions. Although all institutions have internal discussions on policies to be adopted vis-à-vis Cuba, the patent division of the EP, which reflected during the vote on the Annual Report for 2004 and are apparent when one analyses the parliamentary questions sent to the Council and the Commission, is counter-productive and largely explains why EP views are not taken into consideration.

This might also explain the irregular references to EP activities on Cuba in international NGOs briefings, which identify main international actors' contribution on country issues. The EP is often cited for its activities, especially when it commits itself to a range of activities on a situation. From 2002 to 2006, analysis of reports and press releases from four main international NGOs shows that:

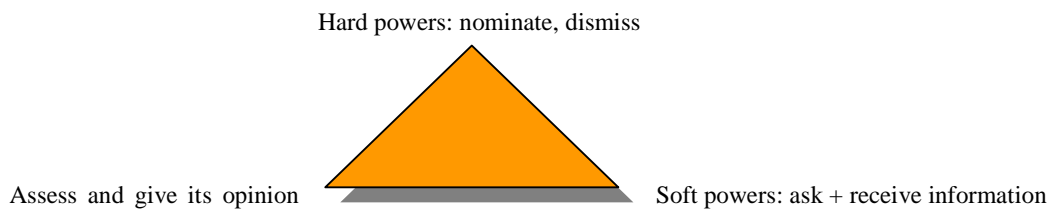
- *Amnesty International* did not refer to EP activities on Cuba, except for the impossibility for the Sakharov Prize laureate Oswaldo Payá to leave Cuba and receive his Prize;
- While *HRW* discusses in detail the EU policy vis-à-vis Cuba in different press releases and notably in its 2006 Annual Report, it only refers to the Sakharov Prize in the report, as well as in its 2003 report, as if the EP position did not have any practical relevance;
- *FIDH* press releases mention EP position on EU policy, as well as Sakharov Prize awards.
- *RSF* generally refers to EP activities vis-à-vis Cuba to show the contrast with EU Council's position.

Coverage of EP activities is almost non-existent in Cuba. There is, however, knowledge of EP activities, especially by interested parties (mainly political actors). Findings show that Cuban actors, whether dissidents or authorities, appreciate the difference between the EP and other EU institutions. On 13 February 2006 Cuban dissident Oscar Espinosa Chepe wrote to the EP President in order to express its appreciation of the EP resolution on Cuba adopted on 2 February, which again called on the Council to reconsider the sanctions' suspension. More striking is the analysis of official reactions to EP activities by the Cuban authorities, as expressed by the Ministry of Foreign Affairs. Since 2002, while many declarations and press releases react to and criticise EU policy vis-à-vis Cuba, there is hardly any references to EP views and activities. Three references only have been found. A

declaration of the Minister of 21 April 2005 referred to EP resolution on Guantanamo adopted on 28 October 2005 criticising EU Member States inability to follow on these views during the session of the UN Commission on Human Rights. Besides this, two press releases from 9 March 2005 mentioned the meeting between the Minister and EP President Borrell. It seems that Cuban authorities perfectly identify the EP and its position within the EU architecture, and deliberately avoid reacting to EP views – even if these are overall more critical and promote sanctions. One analysis of this could be that EP legitimacy as the representative of European people makes it harder to be criticised. As a matter of fact, in its declarations on EU policies, the Cuban Ministry frequently invokes the support of the peoples of Europe, in contrast with an alleged alignment of EU Council with USA policy and its priority focus on economic interests.

Other EU institutions are not monolithic either. EP opinions do not “impact”, they “support” similar views expressed within the Commission and the Council. This can be crucial for certain actors, whose views are endorsed by the main source of democratic legitimacy in the EU. EP contributions can bring pivotal support to one policy option proposed. EP actors can also point out new angles on certain issues or highlight new issues, through hearings and own-initiative reports – an investigation that other institutions might not have the resources or the incentives to undertake.

To sum up, and use a geometric reference, EP’s effectiveness in enhancing its inter-institutional position and with it, its human rights profile and performance consists in its ability to link and join as close as possible the three tips of the following triangle:



3.2.1.4. Development of new trends

During the fifth legislature, but even more since 2004 and the re-establishment of the Sub-Committee on Human Rights, much of Parliament’s efforts have been vested in its accountability functions. This has been relentlessly propagated by Brussels-based NGOs. The increased attention is epitomised by the shift in focus in the last EP Annual Report on Human Rights for 2005, which “sets out to examine, evaluate and, where appropriate, offer constructive criticism of the human rights activities of the

Commission, the Council and the overall activities of the Parliament”. The report better evaluates the EU Council Annual Report on Human Rights, which was presented and debated in plenary¹⁶⁹. This new direction is welcomed by all actors involved and observers, although its drawback is the diminution of attention directly given to third countries situations. As with any successful strategy, efforts have to be sustained over time and it is generally too early to evaluate the impact on the EU overall human rights policy.

Over the last decade EU human rights commitments have been upgraded and operationalised. The standardisation of human rights and democracy clauses in agreements with third countries (completed with enhanced human rights mechanisms within the ACP-EU or ENP frameworks), the adoption of the European Charter on Fundamental Rights and of the EU Guidelines on Human Rights, the establishment of human rights dialogues have raised the standard and codified commitments. The Guidelines comprise a checklist of expected actions, offering a grid of analysis of activities of the Council and the Commission, including their missions in the field.

EP insistence on the Guidelines is all the more important as the implementation of the Guidelines has, in their first years of activities, been overall inadequate. Regarding the Guidelines on torture, an NGO representative says that “they were adopted within six months, but then remained in the drawer for years. The Danish presidency sought to revive them, then the British Presidency, albeit efforts were limited to the more safe aspects such as pushing for treaty ratification, universal access for UN rapporteurs – more reluctance to tackle individual cases and country situations. [...] If work on the proper implementation of the torture guidelines [as part as EP accountability role] was done well over a period of e.g. two years, it could set a positive and complex example of what the EP can accomplish, also through positive interaction with other international organizations”. This is how the Parliament engaged, notably on the Guidelines on Torture and on Human Rights Defenders. The Sub-Committee has organized exchanges of views on these themes and endeavoured to commission studies or prepare own-initiative reports on the effectiveness of implementation of the

¹⁶⁹ See the debate on Annual Report of the Council on Human Rights, 13 December 2005. The main shortcoming pertaining to the debate is that the report is presented and debated with a Presidency which activities are not covered by the report itself. In December 2005, the British Presidency presented and answered to MEPs concerns on the report, which covered EU activities up to June 2005. The British Presidency underlined this drawback.

Guidelines. In its Annual Report on Human Rights for 2005, the EP also suggested “that the Sub-Committee should consider setting up small informal working groups to follow each set of Guidelines, so as to be better able to follow the Council’s work in this regard and to submit proposals”¹⁷⁰. This is to be highly recommended. Regardless, it is important that Guidelines’ assessment does not become an area of specialisation. The Sub-Committee should be careful that its efforts feed into the work of all Parliament actors and mobilise all activities. It has already encouraged EP delegations to contextualise their work and notably their visits within the framework of EU Guidelines, with the aim to have similar activities as those prescribed in the Guidelines, and to a lesser extent, assess on site how EU Missions and EC Delegations implement the Guidelines. References to Guidelines in resolutions and parliamentary questions are essential, but still limited. Amnesty International, in a discussion paper on Human Rights Defenders Guidelines, noted that, up to December 2005, “the EP has made only limited reference to the guidelines in its resolutions and questions. In practice, it is difficult for the Parliament to hold the Council and Commission accountable for the implementation of the guidelines. It is difficult for Parliament to follow what is happening in the Council, as Parliament is not systematically informed regarding actions such as demarches, although information is usually provided if it is requested.” However, references to EU Guidelines in EP “human rights” resolutions are increasing. One resolution referred to EU Guidelines in 2002, one in 2003, two in 2004, four in 2005. From January to July 2006, seven resolutions referred to EU Guidelines – references are included in one quarter of the urgent resolutions adopted since the beginning of 2006 (up to August). References to Guidelines in parliamentary questions were found in three questions asked during question time in 2005. These references are virtually never linked to actions of representatives of the Council or the Commission on site. References could be even more pointed, explicitly requesting action to be taken not by “the Commission” or the “Council” generally, but by Heads of Delegations of the EC, and EU Missions in the country where the violation takes place. A study on torture commissioned by the EP has identified the development of EP pressure and calls on EU Member States as crucial for promoting the full implementation of the Guidelines¹⁷¹.

¹⁷⁰ Paragraph 105.

¹⁷¹ European Parliament, Directorate-General for External Policies of the Union, Directorate B, Policy Department, *The question of torture: General framework and recommendations to the European Parliament*, prepared by Eric Prokosch, 20 April 2006.

As concerns monitoring of the human rights and democracy clauses, the EP has considerably enhanced its efforts over the last years, and especially since 2005: an external study was commissioned, an own-initiative report and a resolution adopted, and follow-up meetings organised. Calls from the Parliament do not only concern concrete measures to be taken as the basis of the clause. The EP also calls for the expansion of its participation in the application of the clause, by incorporating parliamentary supervision into the implementation arrangements of the clauses. Furthermore, it is the view of the EP that such clauses should be extended to all new agreements between the EU and third countries, and that the EP should be involved in negotiating the mandate for EU/third countries agreements. The discrepancy between EP calling directly on third countries and its exclusion from monitoring mechanism under the main instruments of the relations between the EU and the same countries certainly undermines EP credibility.

The pursuit of (potentially conflicting) autonomous policies vis-à-vis third countries or the establishment of a system of checks-and-balance and development of accountability leads to the impression of inter-institutional competition. Strained relations abound in the analysis and explanatory tables used to describe relations between EU institutions¹⁷². However, another option is to insist on devising common policies and coordinated – or even joint – activities vis-à-vis human rights situations outside the EU, and drawing on the added value of each institution and synergies created by complementary or synchronised activities.

¹⁷² See for instance Bradley: “The Parliament might well give some consideration to whether the pursuit of what appears to be an autonomous human rights policy, particularly in regard to third countries, necessarily contributes to the effectiveness of the efforts of the other institutions, and particularly the Council.” “That said, if the Council wants the Parliament to show a greater degree of self-restraint in order not to encroach its activities, the Council should in turn show itself willing both to consult the Parliament and accords its views due weight.” (Bradley, Kieran St C., ‘Reflections on the Human Rights Role of the European Parliament’, in Philip Alston (ed.), *The EU and Human Rights*. Oxford: Oxford University Press, 1999, pp. 853-854. Many inside observers also analyze the relations in terms of competition.

Summary of recommendations on holding the Commission and Council accountable to established human rights commitments and standards

- Enhance cooperation with national parliamentarians in view of coordinating the monitoring of human rights policies. DROI should as far as possible seek to open channels of communication and organise meetings with analogous national committees.

- Seek to rationalise the use of the parliamentary questions; discuss the use of questions, and most notably question time in DROI; permit the Sub-Committee to table questions under Rule 108; consider imposing criteria for tabling parliamentary questions, such as a mandatory quota of questioning MEPs, possibly representing several political groups and/or different nationalities.

- Continue to pro-actively demand information from the EU institutions; explore new areas, such as debriefings following EU Human Rights Dialogues.

- Uphold and deepen the monitoring of the performance of EU institutions in the implementation of EU Guidelines and human rights clauses; create working groups monitoring each set of Guidelines; systematically refer to Guidelines as a reference for assessing the performance of EU institutions, but also of EC Delegations and EU Member State missions abroad.

3.2.2. Co-ordination of the actions of EU institutions vis-à-vis external actors

Recognising synergies created by complementary or coordinated activities, it is possible to promote common policies and synchronised – or even joint – activities vis-à-vis human rights situations outside the EU, drawing on the added value of each institution. Co-operation and ability to work together increase the impact of both the overall and the individual institutions' human rights activities. This objective gains increasing support and is best illustrated by the in-depth co-operation that emerged in the running of election observation missions, and is now extending to new areas.

3.2.2.1. Considering EU human rights policy as whole

Just as a systemic and strategy-building approach are recommended for EP activities, all EU activities in the field of human rights could be better connected and joint activities devised. This would conform with external perceptions of the EU's role in the field, which tend not to distinguish the EP from other institutions, enhancing the complementarity of the three institutions.

Perceptions of the EP and the EU

There is an emerging interest in the role of external perceptions in the formulation of external policies – reflected in the present study's mandate. This growing interest is palatable both at the political level and in the academic field. Recent studies have emphasised the importance of image and perception, mainly for three reasons:

- It is a variable influencing the impact of a foreign policy action/decision (especially in the absence of coercive/enforcement prerogatives), its “reach”;
- External views help to shape the entity's role and identity. “EU foreign policy, while being to a large extent driven by internal ideas and processes (i.e. by agency), is also partly shaped in response to others' expectations and reactions” (Chaban et al., 2006, 247);
- Assessing the external views is an indication of how well the intentions of the entity are communicated and translated into actions.

In several respects, findings on perception of the EP confirmed *mutadis mutandis* previous empirical findings on the perception of EU as a whole¹⁷³:

- high expectations of the EU, seen as having an important potential role to play;
- general perception of the EU as a bloc regardless of the degree of Community competence and of institutional configuration;
- leading role for EU when it reaches internal agreement and can speak with one voice; most of the time, however, EU is perceived as sending ambiguous signals and applies double standards;
- EU's message is not only economic, but also relates to values and identity: a leader in issues of international morality (environment protection, human rights, sustainable development...).

The clearest finding is that EP activities are difficult to separate from the EU institutions as a whole. From the outsiders' viewpoint, there is confusion about the distribution of roles within the EU, and differences in policy lines are perceptible only to actors acquainted with the EU architecture. This makes contradictory messages as well as gaps between declarations and concrete activities costly in terms of image and receptivity to calls to action. This general rule can be detailed in five sub-conclusions.

1. While differences in mandate and policy lines are unlikely to be apparent to external actors, there is a broad understanding that the EP is the elected body of the EU. This has some impact, as it confers a higher degree of respect to EP representatives, compared with Commission officials¹⁷⁴. This is reflected in media coverage of election observation missions: it is found that short term observers who are elected officials attract more visibility than others deployed. EP representatives are generally perceived as less influenced by political alliances between states and the interests of the individual Member States, which enables it to adopt more balanced and neutral positions.

¹⁷³ Notably the researches of Chaban, Elgstroem and Holland, jointly presented in their article: 'The European Union As Others See It', in *European Foreign Affairs Review*, Summer 2006, vol. 11, n° 2, pp. 245-262. It explores methodological tools available for the assessment of external perceptions and applying the proposed methodology to the EU, thus proposing a comprehensive picture of outsiders' perceptions of the EU.

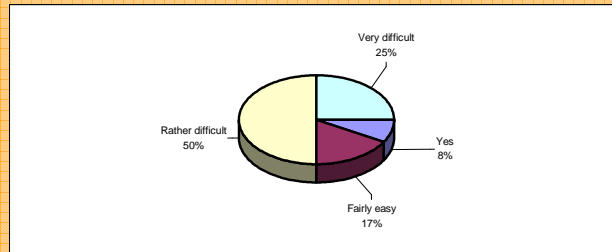
¹⁷⁴ See p. 250.

2. The ability to distinguish EU institutions depends on the observers' degree of acquaintance with the EU. Third countries officials or entities with specific interests in the EU (for instance securing EU subsidies) have a better understanding of the inter-institutional nature of the EU. However, the complexity of the EU makes it difficult, even for entities with knowledge of the EU, to clearly understand the distribution of powers and competencies. As a consequence, third countries officials do not necessarily fully realise the limits of the powers of the EP in the field of CFSP, but usually first appreciate the degree of politicisation of EP debates and the ideological divisions within the Chamber. On the contrary, for external observers with little knowledge about the EU, it is difficult to capture the heterogeneity of the EU, and *a fortiori* of the EP. This has implications, in the sense that individual EU actors, even, ultimately, a single MEP can be perceived as representing the position of the Union, when the MEP can reflect on his/her own contentions. This possibly explains why a representative of a third country's key plea during an interview was "do not let the message from one MEP define the EP as a whole". It is also recognised that some external actors can play on the confusion between the different EU institutions, when these actors understand the differences between the Commission, the Council and the EP. This is apparent when one presents only the views of the most favourable of the three institutions only¹⁷⁵.

Palestinian perceptions of the EP Excerpts from interviews

Interviews held in Palestine (see list of meetings in Annex VII) highlighted not only the trends but also the volatility in the perception of the EP. They were complemented with statistics. To the question "From your perspective, is it easy to isolate the activities of the European Parliament from the overall European Union's policy regarding human rights violations in your country/region?", Palestinian NGOs answered as follows:

¹⁷⁵ See, for instance, the interview of Taiwan President's Chen in an interview to *Euronews* on 15 May 2006. Questioned about EU's subscribing to a "backseat" position on Taiwan, Chen replied by almost only referring to the EP positions: "We attach great importance to the pragmatic and friendly relations between the EU and Taiwan. We can be the strongest of allies on many issues, especially in the fields of the economy, trade, and commercial co-operation, based upon our shared belief in the universal values of democracy, freedom, human rights, and peace. The European Parliament has passed many resolutions calling for the disputes between the two sides of the Taiwan Strait to be resolved peacefully through dialogue, and not through the use of force or other non-peaceful means. Furthermore, the European Parliament has passed many resolutions in support of Taiwan's bid to become an observer at the WHA (World Health Assembly) and to participate in activities related to the World Health Organization (WHO)." He nonetheless also referred to his visa issues with EU Member States.



Excerpts from interviews (unofficial translation from Arabic):

- "EP has the potential to play a more leading and prominent role, notably in influencing the EU policy towards Palestine. It could put more efforts towards the adoption of resolutions related to Palestine in general and human rights in particular, as well as towards their enforcement. The EP represents the peoples in Europe who are free of pressures, while the EU Council represents the governments that have interests with Israel and are exposed to political pressures. [...] The EP could use the partnership agreements between the EU and Israel to reduce the Israeli pressures on the Palestinian people, and to enforce the EP resolutions."

- "I have more contacts and connections with the EC. I believe that there is no information for the Palestinian public on the EP, its role, resolutions, and activities. But the EP has a big potential and opportunity to play a main role in the peace process through activating the Israeli peace camp, recalling for a peaceful solution for the Palestinian problem, and playing a major role at the International social movement. [...] Some of the [political groups within the EP] are closer to human rights than other groups/blocks in the EP. We appreciate initiatives taken by some EP members, such as boycotting the Israeli settlements' products. [...] We call for more pressures from the EP on the EC for activating its resolutions. The EP should use its relation with the EC office in Jerusalem to exert pressure on the representative of the latter there and its countries to implement the EP resolutions."

- "The EP took very good resolutions regarding the following issues: condemning the expansion policy of Israeli settlements, calling for re-depicting the route of the Israeli wall, condemning the unilateral steps taken by Israel in the Palestinian territories, the Israeli wall, settlements, and roads, and changing the demographic and geographic features of Jerusalem. [...] One year ago, the EP took a shy decision that allows the import of the settlements' products to Europe without availing of the tax-free (exemption of taxes), but there is no mechanism for enforcing this resolution. Therefore, the decision has not been implemented; it was left for the European countries to take their own decision regarding this issue. This issue is the responsibility of the EC that is questionable before the EP. [...] The EP is not a very well-known entity in the promotion of human rights. The persons who have no access to the internet have no idea about EP resolutions and activities. [...] The EP should address human rights from a holistic perspective: when Israel violates the human rights, the EP should speak up. There is no balanced position towards the Israeli violations of human rights compared to the Palestinian Authority. When it comes to issues of human rights, democracy, and transparency in the PA areas, the EP takes a serious and strict position, contrary to its position on the Israeli violations of human rights. The main problem of the EP is its various political structure (it is multi-political). There are different parliamentarian blocks in the EP [and] each block has a different political position towards the Palestinian question."

- "The EP is supposed to be a main body in the area of promotion of human rights in the world, in fact it is one body amongst others in the world despite the possibility it has to play a bigger role in the peace process. [...] There is no isolation between the EP and the overall EU foreign policy. This state of no differentiation makes it difficult to know which of the institution to approach regarding specific resolutions or activities or any matters."

In an interview given to *Euronews* on 20 May 2006, PA President Abbas underscored the difference in approach of the EP compared to other EU institutions, in terms of financing Palestine after the electoral victory of Hamas: "the European Parliament in general and the heads of the various political groups in the Parliament were very receptive to the need to continue to help the Palestinian people, because they are aware that the elections were democratic and the outcome is not important. For that reason, the financial aid must continue"*.

* "Palestinian President Mahmoud Abbas talks about tensions and prospects for peace". Available at: http://www.euronews.net/create_html.php?page=interview&article=359873&lng=1&PHPSESSID=5ebc53de226a5293dcc4b64e0d7c2820 (last seen 24.05.2006).

3. EP calls are better isolated from other EU policy lines when EP is identified with a consistent line on an issue¹⁷⁶, contradicts EU main political lines, or touches upon unexplored areas. EP resolutions and other activities on Lampedusa and on China are illustrative of EP views being singled out. A Chinese diplomat commenting upon EU-China relations and possible impediments to their development, identified human rights as pushed by the European Parliament has a potential obstacle to collaboration:

“La relation sino-européenne peut être gênée sur le long terme par les questions des droits de l’homme, du Tibet, de Taiwan, et autres sujets sensibles ; les discussions sur les résultats « formels » et « substantiels » faisant suite aux débats concernant les questions sensibles et les pressions exercées de temps à autres par le Parlement européen montrent qu’il existe une ombre sur la relation sino-européenne”¹⁷⁷.

4. As far as concerns moral support to human rights causes and raising/maintaining international focus on specific actors defending human rights, the origin of the support provided is not significant, neither is the degree of formal power that this entity has. Many external actors note that a mission from the EU is always very important, whether it comes from the EP or another institution is irrelevant.

5. While EP is preoccupied with its own visibility and the development of an autonomous profile, the blurred perception outside Europe of the EU legal architecture does not necessarily affect the effectiveness of the EP. “From the point of view of third countries, which are not always aware of the idiosyncrasies of the EU’s institutional balance with its asymmetric distribution of parliamentary powers in different policy areas, the influence of the EP in CFSP-related issues is arguably even more accentuated” (Thym, 2006, 119). More bluntly, an MEP says that “EP has more visibility, impact, in situations and places where the general awareness of the EU architecture is less developed”. The only exceptions concern areas where EP has formal powers, notably in co-deciding the budget. External actors benefiting from EU financial aid necessarily liaise with the Commission, which manages the funds, and do not recognise the role of the EP in shaping the budget.

¹⁷⁶ The solid contribution made during the fifth legislature to the issue of children and armed conflicts, has led to the identification of the EP has a specific international actor, besides the EU Council’s adoption of EU Guidelines on the matter at the same period. See pp. 272-273.

¹⁷⁷ Wang, Yi, ‘La Chine et l’Union européenne : vers une coopération stratégique’, in Martin Ortega (ed.), *Global views on the European Union*, Chaillot Paper n° 72, EU-ISS, Paris, November 2004, p. 77.

Complementarity of EU institutions and added value of the Parliament

During the debate on the EU Council Annual Report on Human Rights on 13 December 2005 in EP plenary sitting, the President-in-Office of the Council, Geoff Hoon, encapsulated the principle – and anticipated the difficulty – of co-ordinating EU activities the field of human rights:

“The European Union derives great strength in its relations with third countries from unified positions on many human rights of strategic importance.” [...] “I want to emphasise that one of the EU’s great strengths lies in its variety of different institutions: they have different and complementary roles. The Troika often works to promote human rights in an intergovernmental environment. Parliament can bring its weight and views to bear in different ways and often with much greater flexibility. We greatly welcome such opportunities to share views and ideas. We particularly value our regular and open exchanges with the Sub-Committee on Human Rights. We need to make sure our work is well coordinated and coherent, but we must also capitalise on our respective strengths. It is important to keep some distinction between the roles the different institutions can play in promoting human rights and democratisation.”

Inter-institutional cooperation is generally accorded a high priority within the EU and is perceived to be developing in a positive direction. The difficulty for all institutions is, on the one hand, to define within the existing structure areas of common activity while, on the other hand, retaining institutional particularities. In determining the specificity of the EP contribution, three main considerations are of importance: the content of EP policy lines, the democratic legitimacy of the parliamentarians, and EP working methods.

1. In terms of content, the EP is bolder in its assessment of human rights situations than other EU institutions, and does not hesitate to tackle situations, including human rights violations in China, Russia, the USA, Iran, or emerging rights which are still controversial, such as reproductive health. Different factors possibly explain this outcome. First, MEPs enjoy complete freedom of speech. All MEPs are entitled to voice out their concerns, and this can lead to unguarded criticism by individual MEPs, groups, or make its way into adopted texts. The multiplication of amendments to parliamentary texts does not generally lead to impoverished compromises but to the addition of new concerns within the texts. Second, there is a great reliance on lobby groups, notably international NGOs, which usually adopt strong language. Third, human rights are generally dealt with in isolation from other concerns, such as economic considerations. The Parliament asserts principles which form the backdrop for analysis of facts, and is the appropriate forum to disregard national loyalties and

expose States' vested interests. The specific function of the European Parliament is the formulation of a pan-European ethical and legal standpoint, which is less influenced by the demands of every day national politics. The EP adopts a more balanced position, for instance, on the Euro-Mediterranean Partnership, in the sense that it insists on human rights when security concerns and political stability come first from the Council's viewpoint¹⁷⁸. The EP has also been much more consistent in its recommendations for a better monitoring of conditionality in trade agreements, notably within the framework of the Cotonou Agreement. Fourth, as EP activities in the field of human rights are mainly declaratory, language takes on a pre-eminent importance, with strong wording contributing to the forcefulness of its message, while by the same token promoting visibility and likeliness of States' reactions. The declaratory nature also means that EP is not overtly concerned with concrete implementation of its calls, and therefore maybe more idealistic than practical, as well not mindful of possible retaliation measures from third countries that feel unduly criticised¹⁷⁹. Ultimately, the EP serves as a constant reminder of human rights commitments and consistently addresses the human rights stakes of different policies. This does not necessarily mean that it is consistent in its calls, in the selection of priorities and the organisation of strategies, but it definitely helps to define the profile for the EP. This propensity to go further than the Council and Commission is recognised by other EU institutions. EC Delegations and EU Missions abroad report incidents of being summoned by authorities to explain and comment upon EP resolutions criticising their countries. Because the EP can express itself in more explicitly and directly than the Council and the Commission, resolutions often serve as useful reference point or even an "alibi" for Council representatives when raising human rights concerns with representatives of third countries. The EC Human Rights and Democratisation Unit moreover finds EP resolutions useful in explaining its priorities and recommendations vis-à-vis other EC Directorates. The EP's unrestricted mandate in the field of human rights makes it better equipped to address human rights issues within the EU. An implicit division of roles within the EU is distinguishable,

¹⁷⁸ See Jünemann, 2004, p. 2: "The EU, in the target conflict between democratization and stabilization, gives priority to the latter. The EU follows a softly-softly approach that supports only cautious and governmentally controlled reform processes [...]. The strongest supporter of an efficient democratization and human rights policy, however, is the EP".

¹⁷⁹ See for instance Lan, 2004, p. 134: "Because of the relative powerlessness of the EP in external affairs within the EU institutional framework, the EP is exempt from any political responsibility for its proactive stance with regard to the China-Taiwan disputes."

according to which each institution emphasises certain issues, and where the EP is responsible for the human dimension. On Taiwan, Lan says that “the realistic economic considerations of the Council and the Commission are [...] balanced by the EP’s liberal attitude of promoting human rights and preserving democracy. As to Tapei, cultivating substantial relations in addition to the trade with the EU is a means to break their isolation in the international arena.” (Lan, 2004, 115). This should not lead to a situation where the Council effectively withdraws from the exercise of its commitments in the field of human rights: as noted by the European media, only the EP clearly reacted to the extension of governmental coalitions to include extreme right groups in Poland and Slovakia, while other institutions only expressed explicit concerns when Poland voiced out its intention to reinstate death penalty¹⁸⁰.

2. The second, self-evident, added value of the EP and the MEPs, is their emanation from direct universal suffrage. The election confers high degree of legitimacy to the parliamentarians, not only vis-à-vis their electorate, but also in relation with non-EU actors. This legitimacy spills over areas where the EP and MEPs are associated. In its 2001 Communication on EU’s role in promoting human rights and democratisation in third countries, the Commission underlined that “the full involvement of the EP in the policies pursued in this area helps to ensure increased democratic legitimacy” (p. 6). Lalone reports how “the Commission understands the value of having public support for its initiative and how that support can strengthen the Commission’s position vis-à-vis external actors or even the Council” and illustrates this with the step taken in the development of parliamentary participation in EU international trade policy during the events surrounding WTO meeting in Seattle in 1999. Lalone analyses:

“The massive street protests against the WTO agenda created a paradigm shift in public perceptions of trade policy [...] Trade officials were accurately aware of the danger inherent in allowing international trade policy to remain the preserve of technocrats. The Commission knew that they needed to attract more popular support for the WTO, and one way of doing that was to involve the Parliament in a greater capacity. [...] The Commission then needed the Parliament more than ever at the exact moment that the Parliament made a conscious effort to play a more substantive role in trade policy. The Parliament quickly moved to take up a position as an

¹⁸⁰ See for instance Thomas Ferenczi, “Silence embarrassé face à l’extrême droite”, in *Le Monde*, 3 August 2006. On those changes he says: « Ces nominations n’ont pas suscité en Europe autant d’émotion que l’avait fait en 2000 l’entrée de l’extrême droite autrichienne dans le gouvernement de Wolfgang Schüssel. Seul le Parlement européen a réagi avec netteté. En juin, il a voté une résolution dans laquelle il s’est dit “profondément préoccupé par la montée générale de l’intolérance raciste, xénophobe, antisémite et homophobe en Pologne”. Au lendemain de la formation du cabinet slovaque, le président du groupe PPE, le chrétien-démocrate Hans-Gert Pötering, s’est étonné de la participation du “parti xénophobe le plus extrême” tandis que le groupe socialiste condamnait, par la voix de son président, Martin Schulz, l’alliance “inacceptable” des sociaux-démocrates avec un “parti d’extrême droite raciste”. Toutefois, les gouvernements européens se sont abstenus d’appliquer à la Pologne et à la Slovaquie le boycottage diplomatique qu’ils avaient imposé à l’Autriche il y a six ans.”

intermediary between the ‘civil society’ groups protesting the WTO meetings and the national trade delegations by establishing meetings of parliamentarians to monitor the developments of each WTO Ministerial. [...] Lamy’s hand would be strengthened in WTO negotiations if he could show that he had the support of a popular elected body.” (in Barbé & Herranz, 2005)

The Council similarly praises the participation of MEPs in different activities, e.g. in UNCHR proceedings, in a bid to promote their parliamentary dimension and set an example. It is reported by Council members that on sensitive issues, like Sudan, demonstration of democratic support by the EP can enhance the Council’s weight in the negotiation at the UN level. However, it has not yet invited MEPs to participate in its Human Rights Dialogue with China, despite the participation of officials from the Chinese National People’s Congress¹⁸¹. Concerning third countries, MEPs could well be seen as natural interlocutors for specific categories of human rights and democratisation activities. MEPs are inherently better equipped to deal with activities aiming at developing parliamentarism in third countries, or dealing with elections. This has been recognised and an MEP is without exception designated as Chief Observer for EU Elections Observation Missions. The ODIHR (OSCE) systematically welcomes the participation of MEPs in its EOMs when they aim at monitoring parliamentary elections. There are also reports bearing witness to the fact that scrutiny in the field of human rights and expressions of concern receive a warmer welcome when they emanate from elected representatives of the people, rather than public servants. Bradley explains that “scrutiny of human rights issues may be more palatable where undertaken by public representatives who are answerable to an electorate, rather than by ‘unelected bureaucrats’. This is true of issues arising in the Member States, where MEPs are elected, as of those concerning third States, whose officials are reported to object to being judged by ‘EC officials’¹⁸²” (Bradley, 1999, 848). Findings also show that MEPs are slightly more likely to get media coverage on country visits.

Lastly, it is a particular trait of the EP to be transparent and open to all members of society. Virtually all its activities are public. The EP provides multiple entry points for external input, notably from NGOs. Its working methods offer many opportunities to

¹⁸¹ See EP Annual Report on Human Rights for 2005, at paragraph 36, and also at paragraph 39 for similar calls for EP to participate in EU Human Rights Consultations with Russia.

¹⁸² Ultimately, the reference is J. Samboma, ‘ACP Countries Cry ‘Foul’’, in *New African*, December 1993, p. 26.

involve a wide range of actors and formulate new policy options¹⁸³. This function is commended by the other EU institutions, which positively evaluate the unique function of the EP in organising public hearings and debates. The recognition of the EP as a natural contact body for organised civil society and wider public is acknowledged by the other institutions, and even capitalised upon by the Commission, which reports recommending NGOs to interested MEPs who may take up their causes. Hopes have been expressed that the Sub-Committee will grow in importance to act as a catalyst for calls from NGOs, possibly discussing their validity and relevance. Civil society participation in EU activities is strongly supported by the EP, notably in EU human rights dialogues, and the Council to some extent equates its relations with civil society and with the Parliament¹⁸⁴. NGOs also recognise that EP instruments, like parliamentary questions, give an institutional profile to NGO concerns and operate as an intermediary vis-à-vis the Commission and the Council.

The identification of these particularities have pushed the institutions to devise co-ordinated, even joint activities where the added value of each institutions are mutually complementary. EU Election Observation Missions epitomise the practical possibilities existing for common work.

**3.2.2.2. An inter-institutional success story? EU and EP Election Observation Missions
(The example of EOMs to West Bank and Gaza Strip –
Presidential elections 2004 – Parliamentary elections 2006)**

Observing elections now represents a significant activity of both the EU as a whole and the European Parliament itself. The EP has deployed 61 missions since the beginning of its fifth legislature (1999) and the EU 40 since 2000¹⁸⁵. While EU EOMs are long term missions, EP EOMs are in fact a specific type of EP *ad hoc* delegations deployed on a short period (generally a few days). Whenever possible,

¹⁸³ See part on public hearings and exchanges of views, pp. 118-125.

¹⁸⁴ In the *Council conclusions on the implementation of the follow-up to the 25 June 2001 Council conclusions on human rights and democratisation in third countries* of 12 December 2005, “the Council welcomes the continued close cooperation it has enjoyed with the European Parliament and civil society, in developing and delivering its human rights policy during 2005, and looks forward to building on this still further”.

¹⁸⁵ 2000 is taken as a reference point since the EU EOMs have been consolidated in 2000 notably through the *Communication from the Commission on EU Election Assistance and Observation*, COM(2000)191, of 11 April 2000, which laid down the way for subsequent EOM activities and structure.

EP EOMs serve as Short Term Observers of the wider EU EOM. EU EOMs are designed to involve the EP in a variety of ways.

Assessing the human rights impact of EU Election Observation Missions is beyond the scope of this study, and the impact of EP EOM is difficult to isolate from the larger EU EOM. The EP EOM is subject to the same impact assessment as regular delegations¹⁸⁶. Generally, “observation missions shall aim to strengthen the legitimacy of the national election or referendum process, to increase public confidence in the electoral process, in particular by ascertaining whether all the election procedures are conducted in the most proper and most transparent manner possible, and, through its presence, to provide more effective human rights protection and, where appropriate, to contribute to conflict resolution or post-conflict stabilization of the State structure”¹⁸⁷. Based on on-site interviews conducted in the West Bank and Gaza Strip and with EU EOM team members, it is possible to conclude that the EOMs are generally successful in meeting these objectives.

Development of inter-institutional co-operation

“The perfect coordination between the Parliament, the Commission and the Council should set a precedent of possible fruitful synergy”, reported the former Chief Observer of the EU EOM to West Bank and Gaza Strip for the January 2006 Parliamentary Elections. This assessment seems equally valid for the inter-institutional developments that led to the formulation of a common design for EU EOM, where mainly the Commission and the Parliament have fruitfully worked together, through texts and in the field.

1. *In the texts.* The 2000 Communication of the Commission, which paved the way to the actual structure and inter-institutional framework of EOMs, indicates that it has been drafted as a response to “a specific request by the European Parliament to the

¹⁸⁶ See section 2.2.1. on delegations.

¹⁸⁷ Decision of the Conference of Presidents of the European Parliament, *Implementing provisions governing election observation missions*, 12 May 2005. Similar language is found in the above mentioned resolution from the Commission. Wide ranging background information on EP EOMs is available at: http://www.europarl.europa.eu/intcoop/election_observation/default_en.htm, and on EU EOMs at: http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/index.htm and http://ec.europa.eu/comm/europeaid/projects/eidhr/elections_en.htm.

Commission to assess EU participation in election observation missions”. The Commission recognizes the importance of involving the Parliament, which “as the elected parliamentary body of the EU, should have a key role in electoral observation and should be involved from an early stage in the joint planning of electoral missions. [...] A special role should be defined for MEPs to maximise their electoral and parliamentary experience and their capacity to link with civic groups, political parties etc. A reserved space for MEPs should be established in each EU election observation team. The EP would be responsible for proposing a team of MEPs with the relevant experience.” It also draws on some weaknesses of the involvement of the MEPs, indicating notably that “participation of EP observers has encountered difficulties through a lack of co-ordination.”

The EP seriously took up the recommendations of the Commission, notably by establishing an EP Election Coordination Group, on 8 November 2001. An Election Observation Service was created to provide a secretariat to the Group and its staff has been reinforced over the years. Simultaneously, in its resolution on the Commission’s Communication¹⁸⁸ the EP recommended, “in order to maximize the EU’s profile and visibility, that the Union should appoint one Chief Observer per mission, who will have the necessary expertise, will preferably be a Member of the EP and will bear prime responsibility for communications with the media”. Since 2001, it is observed that EU EOMs are almost systematically led by MEPs. It is stated that “whenever possible the Chief Observer will be a member of the European Parliament”¹⁸⁹. Co-ordination between the institutions is now organized prior to the sending of the missions, and inter-institutional aspects have been further developed. The EC Staff Working Paper on the 2000 Communication refers frequently to EP resolutions in the area of election monitoring and to EP input in general.

2. *In the field.* Drawing on the experience of the EU EOM to West Bank and Gaza Strip for the January 2006 Parliamentary Elections, on site there is a successful co-ordination of activities. The Core Team is led by an MEP but is composed of 14 members (many independent experts), and has direct assistance and support from the

¹⁸⁸ European Parliament resolution on the Commission communication on EU Election Assistance and Observation (COM(2000) 191 - C5-0259/2000 - 2000/2137 (COS)), adopted on 15 March 2001.

¹⁸⁹ European Commission, *Handbook for European Union Election Observation Missions*, prepared by the Swedish International Development Cooperation Agency.

Commission (both from Brussels and via EC Delegation in the country – in this case not a Delegation but an EC Technical Assistance Office), and direct channels of communication and common political lines with the Representative of the EU Council. Speaking with one voice and avoiding inconsistent conduct (notably of politically-engaged Short Terms Observers) are among the main concerns of the mission. This has an impact in terms of the clarity of the message delivered, but is even more compelling in a politically sensitive environment. A high level of coordination is not only welcome but also possible. This happened in the West Bank and Gaza Strip, where January 2006 EU EOM Chief Observer MEP Véronique De Keyser, Head of the EC Technical Assistance Office John Kjaer and EU Special Representative for the Middle East Peace Process Marc Otte, went together to numerous meetings and represented the EU with one voice. In a word, inter-institutional settings and complexity, and associated risks of contradictory messages and deeds were overcome by synergising efforts.

*Visibility of EP and EU EOMs*¹⁹⁰

Media monitoring within the EU EOMs mainly aims at analyzing the degree of political pluralism displayed by local media in relation with the election process. EOM media experts can also track the coverage of the EOM (EP and EU alike), as was the case during EU and EP EOMs sent for Palestinian Parliamentary Elections (January 2006)¹⁹¹.

Generally speaking, considerable attention was devoted to the EU during the Palestinian Elections, either to the EC (especially the visit of Benita Ferrero-Waldner) either to the EU EOM (particularly to Chief Observer MEP Veronique De Keyser) or to the EP/MEPs. According to the EOM expert:

- regarding electronic media (prime time: 18.00hrs to 24.00hrs), 62 minutes coverage were devoted to the EU by local media during the election campaign (3-23 January). Worth noting was an interview (24 minutes) with Veronique De Keyser on *Al Jazeera* on the 16 January, rebroadcast two days later.

¹⁹⁰ The team is particularly thankful to Giuseppe Milazzo, from the Osservatorio di Pavia and Media Expert of the EU EOM Core Team in Palestine, for his input and the information provided.

¹⁹¹ Though the sample of monitored media is limited (3 TV stations, 2 radio stations, 3 dailies) and probably qualitative observations are more appropriate in this field.

- regarding the monitored print media (*Al Quds*, *Al Ayyam* and *Al Haya*), 4295 square centimetres were devoted to EU (EC, EU EOM, EP/MEPs) during the three weeks of election campaign. At least an article on the EU/EP EOM was noted every day in one of the dailies.

Extensive media coverage of EU Observers was noted on election day. The public station Palestine TV (*PBC*) interviewed observers in the field as well as EU EOM Chief Observer in their studio. Officers of the EU EOM were invited to explain the mission operation by local and international media, including the Israeli daily *Jerusalem Post* and the *BBC*. Press conferences and official meetings by representatives of the EU missions were always covered in a consistent manner by the main news agencies (the official *Wafa* and the private *Maan*).

Regarding the visibility of the EP delegation, MEPs attracted a lot of media attention, although this was not necessarily in their individual capacity. This is attributable to the fact that the media generally referred to “EU Observers” without specifying the difference between EU EOM and MEPs. Given this attitude of the media to covering the role of the EU in general terms in the elections observation, it was not possible to distinguish clearly which media coverage was devoted to the EU EOM from that devoted to the EP/MEPs. This, despite the fact that the difference in terms of mandate and structure between the two missions was explained during press conferences and by press releases correctly reported by the media. Compared to other international missions, the Europeans Observers received a better coverage than other international observers’ missions (Canadian Observation Mission, NDI, Carter Center). While the image of the EU is seen as very positive among the Palestinian media at least during the election process, the EOM left the country during the controversy of the “cartoons case”, which had a detrimental effect on EU image.

The importance of being an MEP

The success EU Election Observation Mission and the integration of EP delegations into this general framework are based on using the complementarity of the actors to optimum effect.

1. *The Chief Observer.* The now traditional appointment of an MEP as Chief Observer of the mission is the best illustration of how the particular qualities of the MEPs can complement and feed overall EU activities. It also lights the way to institutionalise co-operation. In the case of EOM, the added value of MEPs is their personal experience of the election process and the fact that they represent the European people(s)¹⁹². This is an important factor that has been singled out by all interviewees in Palestine, (former) officials and representatives of civil society alike. The main impression was that “it makes a big difference when the EOM is lead by an MEP because the MEP represents the European peoples, not governments. It enjoys a moral value and gives a moral support for the [...] people”.

2. *The EP delegations.* MEPs are important and they are perceived as having high legitimacy and expertise for the monitoring of elections. It is also observed that they attract more media visibility than other short-term observers. However, while parliamentarians may voice their concerns and speak at a political level, this can also give rise to potential problems, when declarations are not co-ordinated and the political environment is tense. MEPs’ declarations to the media should be, as much as possible, rely on available expertise and co-ordinate with longer term EOMs, particularly given the perception of individual MEPs as representing the EU as a whole. Inconsistent declarations are more likely when the EP delegation is not integrated into an EU EOM. This seems to have been recognized by Parliament’s partners, in the forefront of which the Commission, which has already expressed in the past that MEPs declarations would not be representative of the EU position. This was for instance the case in relation to the Belarusian presidential elections on 19 March 2006, where the EP sent a delegation of seven members, complemented by five members going under their own steam. This led to Commissioner for external relations Ferrero-Waldner warning that the MEPs “speak for themselves [and that] it is the OSCE who, at the end of the day, will make the official statement”. When there are no EU EOM deployed, liaison and co-ordination of declarations with other partners such as the ODIHR or the Council of Europe is pivotal, since they have missions deployed over a longer period and thorough expertise. This configuration

¹⁹² Only one MEP interviewed expressed reservations vis-à-vis the nomination of an MEP as Chief Observer of the EU EOM, arguing that “former MEPs should be appointed to be head of the European Commission-run election observation mission and that the EP mission should be led by an acting MEP. Having two MEPs leads to confusion on the ground and results in a conflict of interests.”

concerns missions sent to European countries, where the Commission as a rule does not to send an EOM, leaving the OSCE and CoE to monitor the elections, and endorsing their conclusions. Alternatively, MEPs' participation in training and briefings (on electoral processes, the role of electoral commission, the place of opposition in the media, etc.), which already takes place in Brussels before their departure, is encouraged. The participation of MEPs in EOMs is also important in terms of developing a better understanding of the situation in the country and to give feedback upon return to the European Parliament and interested committees.

Beyond the mission

The influence of the EOM and EP delegation on democratic developments is significant in anticipation to, and in the aftermath of, the elections. Concrete proposals and comments that precede and follow the elections are seen as constructive, as well as the encouragement and political support that is offered to the electoral reforms and elections' preparations. With respect to the Palestinian elections, the EP was singled out as an important actor; two examples can be cited.

1. *Preparation.* Before the elections, the Parliament dedicated several activities to discussing the Palestinian elections. A public hearing was organized by the EP Bureau on "the EP as a promoter of parliamentary democracy" on 26 May 2005, where amongst other issues, details of the reform of the electoral code on Palestine, and possible obstacles to the tenure of the elections were assessed. This was not only perceived as demonstrating European support to the overall democratic process in Palestine, relayed by the presence at this hearing of a member of the PLC, it was also appreciated as a concrete and constructive input on a range of issues (mixed electoral law, women representation at the PLC, transparency in general and funding of candidates in particular, role of the Palestinian security forces during the elections and prevention of the executive authority from intervening in the elections).

2. *Follow-up.* Constructive propositions were also made in the follow-up to the presidential elections, with a detailed report by the EU EOM and its Chief Observer MEP Michel Rocard. This was pinpointed as a very helpful initiative, which reportedly was taken into consideration and reflected in electoral reforms.

Constructive and contextualized propositions were not only formulated in the report, but also discussed with concerned parties during a follow-up mission of the Chief Observer. The precision of the recommendations, together with the open dialogue, has been received as expert and a confirmation that political support and interest is genuine and goes beyond declarations and statements. This reinforced considerably the impact and the general appreciation of EU support.

Setting an example for further joint activities?

Despite some views that present election observation as a specialised activity with specific and unambiguous objectives, thus offering particular good foundation for common work, there is no reason why the spirit that prevails for EOMs could not be duplicated in other areas of activities. The work of delegations is, in a sense, starting to be seen as an area of inter-institutional synergising, at least in the field. Other areas could draw on EOM experience, for example reactions to violations against human rights defenders.

Nonetheless, the Palestinian example also sharply illustrates the existing limits of inter-institutional co-operation, notably the contrast between the joint activities undertaken for the monitoring of the electoral process and the Council's and Commission's unilateral reactions to the political outcome of the elections. The EP was not consulted before EU Council and EC decision to suspend aid to Palestine, nor to take into consideration preliminary ideas expressed in EP resolution on the result of the Palestinian elections and the situation in East Jerusalem, adopted on 2 February 2006. This shows the cantonment joint activities to strictly delimited areas. This tension is palpable in each step on the road to more cohesive common programming and implementation of human rights policies.

3.2.2.3. Developments and remaining difficulties

The increasing priority given to co-ordination can be attributed to several factors:

- better identification of actors and individuals responsible for human rights in all three institutions and identification of dialogue with other EU institutions as one of their priorities;

- enhanced commitment to the promotion of human rights (incorporation of human rights concerns in the *Operational Programme of the Council for 2006 submitted by the incoming Austrian and Finnish Presidencies* and the *Presidency Report on ESDP*, adoption of the EU Charter on Fundamental Rights);
- detailed commitments and elaboration of instruments and mechanisms used for concrete human rights promotion (EIDHR, human rights and democratisation clauses, EU Guidelines on Human Rights);
- similar trends in terms of political priorities for external affairs: all institutions seem to develop an in-depth focus on the European neighbourhood (Eastern countries and Mediterranean countries), as well democratisation concerns, especially after the 2004 enlargement.

These factors contribute to enhancement of inter-institutional dialogue, rapprochement of agendas, and devising of joint activities.

Enhancement of inter-institutional dialogue

Enhanced inter-institutional dialogue is one of the main accomplishments of the newly (re-)established EU actors in the area of human rights, i.e. the Personal Representative of the Secretary-General/High Representative on Human Rights in the EU Council and the Sub-Committee on Human Rights in the EP. Exemplary as far as dialogue with the Council is concerned is the participation of Michael Matthiessen to virtually all meetings of the EP Sub-Committee on Human Rights; as Personal Representative for Human Rights of the Secretary General/High Representative of the Council, he immediately identified the necessity of better liaison with the EP¹⁹³. Similarly the proposal of Chris Patten, then Commissioner for External Relations, to set up a “structured dialogue on human rights” between EP and EC points to this priority. This was formulated during the review of EIDHR legal basis and taken up by the Sub-Committee on Human Rights in 2004. During the first meeting Patten underlined “the

¹⁹³ In a conference given for EIUC’s European Masters Degree on Human Rights and Democratisation (7 November 2005), Matthiessen explained that upon arrival in office, he identified seven main areas of actions: mainstreaming, implementation of the EU Guidelines, participation in dialogues, promotion of human rights in international organizations, contacts with the EP, outreach and public diplomacy, and special assignments.

need to identify a certain number of common preoccupations” and pointed that “there [was] room to complement the already regular exchanges of views”.

Co-operation is essential for human rights actors of all three institutions for increased gravitas vis-à-vis external actors and also their own institutions: they can share their work in terms of mainstreaming human rights in other policies and mutually reinforce their calls and offer examples of good practices. The Commission presents interesting developments in the field of bridging the gap between the internal and external aspects of human rights policies. It has issued a *Communication on a strategy on the external dimension of the area of freedom, security and justice*, and as created specific groups dealing with overarching external/internal issues. A group of Commissioners with common interest in fundamental rights regularly meets, and inter-service groups have been set up. This has led to constructive co-operation on specific fields, e.g. on trafficking in human beings. Developments in one institution can inspire actors of other EU institutions, with similar concerns.

Despite positive developments, there still seems to be difficulties in the process of institutionalizing the exchange between the EP and the other institutions. While EP operations is transparent, there is institutional frustration at its inability to be associated to other institutions’ meetings, in particular the EU Council’s working group on human rights, the COHOM. This has led to numerous calls from the EP, which perceived the presence of the Commission in COHOM meetings as an injustice to the Parliament. The Council recalled that from a legal viewpoint, it is impossible to formalize exchanges between the EP and the EU Council’s working group in a way that has not already been foreseen by the inter-institutional agreement on co-operation between the EU institutions, and from a political viewpoint, that the COHOM is an entity where the Council reaches its decision as an institution and external presence is not desired. Nonetheless, in its conclusions adopted on 10 December 2002¹⁹⁴ on the implementation of the follow-up to the 25 June 2001 Council conclusions on human rights and democratisation in third countries, the Council called the COHOM to “consider elaborating more developed reactions to the Parliament’s Annual Report on Human Rights as well as to its resolutions on human rights issues”. EP representatives

¹⁹⁴ 2474th meeting of the General Affairs and External Relations.

are now from times to times invited to attend, while each EU Presidency generally attends the Sub-Committee twice. In the Annual Report on Human Rights for 2005, the EP “is of the opinion that the Subcommittee could enhance its impact on policy and programming by following more closely the work programmes of the Council and the Commission, particularly the work of the COHOM, and by being invited by the members of the COHOM on a regular basis; calls for Members of the European Parliament to be systematically invited to attend de-briefing sessions, such as those organized with NGOs, and de-briefings concerning human rights dialogues with third countries; looks forward to assurances that such invitations will now be issued in a consistent manner”¹⁹⁵. The EP should also seek to actively disseminate information about its own activities in the COHOM. Several COHOM members have expressed interest in being informed about EP activities, though they are not likely to actively look for this information. Council representatives do not generally pay close attention to specific EP resolutions but instead base their work on the declarations of the Council itself; nevertheless, EP resolutions are regularly noted in GAERC meetings and it is proposed that the same could be done in COHOM meetings. The EP should consider submitting to COHOM members a digest of EP activities, comprising not only resolutions, but also reports on public hearings, on delegations sent abroad, as well as a summary of EP President’s activities¹⁹⁶ (if possible MEPs’ individual actions too) and of parliamentary questions.

Secondly, it is important for the EP to maintain structured dialogue and to capitalize upon institutionalized channels of communication. According to article 19 of the Framework Agreement on relation between the European Parliament and the Commission, “the Commission shall provide regular information in writing on action taken in response to specific requests addressed to it in Parliament’s resolutions, including cases where it has not been able to follow Parliament’s views”. These responses are presented by the EP President at the outset of each plenary session, and each member is free direct them to the Secretariat. This is a useful tool to evaluate the EC’s disposition to take into consideration Parliament’s views but also to channel dialogue and follow-up. However, this mechanism is rarely used by either the EC or

¹⁹⁵ Paragraph 107.

¹⁹⁶ The presentation of EP President’s interventions, notably the confidential actions, could help to promote cooperation and overcome Council’s reluctance to provide the EP with the list of individual cases raised and demarches undertaken.

the EP. By all accounts only one such factsheet has been forwarded concerning urgent resolutions, since 2004. More regular feedback is forwarded by the Commission on resolutions adopted under Rules 103 (4)¹⁹⁷ and 45 of EP Rules of procedure. The extent to which the MEPs are aware of a response and take it into consideration for further exchanges with the Commission is negligible. On the other hand, EC answers to EP actions are not always linked to an obligation. For instance, the Committee on Development sent the conclusions of its debate on human rights situation in Angola (held on 24 January 2006) to Commissioner Michel. The Commissioner thus prompted, sent a letter to the Chairperson of the Committee on the EC position regarding human rights situation in Angola (letter of 21 March 2006). Examples abound of similar exchanges, arguably where communication with the Commission is based on dialogue (exchange of information) and development of expertise (conclusions of the debate) rather than exertion of pressure, dialogue is more fruitful and can lead to greater impact. *Ad hoc* means of dialogue tend to take precedence over institutionalized channels of communication. In this context, parallel and informal exchanges, focusing on expert findings and conclusions, are as revealing as official exchanges. It is also a problem when the EP changes interlocutors or engages in different forms of dialogue. Although the “structured dialogue on human rights” with EC Commissioner was much welcome by both sides, no Commissioner came to the DROI since the first meeting with Commissioner Patten. Commissioner Ferrero-Waldner participated in meetings, but in AFET, DEVE or in plenary sitting. While the EC is represented at lower levels, it is important to underline that dialogue does not only aim at exchanging information – which can be done at the secretariat level, but also at identifying common priorities and programming of activities. Commissioner Patten identified this as objective of the “structured dialogue”.

Lastly, it is important that dialogue extends beyond institutional counterparts for risk of limiting exchange and awareness of the EPs activities to the established actors in those areas. In the Council this entails also targeting the geographical working groups, the CIVCOM, or even the Political and Security Committee. Enhanced contacts with EC Delegations and EU diplomats are equally important. Lastly, while official

¹⁹⁷ E.g. on European Parliament resolution on human rights and freedom of the press in Tunisia and evaluation of the World Summit on the Information Society held in Tunis, 15 December 2005. The quality of the replies to EP Annual Reports on Human Rights has already been discussed, p. 140.

meetings are the basis for co-operation, much more could be done at the level of the Secretariats, which could develop informal contacts.

Rapprochement of agendas

Increasingly EU institutions focus on similar priorities. First, in general, the level of commitment to human rights promotion has been concomitantly upgraded in all three institutions. Besides clashes over specific policy options or discrepancies in highlighting similar concerns, both priorities (ENP, democratization) and policy instruments (conditionality with the clauses, EU Guidelines on human rights) have converged over the last years.

The EP has to a certain extent shaped this development. It has promoted general commitments in the area of human rights, the use of conditionality and budgetary instruments, and the focus on specific thematic areas. Resolutions of the EP affect priority accorded to various human rights issues by the other EU institutions, notably the Commission. Human trafficking, conflict diamonds or cluster ammunitions, for instance, mark issues when has been accorded high priority by the EP. In contrast the rights of indigenous peoples receive limited attention by the current Parliament, and hence also the EC. Both the Council and the Commission recognise that EP resolutions act as a barometer of topical issues, but the range of EP resolutions and activities in the area of human rights is so broad and diverse that it is difficult even for human rights thematic units within the two institutions to stay fully informed.

Viewed in a broader perspective, however, the dominant trend is for the Parliament and Commission to focus on the agenda set by the Council. This is made easier by the clear identification of priorities and commitments through the EU Guidelines on Human Rights adopted by the Council. The EP was not formally involved in the drafting or the implementation of the Guidelines, although it gave input during the elaboration of Guidelines on Children And Armed Conflicts, and successfully pushed for a new set of Guidelines on Trafficking in Human Beings. Moreover it welcomed the establishment of these instruments. The Guidelines serve as hooks for the Parliament to hold the Council and the Commission accountable for their actions, but the role of the EP is less clear. This has not precluded the Sub-Committee from

raising awareness of the Guidelines within EP's different activities and promoting conformity of these activities with those of the Council. This is indicative of the disposition of the EP to align its activities with the agenda and mechanisms set up by the Council. However, EP's attitude vis-à-vis the Guidelines is not determinable, and analysis of recent EP activities referring to the Guidelines demonstrate some ambiguity in how these documents are into consideration.

The chief objective of the EU Guidelines is to standardise specific actions, which are key to the EP's scrutinising activities of the EU Council and EC. They are a list of commitments, adapted to the specificities of the work of EC Delegations and EU missions in third countries, and are not aimed at the Parliament. The recent COHOM note to the PSC on Implementation Strategy for Guidelines on Children And Armed Conflicts¹⁹⁸ omits the EP entirely in detailing actions to be taken by different entities: EU Presidency, the Commission, the Council Secretariat, Member States, Heads of Missions. This oversight is of dubious rationale given the broad reach of the EP and its potential input, notably through its participation in the ACP-EU JPA.

A complementary vision is emerging. The EP also regards itself as an actor in the implementation of the EU Guidelines. EP Annual Report for 2005 points out that "the Subcommittee on Human Rights focused its 2005 activities on the implementation of the EU human rights instruments such as the EU Guidelines"¹⁹⁹. DROI agenda is oriented towards issues dealt with in the Guidelines and for example the number of cases of human rights defenders raised by the EP has increased after the adoption of the specific EU Guidelines. The EP also tries to align its external activities with the Guidelines. In DROI's *note on the first year of activities of the Sub-Committee on Human Rights*, it reported that "on 6 July 2005, Hélène Flautre, Chairperson of the Sub-Committee, met with the members of the Conference of Delegation's Chairs. The aim of this meeting was to present the Chairs of EP delegations with examples of best practices for the implementation of the EU policy in human rights and democracy promotion, and more specifically of the EU guidelines for human rights". This meeting spurred the elaboration of a handbook for EP delegations ("Specific guidelines for human rights and democracy actions of MEPs in their visits to third

¹⁹⁸ Council of the European Union, Doc. 8285/1/06, 25 April 2006.

¹⁹⁹ Paragraph 104.

countries”), already evoked in section 2.2.1.4. While EP delegations are well equipped to check on site how the EU Missions and EC Delegations implement the Guidelines, the document mainly focuses on the way in which the delegations can conform their actions to the Guidelines’ content. EU Guidelines are presented as framework instruments in application of which the EP delegations are invited to perform certain actions. It underlines that “it is [...] important that EP delegations’ activities in the field of human rights and democracy promotion lie within the general framework of the EU policy in such field, so as to ensure the coherence of its actions and positions. The [...] document aims at proposing concrete orientations for the implementation, by the Members of the European Parliament, during their visits, of the EU policy in the field of human rights and democracy promotion.” This move has revealed conflicting views about the position of the EP vis-à-vis the EU Guidelines, even within the NGO community. Some NGOs see the Guidelines uniquely as Council documents, which are adapted to the Council and the Commission’s work and are the result of a compromise by Member States. In this context EP’s only role is to monitor their implementation. Others analyse the EP as one of the actors responsible for implementing the Guidelines. Confusion over its role however has not prejudiced EP activities and is therefore not vividly discussed.

There are several reasons why EU Guidelines were taken as a reference point for EP own agenda and actions to be undertaken within its delegations:

- Appreciation of the EU Guidelines by the Parliament.
- Specificities of the Guidelines: the Guidelines are more operational and apply better to actions in third countries.
- Specificities of EP delegations: they are seen as an element of parliamentary diplomacy that is concrete and is a more active tool of the EP outside the EU, more similar to EU Council and EC activities in the field of foreign affairs. This is consistent with the perceived importance of EP delegations in the representation of the Union as a whole, regardless of the institutional configuration.
- Importance of having consistent pressure and actions in order to lead to concrete change in third countries; speaking with once voice.
- Recognition of the value of the Guidelines: only such texts exist that represent an operational adaptation of human rights principles and a strong

commitment from 25 Member States, thus conferring political strength on the texts.

These reasons are sufficient to justify the linkage of delegations Guidelines to EU Guidelines. The importance of operationalising human rights concerns and proposing a reference document on one hand, and of creating more synergies with the EU Council and the Commission on the other, are very much reflected upon in the handbook elaborated for the delegations. If implemented, there is no doubt that EU impact will be improved. However, this should not be done at the costs of what makes the added value of the Parliament and of its delegation. It is advocated here that the delegations' guidelines could be better adapted to the specificities of the EP activities.

1. Delegations should be more regarded as an opportunity to monitor EC and EU Council activities and implementation of the EU Guidelines. Only limited reference to delegations' role in overseeing EC and Council's activity on site has been incorporated.

2. The particular characteristics and added value of the EP delegations compared with the EU Council and EC's external activities should be taken into consideration. The delegations' unique position to contribute to the development of parliamentary promotion of human rights and democracy in third countries could be more visible. More thought could also be given to the possibilities offered by delegations sent with like-minded countries (for example for coalition-building).

3. Delegations should reflect upon the specificities of EP positions in the field of human rights, and not limit themselves to EU Council agreed agenda. The Guidelines are the result of a decision at 15/25 Member States, concerning five issues. The EP further elaborates on any of these issues, and arguably has developed a wider and stronger concern for human rights, not limited to these themes. Women's rights, minorities' rights could be taken into consideration. EP positions are assessed as going beyond EC and EU Council's stances, and it should be reflected in its activities in third countries. EP resolutions should serve as a reference to EP delegations, and the delegations are the best tools to follow-up on EP claims. Resolutions arguably give a mandate (sometimes, explicitly) to the delegations. This seems obvious. However, there is no reference at all to EP resolutions in delegations' handbook.

4. Finally it does not insist on the necessity of follow-up to delegations and building their work around a longer-term strategy, nor the importance of reporting to all EU

institutions. The special co-ordinating role played by the head of delegation could also be reflected upon.

The EP has made substantial progress in aligning its agenda with the Council's, a move that has been facilitated by documents such as the EU Guidelines. More could be done, notably to contextualise its resolutions – foremost the choice of topics for urgent resolutions – with the agenda of the Council. At the same time, the EP should adapt this agenda to its own specificities and parameters of actions.

Joint Activities – prospects

Besides EOMs, diverse joint activities have been proposed and can be spotted as areas where prospective joint activities will be achieved.

Salient among these is the proposal that the EU Council's Annual Report on Human Rights should aim at becoming a genuine inter-institutional report. There are still some ambiguities about how this can be achieved. For some observers, a single report is not realistic because of the excessive politicisation of certain human rights issues and the division of work within the Union. Others, however, welcome the possibility for EP views to be explicitly featured in the report, even when they are critical, as this would demonstrate the EU's capacity for self-criticism. Eventually, it seems that the option of having a common report, but with the EP retaining its right to publish its own report aiming at holding the Council and the EC accountable, seems the most supported policy option, also according to Commission's point of view²⁰⁰. It is not clear whether EP's proposal²⁰¹ to identify a list of "Countries of Particular Concern" with respect to human rights violations, within the Annual Report, will be implemented or not.

²⁰⁰ See debate on the Annual Report on Human Rights in the World in 2005 and EU policy hold with the Commission and the Council on Wednesday 17 May 2006 in Strasbourg, and in particular Commissioner Ferrero-Waldner's comments: "I welcome the recommendations made by the rapporteur on the format of this and future reports. I hope that it will be possible to make the 2006 EU Human Rights Report a truly interinstitutional report. In that respect, my services have already suggested to the Member States that, as suggested by Parliament, the 2006 report should include a section on human rights guidelines, more emphasis on the use and impact of human rights clauses, and it should also aim to cover the activities of all three institutions – the Council, the Commission and Parliament. That should not in any way be interpreted as impinging on the prerogatives of Parliament to scrutinise the work of the Council and Commission. But there will be space and need for a separate report by Parliament on the European Union's human rights policy."

²⁰¹ Annual Report on Human Rights for 2005, paragraph 44.

Linked to the Annual Report is the proposition, also welcomed by all institutions, that “the December European Parliament plenary session becomes a focal point for the EU’s activities in the field of human rights”²⁰², when the international human rights day is celebrated, the EU Annual Report presented and debated, and the Sakharov Prize awarded. This proposal draws on the legitimacy and symbolic dimension attached to the Parliament in the field of human rights, and could attract much visibility. The institutions should push for an ambitious programme with prestigious guests (notably former Sakharov Prize laureates, as already recommended), in order to enhance the visibility of the work of the EU in the area. It should also be the occasion to define strategies and discuss common programming of work for the year to come. This event should be taken as an opportunity to associate actors such as the chairpersons and/or members of the committees in charge of human rights promotion within EU national parliaments, as well as EU Member States’ Human Rights Ambassadors/Commissioners, where they exist²⁰³.

Although less publicly debated, other areas of common work are identified by different actors, notably the Commission. It is proposed that the EP and the EC better co-ordinate their public diplomacy efforts and seek to jointly devise plans to send representatives to participate in public events, conferences, etc., on human rights related issues. Both institutions receive an excess of invitations and undermining overall representation. Synergies could be devised, and the Commission suggests that the EP could set up a roster of MEPs willing to represent the two institutions in a number of events, a “speakers’ pool” that could enhance EU’s representation around the world. Secondly, the Commission has also recognised the added value of EP delegations and would welcome assistance from the EP in assessing EC-funded projects. Some delegations (or MEPs visiting countries on their own) already do so, and it is considered helpful by the Commission, which is prepared to facilitate this by supplying relevant background information and organising pre-departure briefing sessions. The EP should take up this opportunity, which was already offered by NGOs and international organisations, but rarely taken up by EP delegations.

²⁰² Annual Report on Human Rights for 2005, paragraph 6.

²⁰³ It is the case for five EU Member States: France, Germany, the Netherlands, Spain and Sweden.

Some propositions for common activities have been made but declined by other institutions, such as EP call to be involved in the EU Human Rights Dialogues with China, and now also Russia. In this area the Council has insisted on the limits of possible common work and specificities of the dialogue, and failed to recognise the synergising effects that could stem from the involvement of MEPs. There is still, therefore, room for improvement of synergies within existing mechanisms, as well as virtual areas where new mechanisms could be imagined. Indeed other joint activities could be devised, especially concerning areas high on the agenda of all three institutions. Common activities or at least common co-ordination mechanism associating the institutions could be established, for example, for the promotion of human rights defenders.

Summary of recommendations on co-ordination of actions of EU institutions

- All institutions should seek to better capitalise on the specificities of the Commission, the Council and in particular the EP. The overriding aim should be to develop coordinated activities which lead to synergies while maintaining the respective competencies and functions of each institution.
- Uphold and deepen inter-institutional exchanges and dialogue. EP representatives could, e.g., be invited to debriefing sessions of the COHOM but should also make available to COHOM a summary presentation of EP activities before COHOM meetings; DROI should consider renewing a “structured dialogue” with Commissioners; the EP should seek to enhance dialogue not only with the established human rights actors in Council and Commission but also, e.g., with geographical working groups, CIVCOM, and the Political and Security Committee, EC Delegations and EU diplomats, etc.; cooperation between institutions’ secretariats should as far as possible be enhanced.
- Fully implement the recently launched EP guidelines for delegations, which mark a welcome step towards better linking EP activities to the work of other EU institutions; EP delegations could also, e.g., do more to inform themselves about and assess the work of the EC, including EIDHR-funded projects.
- Better contextualise the activities (e.g. choice of Sakharov Prize laureates, urgent resolutions) within the broader agenda of the EU.
- Develop joint activities, (e.g. a joint Human Rights Day in Strasbourg involving prominent representatives of all EU institutions, Human Rights Ambassadors, chairs of national parliamentary committees or inter-groups working on human rights, civil society representatives, previous Sakharov Prize laureates, etc.) and explore new areas for joint inter-institutional human rights policies and actions.

3.3. The Parliament and other international actors

The European Parliament is one international actor amongst many in the field of promotion of human rights. International campaigns and pressure from a variety of entities increases the likelihood of impact. The EP can be a player in the international arena by reinforcing these calls. It is also a trigger for interventions from other international entities, with more coercive powers in the field of human rights. All international actors in the field of human rights underline the need for other entities to cross-refer on each others' activities, to create synergies and avoid duplication of efforts. Special organisations emerged favouring common activities and strategies, such as the joint assemblies with ACP or Mediterranean countries.

It is important for the Parliament to contextualise its work within the international agenda and perceive how best to contribute. First, a multiplicity of voices is key. In relation with Cambodia, NGOs argue that it might not be the EP alone which led to change, but relentless international criticism, which might have led Cambodian's donors to speak-up. The timing of EP activities in relation to the international agenda was a pivotal factor. Second, EP resolutions are frequently more specific and candid than statements from other international bodies. For instance, Ukraine President Yushenko assessed the EP resolution of 2 December 2004 as "a bombshell that expressed the truth in a way not seen in writing from any other international organisation so far". In a letter sent to EP President, six main Togolese opposition parties expressed their appreciation of the EP resolution on Togo adopted on 12 May 2005, which was perceived as a sign of hope and a message of support, particularly in light of other reactions from the international community which were less robust. Third, while several actors can voice similar concerns on an issue, specificities and complementarity can be found, as for between US Congress and the European Parliament concerning Taiwan.

**EP policy towards Taiwan: A comparison with the US Congress
Excerpt from Yuchun Lan, 2004, pp. 134-135**

The EP and the US Congress are the two most prominent international institutions to openly and consistently support Taiwan. Calls are overall similar but a thorough analysis shows some differences in approach.

– *A counterbalance to the administrative sector.* To some extent, the EP and Congress counterbalance the administration sector's pro-Chinese approach, and somehow represent the opinion of the European and American peoples. Although in reality, quantity and quality, it is Congress that gives Taipei more direct support and also has substantial powers to force the American administration to implement its instructions.

– *Mutual reference.* These two institutions serve as a reference for each other. In most cases, it's the EP which adopts a line common to that of Congress, such as the support for Taiwan's observer status for the WHO. But there are exceptions. For example, on 24 September 1996, two months after the EP's resolution on Taiwan's participation in international organizations, the US House of Representatives, citing the EP resolution, passed HR 212 giving the same support to Taiwan.

– *Case by case vs. general rule.* Concerning the issue of visas for Taiwan's leaders, the EP seems to prefer setting a general rule for Taiwan's high-ranking officials visiting the EU for private travel. Congress chose to decide issues of visas on a case-by-case basis, and to grant visas for unofficial travel or transit, and this approach seems to work.

– *More or less than Congress.* Except for arms sales to Taipei, almost all of the discussion topics of Congress regarding Taiwan have also been on the agenda of the EP. Armament is not yet under the EU's competence. Indeed, Taiwan's military equipment remains the 'private domain' of Washington, in which Congress plays a key driving role. However, on some issues, the EP does more than Congress. For example, the EP set Beijing's renunciation to use force, and an acceptance to respect the will of the people of Taiwan, as the precondition to the EU's adherence of the One China principle, and it asked Beijing to withdraw all the missiles deployed against Taiwan along its south-east coast. Similar statements have never been formally made either by the American Congress nor by any other institution."

Through the platform it offers for discussion and its variety of contacts with other international actors, the EP has the necessary tools to contribute to building synergies with and between a wide range of actors. A success story in this regard is the issue of children and armed conflict, which attracted much attention and activities within the EP during its fifth legislature²⁰⁴. International NGOs were simultaneously organizing many activities in the field. The EP worked to link its activities with UN agenda and collaborated with UN bodies, notably UNICEF, NGOs, other EU institutions. It also

²⁰⁴ See notably the European Parliament resolutions of 3 July 2003 on trafficking in children and child soldiers, of 6 September 2001 and 11 April 2002 on the EU position in the Special Session on Children of the UN General Assembly, of 17 May 2001 on child trafficking in Africa, of 6 July 2000 of child soldiers in Uganda, of 22 November 1999 on the tenth anniversary of the UN Convention on the Rights of the Child, of 28 January 1999 on the protection of families and children and of 17 December 1998 on child soldiers. Many exchanges of views were organised, mainly by the Committee on Development.

extensively drew on its close contacts with ACP countries, via the ACP-EU Joint Parliamentary Assembly. The ACP-EU JPA adopted resolutions on child soldiers on 1 April 1999 and 23 March 2000, and organised a workshop on 'Children's Rights' in Brussels in November 2001. It again adopted a resolution on children and armed conflict at its meeting on 12 October 2002 in Rome, following a report by two of its members, published in June 2003.

This extensive mobilization of the EP showed its commitment to address the issue, and its ability to mobilize partners. Eventually, this was recognized by other actors. First, although the Parliament has never been associated with the drafting of any other EU Guidelines on Human Rights, its views were considered during the production of EU Guidelines on Children And Armed Conflicts adopted by the Council in 2003. Second, being a part of an international dynamic, with a plethora of actors does not mean that EP's contribution is drowned amidst others if it makes a solid contribution. Specific reference to EP was incorporated in the UN Secretary General Report to the UN Security Council on Children and Armed Conflict of 10 November 2003²⁰⁵:

“In the context of European Union institutions, this cooperation has led to several important initiatives, including funding of projects for the benefit of war-affected children, guidelines for action on children and armed conflict and specific provisions for child protection and post-conflict rehabilitation in the Cotonou 2000 Partnership Agreement between the African, Caribbean and Pacific Group of States and the States members of the European Union. The European Parliament has been engaged in active child protection advocacy, particularly in support of the campaign for the Optional Protocol to the Convention on the Rights of the Child.”

To make a sound contribution, and genuinely participate in international synergies, the EP is required to be committed and consistent. This is problematic. Even on the issue of Children and Armed Conflicts, where the Parliament spent much energy developing expertise and coordinating with a wide range of actors, and gained much international legitimacy to address the issue, its focus depleted. While the problem had been addressed and a stance adopted, the next stage should have been to systematically report and monitor the application of the elaborated texts, notably within the ACP-EU JPA framework. Concrete proposals were made to this effect²⁰⁶. It is indicative that, since its attention to this issue diminished in the recent years, the EP

²⁰⁵ Document ref. A/58/546-S/2003/1053.

²⁰⁶ See “suggestions for the implementation of the ACP-EU Joint Parliamentary Assembly Resolution on Children's Rights and Child Soldiers in particular”, 29 April 2004, and “Memo on implementation / follow-up of the ACP-EU Resolution on the rights of children and child soldiers in particular”, 6 January 2004, documents prepared by Massimo Toschi, on file with the EP DG EXPO Policy Department.

was not closely associated with the recent assessment and renewal of the EU Guidelines on Children and Armed Conflicts, as it was during the initial drafting²⁰⁷.

The most obvious international interlocutors of the EP are corresponding national and international parliamentary assemblies. EP delegations are typically “inter-parliamentary” delegations and the EP engages in many inter-parliamentary activities, such as the joint assemblies and parliamentary troikas, notably with the Council of Europe and the OSCE assemblies. Many resolutions refer to EP relations with other assemblies and legislative bodies, whether to respond to EP’s criticisms and calls, or to engage in common strategies with like-minded assemblies²⁰⁸. In addition, the EP engages with a variety of other actors, notably representatives of government, and occasionally calls on the judiciary too. Delegations liaise more and more often with third countries officials.

The degree of co-ordination greatly varies according to the actors. EP’s own attitude towards international actors is one factor affecting co-ordination. Examples taken at the regional and international levels are hereafter discussed, focusing notably on co-operation with the Council of Europe and the United Nations – indeed, the EP reiterated in its Annual Report on Human Rights for 2005 that it “regards it as a priority to continue to work closely together with the United Nations and with Council of Europe representatives and bodies, so as to ensure greater consistency and coordination in the human rights field”²⁰⁹. EP specific activities within joint parliamentary assemblies are also analysed.

²⁰⁷ Activities undertaken by the EP as well as the ACP-EU JPA were cited in Annex 1 of the Guidelines, but no references are included in the EU Council document on “Implementation EU Guidelines on Children and Armed Conflict - Political and Security Committee” of 19 July 2004 and the Council “Plan of Action of the EU Guidelines on Children and Armed Conflict is the ‘Plan of Action’ - Political and Security Committee”, of 13 December 2004. In its Annual Report on Human Rights for 2005, the EP “takes note of the first biennial review of the EU Guidelines on Children and Armed Conflict under the UK Presidency; [...] regrets, however, that the European Parliament was not involved in the process of evaluation of these Guidelines, that the opportunity for a wide-ranging review was not seized and that the outcome document was disappointing in its scope and ambition; therefore requests the Council systematically to associate the European Parliament in the biennial review of these Guidelines, so that it may be aware of the Parliament’s position and recommendations in this field”.

²⁰⁸ See for instance EP resolution on Jammu and Kashmir adopted on 16 March 2000: “D. whereas its Members discussed the issue of Kashmir with US Congress Members in the framework of their regular contacts on 14 January 2000”.

²⁰⁹ European Parliament resolution on the Annual Report on Human Rights in the World 2005 and the EU’s policy on the matter (2005/2203(INI)), adopted on 18 May 2006, paragraph 104.

3.3.1. Co-operation and synergies with regional entities

The European Parliament has two kinds of relationships with other regional groups or bodies that have important consequences for its human rights activities. Common institutions can be created, evenly constituted of European parliamentarians and parliamentarians of other regions. This is the case of joint parliamentary assemblies. Alternatively the EP can develop co-operation ties with existing structures at different regional, generally with the elected or appointed assemblies of regional organisations.

3.3.1.1. Participation in joint parliamentary assemblies

The European Parliament participates in joint assemblies, and promotes these unique structures which allow parliamentarians from different regions to work together. The Euro-Mediterranean Parliamentary Assembly (EMPA) was established by decision of the Ministerial Conference of the Euro-Mediterranean Partnership on 3 December 2003. The oldest joint assembly is the ACP-EU Joint Parliamentary Assembly (ACP-EU JPA): while the JPA as such has been instituted in 2000, some forms of common parliamentary committees existed as far back as 1976 (when an ACP-EEC Consultative Assembly met for the first time). Joint assemblies are institutions in their own right and accordingly have specific characteristics. For example, while the ACP-EU JPA is constituted of ACP parliamentarians and MEPs only, the EMPA consists of parliamentarians appointed by the national parliaments of the ten Mediterranean partners, the EP, and also the national parliaments of the EU Member States. Parity between parliamentarians from the different regions is nonetheless a cornerstone element of the composition of the joint assemblies, in all cases. To a great extent, the ACP-EU JPA is the joint assembly with the clearest status, the strongest organisation and the most experience. It is the choicest role model, whose lessons can be extended to other joint assemblies, with the usual provisos.

Joint parliamentary assemblies are fertile ground for the promotion of human rights and provide prime opportunities for the EP to enhance its contribution in the field and the impact of its activities. The EP's conduct in joint assemblies can be considered an ancillary activity for human rights promotion, to be seen within the systemic approach

to EP human rights instruments, and aligned to EP strategies in the field. The ACP-EU JPA is equipped to address human rights, having developed advanced instruments in the field of human rights, in line with the human rights provisions of the Lomé, and later Cotonou, Agreements, whose sophistication led the EP to consider “the implementation mechanism of the Cotonou Agreement as exemplary for its provisions on consultations, suspension and participation by civil society”²¹⁰. The ACP-EU JPA has instituted a procedure of reporting human rights violations. In effect the situations both in European and ACP countries is monitored, and a report prepared by co-rapporteurs. Concrete follow-up procedures are established. In the wake of the last one, discussed in the Bureau of the JPA on 1 February 2005, it was decided that the Co-Presidents of the JPA would make representations in writing on the cases raised in the debates on the report, and the co-rapporteurs would be responsible for following up these cases. This was done through letters which were sent in February 2005, to as diverse addressee as: the Chairman of EP Committee on Civil Liberties, Justice and Home Affairs, the President of the National Assembly of Senegal, the Speaker of the National Assembly of Gambia, the Speaker of the National Assembly of Tanzania, the Speaker of the United States’ House of Representatives and the Speaker of the Parliament of Zimbabwe, reminding them of issues identified in the report vis-à-vis their country, and requesting updates on developments and pushing for parliamentary actions on those situations.

Joint scrutiny of all participating countries – European included – enhances the credibility of monitoring and can help to dispel the perception of double standards and unilateral criticism. It does not mean however that the degree of impact of ACP-EU JPA is greater than regular activities of the EP. In relation to the letters sent in February 2005 in follow-up of the human rights report of the JPA, few responses were given, and no concrete changes wrought. The EP itself was not efficient in setting an example of good co-operation with the JPA, since its Committee on Civil Liberties, Justice and Home Affairs, did not respond to the letter addressed. The Co-rapporteurs also experienced resistance to the joint monitoring, notably vis-à-vis the situation in Zimbabwe. The letter to the speaker of the Parliament of Zimbabwe was sent, as usual

²¹⁰ Resolution on human rights in the world in 2002 and European Union's human rights policy (2002/2011(INI)), adopted on 4 September 2003, paragraph 8. The Euro-Mediterranean Partnership too incorporates human rights elements and clauses, and it is also the responsibility of the EMPA to live up to these obligations.

in these cases, through the designated channel of the Ambassador of Zimbabwe in Belgium. Ambassador Gift Punungwa refused to forward the letter to the Speaker. In a letter dated 9 February 2005, the Ambassador criticised the Bureau for raising this issue and for taking decisions regarding the situation discussed, as Zimbabwe was clearly not on the Agenda of the Bureau's meeting. The Ambassador also addressed the case of Roy Bennet, stressing that his detention is in line with Zimbabwe's Constitution. The letter was nevertheless transmitted to the Speaker through the EC Delegation in Harare.

In short, factors of impact are no different for the ACP-EU JPA than the ones identified for the EP itself, primarily entailing willingness to consistently address issues and mobilise instruments over a sufficient period of time. The issue of children and armed conflicts was already mentioned as a successful example, where both the EP and the ACP-EU JPA systematically pulled together. The JPA generally focuses on a specific issue over several meetings. This has been the case for the situation in Sudan, and will be next for the situation in East Timor. Sudan has been an exemplary case of the added value of the frank and direct dialogue that has been established in the JPA, being a vehicle for conflicting views to become consensual and for sustained focus. Nonetheless, on occasion regional groups close ranks around a country accused of human rights violations. The challenges experienced by the JPA in addressing Zimbabwe were controversial and arguably showed that joint assemblies can adversely reinforce regional, or “bloc”, cohesion, against inter-regional co-operation. This was epitomised by the cancellation of the ACP-EU JPA to be held in Brussels from 25 to 28 November 2002, following Zimbabwe's decision to be represented by individuals subjected to EU visa ban. The EP called on Belgium to refuse visas to the Zimbabwean representatives the subject of an EU visa ban, which can be exceptionally lifted to allow representatives to participate in international meetings conducting a political dialogue that can lead to the promotion of human rights²¹¹. The Parliament asked Belgian authorities not to grant the visas on the basis that Zimbabwean authorities were defying the EU visa ban when they could have sent

²¹¹ Under the EU Common position and article 17 of the Cotonou Agreement.

other non-blacklisted officials. Belgium authorities granted the visas, provoking the last minute cancellation of the ACP-EU JPA on 25 November 2002²¹².

Even in the absence of concrete impact, most participants agree that joint assemblies have a “socialization effect”, offering an appropriate forum for dialogue and exchange of information. Best practices are exchanged, thus enhancing parliamentary monitoring of the executive bodies. Joint assemblies’ perceived key function is to support parliamentary work in the South, and reinforce accountability and transparency. This is also true for European partners; in the context of ACP-EU partnership, EP activities via the ACP-EU JPA are respected by the Commission and the Council who keep a close eye on their activities, and its importance has been formally recognized in formal documents. “Tripartite assemblies give more dynamic to EU inter-institutional relations”, says a NGO representative. The joint assembly is an ideal environment to develop the exchanges which were described as a cross-cutting factor of impact in section 3.1.2. MEPs participating in joint assemblies can gather information to feed EP activities and find a venue to explain activities currently undertaken by the Parliament with reference to partner countries, leaving time for countries to react. This suggests that EP conduct in joint assemblies should by necessity be coordinated with other EP human rights activities and can help to align EP strategies in the field. However, this potential is not always realised. The Co-President of the ACP-EU JPA iterated that the EP delegation to the JPA does not represent EP views; it is an autonomous body that has its own rights, powers, priorities and issues. Positions reached in joint assemblies are by the same token not necessarily regarded as binding on the EP for its future activities – a fact which is noted with some frustration by third country representatives. This is an inevitable consequence of having two different political colleges achieving consensus on similar issues, but can be viewed as contradictory actions from the Parliament. Additional criticism levelled against the Parliament by Mediterranean partners in the EMPA is it comes across as patronizing, prepared only to address human rights violations outside its own borders; Mediterranean partners further criticize the fact that EP on its own accord addresses issues that concern Mediterranean countries: why should the EP adopts resolutions on political dissidents in Egypt, when this would be better

²¹² See Candusso, René, ‘Zimbabwe, droits de l’homme et assemblée parlementaire ACP-UE’, in *Revue du marché commun et de l’Union européenne*, n° 464, 2003, pp. 21-23.

discussed in the EMPA? Possible discrepancies between EP and EMPA stances are therefore perceived as illustrative of the disconnection between EP discourse within and outside the joint assemblies. Positions on the situation triggered by the publication in a Danish newspaper of cartoons that caused offence to Muslim religious sentiment are an example. The resolution on the right to freedom of expression and respect for religious beliefs adopted by the EP on 16 February 2006 emphasises freedom of expression over freedom of religion and belief, and draws attention to acts of violence from Muslim communities against Europeans, than the previous statement by the Bureau of the Euro-Mediterranean Parliamentary Assembly, during its meeting of 6 February 2006, which started by “strongly deplor[ing] the offence given to the religious feelings of the Muslim community”. The matter was brought to EMPA meeting in March 2006, which adopted on 27 March 2006 a recommendation on the outcome of the Barcelona Summit and the outlook for the Euro-Mediterranean partnership, insisting more on freedom of religion, but with language on the limits of freedom of expression – the crux of the matter, as far as principles of human rights law are concerned – is almost identical to the EP resolution. The differences can therefore pertain to specific elements²¹³ or to overall tone. It is noticeable that none of these activities refer to each other. The EP only “recalls that the Euro-Mediterranean Parliamentary Assembly is the appropriate forum for working together with the EU's partners on the southern bank of the Mediterranean for a democratic, pluralist and tolerant society based on the values of human rights”.

All in all, participation in joint assemblies is a difficult, but potentially rewarding exercise that could be better linked with other activities of the EP, while retaining their individuality. It needs time and efforts to establish an open and direct relationship that permits for dynamic exchanges and mutual confidence.

²¹³ Most notably the EP in its resolution “expresses its solidarity with journalists in Jordan, Egypt and Algeria who have courageously reprinted and pointedly commented on the cartoons; strongly condemns their arrest and urges the respective governments to drop all charges against them” (para. 9).

3.3.1.2. Bilateral liaison with regional organisations

The example of the Council of Europe

The EU, itself a successful and unique regional integration, underlines the importance of regional systems. It is held that these are better equipped to devise efficient human rights mechanisms, enforceable through peer review or even judicial mechanisms. Other regional organisations are natural partners for dialogue, and can deliver expertise or information on specific areas where the EU, or the EP, is less versed. One third of EP resolutions adopted in the field of human rights from 1999 to 2006 refer to the activities of regional organisations (other than the EU) as background information and 16.4% of the same resolutions call on at least one regional organisation for action on specific situations. The Council of Europe (CoE) is undoubtedly the organisation that the Parliament, and the EU as a whole, has developed the closest relationship with.

According to article 303 ECT, the Community “shall establish all appropriate forms of cooperation with the Council of Europe”. One form of co-operation is the “quadripartite meeting”, a half-yearly summit meeting, attended by the Secretary General of the Council of Europe and the Chair of its Committee of Ministers, and by the Presidents of the EU Council and the European Commission. While high-level meetings remain mainly formal, contacts at the institutions-level are more fruitful. These contacts are becoming more and more important with respect to human rights issues, particularly frequent between the EP and two CoE institutions: the Parliamentary Assembly of the Council of Europe (PACE) and the Commissioner for human rights. The CoE is also a reference source for human rights expertise.

Quality of contacts with the PACE and the Commissioner for human rights

Relations between the EP and the PACE are substantial. Since 1995, the EP and the PACE have held two joint sessions²¹⁴. In accordance with Rule 189 (1) of EP Rules of Procedure, “Parliament’s bodies, particularly the committees, shall cooperate with their counterparts at the Parliamentary Assembly of the Council of Europe in fields of

²¹⁴ See “*Council of Europe-European Union: A sole ambition for the European continent*”, Report by Jean-Claude Juncker, notably excerpts in Box 21, p. 281.

mutual interest, with the aim in particular of improving the efficiency of their work and avoiding duplication of effort”. In the field of human rights, such a co-operation has developed between the EP Sub-Committee on Human Rights and the PACE Committee on Legal Affairs and Human Rights (CLAHR) and its own Sub-Committee on Human Rights. A representative of each committee regularly attends meetings of its counterpart; the CLAHR has held exchanges of views on issues of common interest with Members of the European Parliament. Correspondingly, PACE members have been invited to present the views of the Assembly to the EP Sub-Committee on Human Rights.

However, mandates of the two Sub-Committees are different. While the PACE Sub-Committee on Human Rights is an emanation of the CLAHR, tasked to consider “human rights, fundamental freedoms and the rule of law in the member states of the Council of Europe” and “give an opinion on the law, legal practice and the observance of human rights and fundamental freedoms of applicant states for membership of the Council of Europe, to assess compliance with Council of Europe standards”, the Sub-Committee on Human Rights of the EP assists the Committee on Foreign Affairs, and shall address “issues concerning human rights, the protection of minorities and the promotion of democratic values in third countries”²¹⁵. The focus of the two Sub-Committees is therefore slightly different and has led to an exchange of views between the chairpersons. During their meeting on 13 March 2006, they identified areas where co-operation could be strengthened and their work better articulated (human rights defenders, torture, terrorism and EU accession countries). Some proposals have been made, including the sending of joint delegations, for instance to Turkey – which is in line with the good co-operation that the two institutions already had for previous EU enlargement²¹⁶.

²¹⁵ The CLAHR is in contact with the EP Committee on Civil Liberties, Justice and Home Affairs (LIBE) as well. This Committee is responsible for “the protection within the territory of the Union of citizens’ rights, human rights and fundamental rights” (human rights inside the European Union).

²¹⁶ Arguably, the severe deterioration of human rights situation in certain EU Member States, for instance in Poland, could also justify the running of common activities.

**Council of Europe-European Union:
“A sole ambition for the European continent”**

Report by Jean-Claude Juncker, Prime minister of the Grand Duchy of Luxembourg, to the attention of the Heads of State or Government of the Member States of the Council of Europe (11 April 2006 – Excerpts, pp. 26-27).

“Contacts between the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) are not easy. Two joint sessions have been held since 1995, but these cannot be termed a success. People in the EP Parliament know little about the Council’s resources, and this leads to duplication of effort. To take one example, although the EU as such refers to the monitoring procedure of the Committee for the Prevention of Torture, the EP once set up an ad hoc committee on torture-related issues. Of course, there is a glaring discrepancy between the resources of the PACE and the EP, and there is also a considerable difference between their political cultures.

[...]

Co-operation between the PACE and the EP must constitute a real plus for Europe’s democratic security and avoid duplication of effort. Among other things, it should make it possible to identify the best forum for solution of some of the social and legal problems which arise in an enlarged Europe. The two assemblies can also act as a lever in aligning or harmonising legislation in Greater Europe.

The PACE currently provides added value in four ways:

1. by making people aware of the need to establish a law-governed Europe, in a pan-European legal area where an absence of regulations can sometimes result in “non-law” zones of varying size;
2. by providing a political impetus and formulating standards on problems which need to be solved in a broader geographical area than that of the EU;
3. by verifying compliance with commitments and obligations accepted by member states on joining the Council of Europe, which partly coincide with the conditions for joining the EU and participating in other EU policies;
4. by investigating acts which may have seriously violated the principles enshrined in Council of Europe conventions.

As I see it, the most useful points of contact between the two assemblies would be:

1. meetings between the Conferences of Presidents of the political groups on both sides
2. meetings between the committee chairs on both sides.

Meetings between the Conferences of Presidents of the two assemblies’ political groups would probably make for a stronger political group approach within the PACE. They would also facilitate exchanges of a more political kind between MEPs and national MPs. Coordination would obviously be useful for MEPs. On the PACE side, national MPs from non-EU countries would be more deeply involved in a general process of Europeanisation of the political families and parties. Committee chairs from the two assemblies already hold meetings, but the way in which those meetings function needs to be reviewed. Their frequency should be agreed with the EP committees. Provision should also be made for ad hoc meetings on urgent European issues. These meetings should focus on a limited number of strategic topics, clearly defined by the two institutions and co-ordinated between them.”

Co-operation between the two institutions intensified following the alleged secret detentions in European States, with numerous contacts between Dick Marty, PACE rapporteur on this issue, and the EP Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners, set up in early 2006. CLAHR had an exchange of views with the rapporteur

of the EP Temporary Committee on 13 March 2006 and Dick Marty took the opportunity to address members of the European Parliament's Committee during one of its first public hearings²¹⁷. This demonstrates that an effective co-operation between the two organisations on a specific issue reinforces each other's work.

As far as the relations with the Commissioner for Human Rights of the CoE are concerned, contacts at the highest level are frequent. The former Council of Europe Commissioner for Human Rights, Alvaro Gil-Robles, addressed the EP's Sub-Committee on Human Rights on several occasions, for example after one of his visits to the Russian Federation/Chechnya. The new Commissioner, Thomas Hammarberg, presented his views on key human rights problems to the Sub-Committee on Human Rights for the first time in July 2006. There is also close co-operation between the Commissioner and the Committee on Civil Liberties, Justice and Home Affairs.

Council of Europe as a source of reference materials

Due to its numerous monitoring bodies, the Council of Europe is frequently cited as a source of information in the work of the European Parliament; 13.5% of the resolutions that were analysed refer to the CoE activities (or joint activities) for background information. It is the regional organisation that is the most often cited, ahead of the OSCE (10.3%) and the African Union (8.7%). In particular, joint parliamentary activities within the Troika EP-PACE-Parliamentary Assembly of the OSCE are referred to, as well as the European Convention on Human Rights and the jurisprudence of the European Court (7.7% of the resolutions). With respect to resolutions on European countries, references to CoE logically increase (53.3% of the resolutions). Regarding EP calls for action, 16.4% of the resolutions call regional organisations for action, but only 1.9% of them are aimed at the Council of Europe, compared to 7.7% at the African system and 4.5% at the OSCE. Reasons for this may be twofold: either the CoE is perceived only as a source of information, with less capacity to reaction, or the organisation is seen through prism of the European Court of Human Rights, and no call for action is needed. This also shows that expectations

²¹⁷ Report of the PACE, *Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states*, Doc. 10957, 12 June 2006, para. 1.5. (European Parliament), which also stressed that "Co-operation with the Temporary Committee has been extremely satisfactory".

from other regional organisations vary greatly according to the geographical and thematic mandate of the organisations, their ability to deliver expertise and remedies to human rights violations, and arguably whether they pursue similar activities. It depends ultimately, on EP's consistency in associating regional organisations with its activities²¹⁸.

The CoE expertise is recognised in a number of areas and its experts have been invited to hearings (for example: hearing of experts, including a member of the Committee for the Prevention of Torture of the Council of Europe, on the EU Guidelines on Torture and other Cruel, Inhuman or Degrading Punishment or Treatment, Sub-Committee on Human Rights, 4 May 2006). This expertise has also been underlined by Jean-Claude Juncker in his report²¹⁹, concluding that “the EU bodies should recognise the Council of Europe as the Europe-wide reference source for human rights”.

Beyond formal contacts and exchanges of information

At the close of the Third Summit of the Council of Europe in Warsaw (16-17 May 2005), the Heads of State and Government of CoE Member States declared that they were “resolved to create a new framework for enhanced co-operation and interaction between the Council of Europe and the European Union in areas of common concern, in particular human rights, democracy and the rule of law” and committed to drafting a memorandum of understanding between the Council of Europe and the European Union²²⁰. This memorandum is currently under discussion and should be adopted before the end of 2006. It is an opportunity to reaffirm the necessity of co-operation between the two organisations and their institutions, as well as avoiding duplication of efforts by taking cognisance each other's work. However, while overlap of roles

²¹⁸ It is striking that, while the Inter-American system of protection of human rights is close to the European mechanisms (and notably to the system of the European Convention on Human Rights) and efficient in addressing human rights, it is infrequently referred to in EP resolutions; 71% of the resolutions on European countries refer to either the Council of Europe or the OSCE, and 25.8% call on either of them for actions. With regard to resolutions on American countries, the statistic drops to 24.3% as far as references to activities of the Inter-American system is concerned for delivering background information, and 5.4% of the resolutions on American countries in terms of calls for actions (in fact, two of the resolutions scrutinised called on the American regional system for actions).

²¹⁹ *Juncker Report, supra*, Final recommendations, p. 33.

²²⁰ Warsaw Declaration (§ 10) and Plan of Action.

should indeed be avoided, multiplication of activities on the same issue underlines it, thereby increasing the impact of these activities.

Overall, relations between the two institutions are positive, but are broadly limited to exchange of information and official meetings. Activities actually run together, such as some election observation missions or in the context of the enlargement, show that concrete activities are desirable. Meetings at all levels should be increased. The idea of mandating specific MEPs or groups of MEPs to follow specific issues streamlines MEPs' participation in meetings of the CoE, preventing duplication of work and devising common strategies. This function is now performed by Rapporteurs or specific reports or inter-groups²²¹. Most of the potential for strengthening the CoE-EP relations depends on the EP itself; the CoE is specialised on human rights, has more expertise and resources to work on these subjects. Views from the CoE point out that the EP may be willing to act but is restricted by a lack of powers which acts as a deterrent to MEPs involvement. The EP must demonstrate that it can take the lead on specific issues, and mobilise enough resources and energy on these issues, as it has done on other issues (CIA secret activities, enlargement), attracting the co-operation of the Council of Europe.

²²¹ For instance the EP inter-group on gay and lesbian rights, when convening in Strasbourg, systematically invite counterparts from the Council of Europe

3.3.2. The EP and the United Nations human rights protection system

The European Parliament has long since identified the importance of the UN human rights protection mechanisms as the overall framework for the promotion of human rights internationally. Increasingly it considers its contribution in light of the UN system, and the need for contextualising and ideally co-ordinating its activities with the UN regime. Half of all EP human rights resolutions make reference to UN activities. The activities referred to are generally undertaken by a wide category of actors: Security Council, General Assembly, Secretary General, UN field missions, etc; human rights bodies of the UN are not uniquely cited. The Security Council is mentioned as background information in 15.3% of the resolutions, the General Assembly in 7.4%. The High Commissioner and the Commission on Human Rights are both cited in 5.6% of the resolutions, the UN Special Rapporteurs in 6.9% and the Committees monitoring the implementation of UN human rights treaties in 2.9% of the resolutions. Mention of the activities of the UN serves both as points of reference and as a expressions of support for the activities in question. Of EP resolutions on human rights, 21.2% call one or the other UN body to act. Two of the resolutions analysed called exclusively on the UN Security Council: the resolution on Iraq adopted on 6 July 2006, which “calls upon the UN Security Council to commence a dialogue with a view to lifting the economic embargo”, and the resolution on the detainees in Guantanamo Bay adopted on 7 February 2002, which “calls [...] on the UN and its Security Council to pass a resolution establishing a tribunal to deal with Afghanistan, with the aim of clarifying the prisoners’ legal status”. They were not reflected upon by UN Security Council’s activities.

Effort to better coordinate EP with UN human rights agenda and mechanisms, supported by NGO advocacy, is increasingly apparent, and has been reinvigorated with the re-institution of the Sub-Committee on Human Rights. EP human rights actors have identified the need to develop specific strategies to better understand and contribute to the UN human rights regime. This includes targeted contribution to the main meetings, particularly the Commission on Human Rights (now UN Human

Rights Council) and attempts to stimulate contacts with UN Special Procedures on human rights. The practice is rather emerging and still not completely consolidated.

3.3.2.1. Impact of the activities of the European Parliament on the Commission on Human Rights

Although the Commission on Human Rights (CHR) has been replaced by the UN Human Rights Council, the Parliament should assess its performance against the former Commission and learn lessons from past experience in order to maximise its input to the new structure, which retains features from the old system.

For many years the EP has actively participated in the preparations of the CHR, emphasising on EU Member States performance in the Commission, through debates, resolutions, and delegations to the Commission on Human Rights. The debates held in the EP have followed a standard structure: opening statements of representatives of Council and Commission; interventions of MEPs (parliamentary groups or individual members) and concluding observations of Council and Commission. Opening statements, notably of the Council, aim to inform the EP on the preparations for CHR and EU positions to be taken in Geneva. They were not entirely satisfactory, usually as MS positions were not finalised at the time of the debate. Information given by the Council concentrated on the highest profile country resolutions. Generally, interventions of MEPs were not particularly focused on the opening statements but covered a wide range of countries or thematic issues. They dealt with human rights problems but not always those related to CHR, sometimes focussing on internal concerns or broad thematic issues not connected to Geneva. The concluding observations promised to bring the views expressed to the attention of the “appropriate Council instances”. There was no specific follow-up to the debates, other than the vote on a resolution, usually entitled resolutions on the EU’s priorities and recommendations for the session of the UN Commission on Human Rights in Geneva. In the last two years they were based on common motions on behalf of the Committee on Foreign Affairs. Until 2005 these resolutions did not have a clear structure but covered the whole range of institutional, procedural and substantial matters of CHR. For the first time in 2005 the text was divided in chapters on “Country and territory situations”, “Thematic issues”, “Effective functioning of human rights instruments”

and “Preparations and follow-up”. The resolutions requested a specific follow-up in form of a report of the Council and Commission and set a deadline for those reports. There is no distribution system for these resolutions, at least not in Geneva – they were mostly unknown, even in the EU Member States’ missions there. Thirdly, as a further means of information and scrutiny the EP decided to establish *ad hoc* delegations to attend the CHR. The last such delegation was in Geneva from 3 to 6 April 2005 to hold meetings in the margins of the 61st session, but another one was sent to the newly established Human Rights Council. The delegation sent in April 2005 was composed of six MEPs of different, but not all, parliamentary groups. It followed an intense three day schedule, meeting different actors in Geneva: official delegations, Special Rapporteurs, NGOs and the High Commissioner for Human Rights. It also attended plenary meetings of CHR but could not take the floor.

Compared to other parliaments, the EP is showing a unique interest in the work of the UN institutions in Geneva; only few parliaments like the Bundestag have interest in it. The EP recognizes that “the UNCHR is the main UN body for the promotion and protection of human rights around the world”²²² – which might explain why the Parliament did not invest the same energy to the work of the UN General Assembly²²³. The EP should continue to follow the deliberations and results of the new Council in a systematic manner and endeavour to influence them. However, its legal status and mandate impose limitations on its participation. The first such limitation derives from the fact that the EU was not a member of CHR. Membership for the new Council is restricted to States and not all Member States of EU were member of CHR (in 2005 only eight MS) and in the Council (eight MS, plus Romania). In accordance with article 19 (1) TEU Member States shall uphold common positions – but only if and when it is possible to reach a common position. If

²²² EP resolution on the EU’s rights, priorities and recommendations for the 60th Session of the UN Commission on Human Rights in Geneva (15 March to 23 April 2004), adopted on 10 February 2004, recital E. This perception was watered down the year after. The UNCHR was presented as “one of the main UN bodies for the promotion and protection of human rights around the world”, in EP resolution on the EU’s priorities and recommendations for the 61st session of the UN Commission on Human Rights in Geneva, adopted on 24 February 2005, recital F.

²²³ The Third Committee of the UN General Assembly, however, also deals with human rights issues. EU Ambassadors actually recommended EP delegation members in Geneva “to further deepen this inter-institutional dialogue by attending the Third Committee meetings in New York. The EP should enlarge its vision of the UN policy on Human Rights by covering the entire UN scope. Indeed, such initiative would allow the EP to continue to better follow up the reform process of the CHR and to better position itself in the debate on human rights held at the UN level” (European Parliament, *Report on the EP ad hoc delegation to the 61st session of the UN Commission on Human Rights in Geneva from 3 to 6 April 2005, from the Chairperson of the ad hoc delegation to the 61st session of the UNCHR, Mrs Hélène Flautre*, 14 April 2005, p. 4).

EU Member States fail to agree, those which are members of CHR cast their vote at their own political discretion. The obligation to co-ordinate positions does not guarantee a common policy and vote in meetings of CHR. These inherent limitations (EU not being a member of CHR or the new Council) also apply to positions of the EP. A further aspect is the traditional separation of responsibilities and powers that leaves the conduct of international negotiations including those in international organizations to governments and their official delegations. Parliamentarians are usually not included in governmental delegations which are bound to follow instructions from their minister.

Apart from these legal limitations there are also political and procedural elements that influence impact.

1. *Debates.* The first problem was timing: debates on CHR were held in January/February before the sessions in Geneva which traditionally commenced mid-March. This was in principle early enough to have an influence on the discussions within the Council. However, COHOM as the main policy making body regarding CHR started preparations in December and by February already agreed on the main directions for Geneva. A resolution passed on 24 February (like in 2005) was already too late for a change in position. Regardless, even in COHOM meetings held after the EP debate, positions expressed by the EP seem to have only a minor weight regarding still open questions. As a NGO representative put it: “one cannot treat the CHR as something that happens only once a year: it must be built into CFSP around the clock”. The same is true if not more so for the new Council. Other possible deficiencies relate to parliamentary procedures. Debates on CHR, first, should be a dialogue between EP and Council on common directions for Geneva. In their current form they are more a sequence of interventions without a common focus and occasionally with no relevance to the CHR; they typically did not address outstanding and disputed points in the deliberations of the EU Council and were mostly an enumeration of concerns of various parliamentary groups or individual members. In a political sense there is not a dialogue with the Council.

2. *Resolutions.* As far as resolutions are concerned, it seems that since 2005 the resolutions on CHR have at last a clear and readable structure. However, this has

come at a certain price: their operative paragraphs have doubled from 2003 to 2005. For both substantial chapters (country situations and thematic issues), there seemed to be no real focus and no set of priorities. The text is apparently the result of requests from different groups and members of the EP which all have been taken into account and culminated into a “wish list” from the abolition of the death penalty to sexual discrimination. The all-embracing character of such resolutions made it difficult for addressees – the Council, the general European public or other members of CHR – to identify the central concerns and requests for action in Geneva. This was particularly apparent for country situations: in 2005, the EP has called in paragraph 4 and its subdivisions, for CHR resolutions on 31 countries or territories ranging from the most obvious cases like Burma, to democracies like India. It is almost naïve in the context of the CHR to expect even minimal support for a resolution against India. Under agenda item 9 of the 61st session of CHR, only four countries were criticized and condemned for their human rights record. The question is therefore whether the long lists of the EP were simply meant to “go on record” or to have a real impact in Geneva. Harsh criticism against these types of resolutions is unsurprising; one Brussels-based NGO called them “totally unrealistic and therefore ineffective”, and an MEP “absurdly over-ambitious with regard to what can be achieved in Geneva: it looks good but it in fact worse in terms of actually influencing the EU position”. But also the High Commissioner for Human Rights herself (in her meeting with the Sub-Committee on 27 May 2005 after CHR) has called for more “prudence et subtilité”, implying that the EU should not be over-ambitious in shouldering the spectrum of country resolutions.

3. *Delegations.* Given the aforementioned legal constraints, delegations of the Sub-Committee to Geneva served primarily for the information of their members on the atmosphere, the central agenda items and the positions of regional groups outside Europe. This in itself justified the yearly excursion. These delegations enhance EP understanding of UN processes on human rights and help the EP to identify a “niche” for its contribution. Follow-up on Geneva mission also had a role in framing the EU position on the HR Council. But it was also helpful to underline and strengthen common EU positions in on-going discussions (like a resolution on Sudan during the 61st session). The dates for the visit in 2005 (3 to 6 April) were well chosen in this

respect since the delegation came at a time when crucial country resolutions were negotiated (i.e. ten days before the vote).

The EP is encouraged to follow closely the deliberations of the new Human Rights Council. It is appropriate that the EP manifested its interest during the first session of the Council in June 2006. To make an impact in substance the EP should forgo the all-embracing character of its activities and concentrate on a few priority countries and thematic issues. Shorter, focused texts are highly recommended. To underline and reinforce common EU positions it makes sense to send a delegation before sessions of the Council to Geneva to speak to the main players and Geneva based NGOs. Since the relevant texts of the EP are almost unknown in Geneva, the EP should think of establishing a standard distribution system. It could take advantage of the Delegation of the Commission for this purpose and should also think of a regular line of communication with the Presidency to keep members of COHOM informed.

3.3.2.2. Co-operation with the UN Special Rapporteurs and Representatives on human rights issues

The European Parliament and notably the Sub-Committee on Human Rights, have gone to great lengths to better understand and support the activities undertaken by the UN Special Rapporteurs and Representatives of the Secretary-General on human rights issues. This trend is illustrated by the increased number of references to their activities, both as a source of information and assessment of specific situations and issues with regard to commonly accepted standards of international human rights law, and in a bid to support their mandate and activities whenever it is possible. These trends are reflected in EP resolutions referencing these mechanisms. Although from September 1999 to March 2006 they were irregularly referred to (only 6.9% of the resolutions on human rights) statistics show that they are increasingly referenced since the re-institution of the Sub-Committee. Generally, references fulfil the two objectives. Out of the 26 resolutions analysed referring to UN Special Rapporteurs and Representatives, twelve refer to them as a source of information, nine mention them explicitly in order to support their activities and mandate, while five resolutions perform both at the same time.

Demonstrating a commitment to being comprehensively informed, the EP seeks to integrate conclusions deriving from UN special procedures as material for its own reflection, leading the EP to better identify the stakes and the appropriate way to contribute to an issue. Special Rapporteurs are increasingly invited to participate in EP meetings. Yakin Erturk, UN Special Rapporteur on Violence against Women, its Causes and Consequences was invited for a Joint Public Hearing of the Committee on Women's Rights and Gender Equality and Sub-Committee on Human Rights on *Femicide – The case of Mexico and Guatemala* on 19 April 2006; Manfred Nowak, UN Special Rapporteur on Torture for an exchange of views on the implementation of the EU Guidelines on Torture, in a meeting of the Sub-Committee on Human Rights organised on 4 May 2006; and Hina Jilani, UN Special Representative on Human Rights Defenders for discussion in the Sub-Committee on 11 July 2005.

The Sub-Committee has been instrumental in increasing EP support to the mandates of the special procedures. In the press statement of the delegation of the European Parliament to the 61st UNCHR in Geneva, the delegation said it “was surprised and frustrated at the lack of resources available to the special rapporteurs dealing with dramatic issues like human trafficking”, and supported “the resolution introduced by Mexico calling for the appointment of a special rapporteur on the promotion and protection of human rights while countering terrorism”. Further, according to the “Specific guidelines for human rights and democracy actions of MEPs in their visits to third countries”, the MEPs shall “encourage the authorities of third countries to cooperate with the special mechanisms of the UN (Special rapporteurs and Special representatives)”; “it would be useful for members of the delegation, in their relations with representatives of countries which have not extended an invitation to the Special Representative of the United Nations Secretary-General (SRSG) on human rights defenders, to raise this issue and to encourage them to agree to the his/her request”. This is welcome, as it is observed that not all delegations currently support the work of UN special procedures. It even happened that the head of a delegation, sent to Cambodia in April 2006, publicly criticised the report issued by UN Special Rapporteur on human rights in the country as lacking objectivity. This critique was

sized by the authorities as an opportunity to minimise the legitimacy of the UN report²²⁴.

While there is a real willingness to take into consideration and support the activities of the Special Rapporteurs and Representatives, this does not mean that there is enhanced co-ordination, nor communication, between them and the Parliament. The Special Rapporteurs are never called upon to act in resolutions – although it happens that MEPs individually call special procedures for action. In this respect, the language included in the EP Annual Report on Human Rights for 2005 seems excessive compared to reality. It “points out [...] that the Subcommittee on Human Rights focused its 2005 activities on the implementation of the EU human rights instruments such as the EU Guidelines on the Protection of Human Rights Defenders and set up, in this respect, a system of coordination with representatives of United Nations human rights bodies”²²⁵.

**European Parliament and UN Human Rights protection special procedures
Contribution to the research from Ms. Hina Jilani, Special Representative
of the UN Secretary General on Human Rights Defenders**

16 June 2006

1. General assessment of European Parliament and its impact in human rights

The European Parliament has taken up some human rights issues that could inspire other institutions, regional as well as national, to promote recognition and implementation of human rights norms. Much of this work has been done in the area of Justice and citizenship or issues of health and environment. The European Parliament's notice of gross and continuing violations such as the situation of prisoners in the US facility in Guantanamo also indicates the institution's interest in human rights situations globally. However, in countries of other regions there is little awareness of these initiatives. In most countries that I have visited, the EU Parliament has only rarely been mentioned as an institution that can be useful in global campaigns on geographic or thematic human rights concerns. The expectation of the possibility of any form of initiative taken by the European Parliament in particular cases or with reference to incidents and situations in other countries is even more rare.

2. Support by EP to UN Special mechanisms

I have had two occasions on which I got the opportunity to interact with committees and members of Parliament on human rights issues. Both times it was at their invitation. While the contact has not been consistent and no channels of coordination or exchange are in existence, the mandate on human rights defenders has been supported by the Parliament. This support has largely manifested itself in the increasing space for human rights defenders to raise human rights concerns with the Parliament or its institutions. This support can improve with the Parliament taking note of reports highlighting the threats to defenders and encouraging co-operation of its Member States with the mandate. The EP should take more steps to enforce the EU Guidelines on Human Rights Defenders.

²²⁴ For more details see pp. 108-109.

²²⁵ Resolution on the Annual Report on Human Rights in the World 2005 and the EU's policy on the matter (2005/2203(INI)), adopted on 18 May 2006, paragraph 104.

3. Input of EP to UN mechanisms

With better communication my mandate and others would have more information on the activities of the EP. Mandate holders would then be in a better position to take into account in their work EP calls and activities on specific cases or emerging issue.

4. General assessment of EP's contribution to UN human rights system

The EP can use its resolutions to ensure EU governments maintain a commitment to human rights and are able to play an effective role in reducing selectivity and politicization within the Council. This would be particularly important in using regional groupings for promoting objective and effective action, rather than for polarizing the Council on political consideration.

Besides occasional meetings, there is no regular communication between mandate holders and the Parliament. Activities are not communicated to each other, clearly a missed opportunity. Special Rapporteurs express their likelihood to use EP resolutions and activities – they are generally identified as sound and bold, although for their factual analysis NGO reports are preferred. When travelling to a country, Special Rapporteurs receive information on activities undertaken vis-à-vis the country by many assemblies, notably the PACE, the Inter-Parliamentary Union and the US Congress. If dissemination of information on EP activities is not more proactive, there is a real risk that Special Rapporteurs will not be aware of EP activities. Conversely, it is also recognised that information about Special Rapporteurs and Representatives is not proactively forwarded to the EP. This diminishes the likelihood of the EP to following up or echoing UN mandate holders concerns and calls – an activity the importance of which has been identified both by UN Special mechanisms and the EP itself. Special Rapporteurs noted that within the EU contacts are privileged with the Commission and the Council. First, since they have representations in third countries, visits are organised on site to EC Delegations and EU Member States missions. Second, in Brussels, it is sometimes felt by mandate holders that their main counterpart is the Personal Representative of the SG/HR on Human Rights in the area of CFSP, with whom they try to co-ordinate their activities. The reason for this might not be so much that the Council has a stronger mandate or a clearer line/strategy, but simply that it is easier to identify the contact person within the Council. Despite the presence of the Sub-Committee a contact person in the Parliament is not easily discerned²²⁶. The EP could go beyond occasional meetings to devise with mandate holders open and functioning channels of communication, at least to exchange

²²⁶ Depending on cases, it might be more relevant to contact: EP delegations, EP President, AFET, FEMM, DEVE, LIBE, or even the Human Rights Unit, etc.

information about their respective activities, at best to co-ordinate activities and strategically create synergies.

Summary of recommendations on the Parliament and other international actors

- Generally uphold and deepen the cooperation channels which have been identified and initiated between the EP and other regional and international organisations active in the field of human rights.
- More specifically, consider whether EP participation in Joint Parliamentary Assemblies could be better integrated into the overall EP human rights agenda and co-ordination of activities.
- Complement enhanced dialogue with PACE with concrete joint activities in the areas already identified in joint meetings; increase the cooperation between the EP and CoE at all levels and ensure better follow-up on meetings.
- Seek to refer more consistently to other regional organisations in EP activities concerning certain regions, notably the Americas.
- Uphold the EP's political engagement vis-à-vis UN human rights bodies, but seek to make a sharpened and more realistic contribution through debates and resolutions: concentrate on a limited number of priority countries and thematic issues. Elaborate a standard distribution system for information on EP activities.
- Enhance the EP's support to UN special procedures (both in resolutions and in the work of EP delegations) as well as the channels of communication between UN mandate holders and the EP.

Annex I

Summary of main findings and recommendations of relevance to the EP Sub-Committee on Human Rights

As the pivotal organ of the Parliament in charge of promoting human rights outside the EU, the Sub-Committee on Human Rights (DROI) has a natural interest in all human rights activities of the EP and all aspects of how the EP's performance in this regard can be enhanced. *All* findings of the present study are therefore of immediate relevance to DROI. The present summary highlights the particular role of DROI in the three main areas covered by the study:

- I. activities of the EP in the area of human rights;
- II. cross-cutting factors capable of enhancing the impact of the EP in the area of human rights outside the EU;
- III. EU inter-institutional relations including, notably, the exercise of democratic control.

I. With regard to the activities of the EP in the area of human rights it is found that:

- Activities directly undertaken by DROI, such as exchanges of views/public hearings and delegations to third countries, are naturally likely to have a clear human rights focus and thus set an example for the conduct of such activities generally. More should be done, however, to disseminate and publicise reports on debates and delegations and to engage representatives of third countries.
- While DROI is not directly responsible for resolutions and a range of other activities targeting human rights, it provides important input by presenting a forum for discussing and shaping the activities in question. This is especially the case with regard to the Sakharov Prize and the Annual Report on Human

Rights, but also with regard to the way in which the EP exercises budgetary powers and its rights to give assent to international agreements.

- Individual actions of DROI members are not well documented but appear to make a valuable contribution to the promotion of human rights. They should therefore be taken into account by DROI. As a limited and specialised forum, DROI could leave room for a better acknowledgment and consideration of the individual actions of its members, and possibly allocate meeting time for members to freely raise their concerns and report on actions taken.

II. With regard to cross-cutting factors affecting impact, it is found that:

- DROI has an essential role to play in developing capacity and mobilising expertise in the area of human rights; monitoring and follow-up to human rights activities; coordination of the EP's overall human rights agenda; enhanced visibility and dissemination.
- It is important for external actors to be able to identify within the Parliament a single interlocutor and point of reference on human rights issues; DROI is naturally suited to fulfil this role.
- The work of DROI is, like that of the EP generally, negatively affected by inconsistent attendance to meetings and activities as well as by a tendency to pursue a very broad, i.e. not clearly focused, agenda in the area of human rights.
- In fulfilling its role and functions, DROI is limited by insufficient resources and lack of certain key competencies, notably with regard to tabling resolutions and feeding the work of other committees/delegations. Generally the EP should seek to enhance DROI's capacity for leadership and coordination of human rights issues. A central policy option (identified by the EP itself in a resolution of 25 April 2002) would be to upgrade the Sub-Committee to a full-fledged committee of the EP.

III. With regard to the role of the Parliament within the EU inter-institutional set-up, it is found that:

- DROI has contributed positively to an enhanced inter-institutional dialogue about human rights priorities and activities of the EU; however, such dialogue still needs to be reinforced at all levels.

- The EP has a special role in scrutinising the human rights activities and performance of the other EU institutions. DROI has in this regard taken a constructive lead in raising awareness within the EP about existing EU commitments in the area of human rights, notably as expressed in the *EU Guidelines on Human Rights* and the *Human Rights and Democracy Clauses*. These serve as crucial points of reference for exercising democratic control and holding the Council and Commission accountable to their human rights commitments.
- Parliamentary questions enhance accountability if they reflect EP views and are coordinated in a systematic way with other activities. DROI has an important role to play in discussing and seeking to rationalise the use of the parliamentary questions, notably with regard to question time in DROI itself. DROI should be permitted to table questions under Rule 108.
- DROI has been successful in pursuing or contributing to joint human rights activities of the different EU institutions. Drawing on the successful cooperation realised in connection with election monitoring missions, possibilities for such coordinated action could include; a joint Human Rights Day in Strasbourg each year in December on the occasion of which the Sakharov Prize is awarded and the annual EU Report on Human Rights launched; coordinated “public diplomacy” efforts; participation of MEPs in the evaluation of EC-funded human rights projects; and EP involvement in human rights dialogues with third countries. Additional areas of coordinated inter-institutional human rights policies and actions should be explored.

Annex II

Statistical overview of EP resolutions on human rights outside the European Union

July 1999 – April 2006

The present overview contains extensive statistical analysis of the “resolutions adopted by the European Parliament between July 1999 and April 2006, and relating directly or indirectly to human rights violations in the world”, listed in Annex II of the Annual report on Human Rights in the World 2005 and the EU’s policy on the matter, which was adopted by the EP on 18 May 2006.

This list is not taken as exhaustive, but rather as a legitimate and authoritative sample of the resolutions adopted on human rights issues outside the EU over the period. It suffers some drawbacks. Most notably, the list does not take into consideration the resolutions following an own-initiative report, based on Rule 45 of the EP Rules of procedure. Reports are recorded as a separate activity. They nonetheless give rise to major resolutions, on accession process (with large references to human rights issues), on the Annual report on Human Rights in the world and the EU’s policy on the matter, or, on important issues such, as recently, on the human rights and democracy clause in European Union agreements (adopted on 14 February 2005).

A second main weakness of the list proposed is its inconsistency in taking into consideration resolutions that are not adopted under Rule 115 of EP Rules of procedure (urgent resolutions). Resolutions stemming from Rule 108 of the same Rules (resolutions following questions for oral answer with debate) are not always incorporated. For instance, the resolution on the Fourth World Water Forum in Mexico City (16-22 March 2006), adopted on 15 March 2006 and which solemnly declares that “access to water constitutes a fundamental human right”, is not enlisted.

Nonetheless, this list is important in that it at least comprises all resolutions based on Rules 115 and 91, which are exclusively used for human rights matters.

Because of their special nature, the seven resolutions on EU's priorities and recommendations for the sessions of the UN Commission on Human Rights in Geneva adopted over the period have not been taken into consideration. They are addressed separately in a section 3.3.2.1. of the study.

Accordingly, 378 resolutions were analysed. The desk survey consisted in reading all resolutions and examining them through a systematic grid of analysis. It documents different features of the EP resolutions, such as the legal basis of the resolutions, the general, geographical and thematic focus of the resolutions, their ability to refer to individual cases, the references made and sources of information used, and the actors called upon by EP resolutions. Complementary research was done when clarification about the individual cases were needed, and additional data was gathered from EP Services and especially the Presidency's Planning Unit, on the issue of procedures used for the adoption of the resolutions.

This overview presents only statistical findings and methodological remarks (sample, shortcomings, etc.), and might elude the extreme diversity of the resolutions. However, specific and/or original aspects of resolutions have given input to the reflections for the research and are referred to alongside the text of the study. Qualitative assessment on the resolutions and comments associated with this statistical evidence are also included in the study. The logical consequence of using a sample is that absolute values should be considered as less indicative than relative values (share in the total number of resolutions), which have a greater scientific legitimacy and are presented whenever applicable.

1. Legal basis of the resolutions

The legal basis for of a resolution (i.e. the Rule of procedure on which the text is based) is important as an indication of the procedure which has led to the adoption of the text. As discussed in the study, there are fundamental differences between the processes leading to the adoption of the resolution, especially between the so-called “urgent resolutions” and the others.

A reference to the Rule of procedure used has been included in the citations of all resolutions under the sixth legislature, but not systematically under the fifth one. It is therefore not possible to determinate the general break down of the resolutions according to legal basis from the texts of the resolutions. The extensive data available at the Planning Unit of the EP, on the other hand, indexes comprehensively all resolutions, decisions and other texts adopted according to their legal basis, but does not catalogue the resolutions according to their content and therefore to their ability to participate in human rights promotion in third countries.

Resolutions relating to the promotion of human rights outside the European Union are generally based on one of the following Rules of the EP Rules of procedure:

- Rule 91 (resolutions on breaches of human rights – e.g. EP resolution on the human rights situation in Chad, 15 March 2006).
- Rule 103 (resolutions following Statements by the Commission, Council and European Council – e.g. EP resolution on the outcome of the negotiations on the Human Rights Council and on the 62nd session of the UNCHR, 16 March 2006)
- Rule 108 (resolutions following questions for oral answer with debate - e.g. EP resolution on the EU's policy towards the Cuban Government, 02 February 2006)
- Rule 115 (resolutions following debates on cases of breaches of human rights, democracy and the rule of law, also known as “urgent resolutions” – e.g. EP resolution on the situation in Sri Lanka, 18 May 2006).

Concerning the use of each of these procedures, it is observed that:

Rule 115 (urgent resolutions) remains the most used legal basis to address human rights issues. The scope and the use of this Rule have nevertheless greatly evolved over time. First, the number of urgent resolutions (successively Rule 47, Rule 50 and now Rule 115 of EP Rules of Procedure) has been drastically reduced over the years. It passed from 155 in 1995 to 36 in 2005. This trend is based on a voluntary limitation of the use of the urgent resolutions. The previous maximum of five propositions for urgent resolutions per plenary was reduced to three by EP Decision on the General Revision of the Rules of Procedure (2001/2040(REG)) adopted on 12 June 2002. Second, although urgent resolutions were frequently used to address violations of human rights, they were not in the past limited to these issues but rather more widely concerned with “debates on topical and urgent subjects of major importance”. In the abovementioned 2002 decision, the EP decided to limit urgent resolutions to urgent cases of breach of human rights, democracy and the rule of law.

Rule 103 has been gaining in importance over the recent years and is now more widely used than Rule 115. 49 resolutions have been adopted in 2005 (36 under Rule 115), but since Rule 103 does not deal exclusively with human rights issues, nor with external affairs issues only, it is arguable that it is still secondary in importance to Rule 115 with regard to the subject matter of the present study. Rule 103 is nonetheless widely used to address human rights issues, and certain highly important resolutions on human rights are based on this procedure (e.g., the resolutions on EU priorities and recommendations for the sessions of the UN Commission on Human Rights in Geneva).

Slightly fewer resolutions are adopted under **Rule 108** of the Rules of procedures (24 in 2005). Furthermore, they do not deal exclusively with human rights; in fact, the proportion of resolutions dealing with human rights under Rule 108 is not as high as under Rule 103. The procedure nevertheless provides an important tool for articulating human rights concerns.

Rule 91 is the only Rule which has been specifically dedicated to human rights violations outside the European Union during the period under scrutiny. It has been used only three times (Resolution on trafficking in children and child soldiers, 03 July 2003; Resolution on Sudan, 31 March 2004; Resolution on human rights in Chad, 15 March 2006). Rule 90 was used once, over the period 1999-2006 to adopt a resolution on the Situation of Yannick Bigah, President of Christian Action for the Abolition of Torture in Togo, on 08 April 2003. It might be argued that Rule 91, which is an application of Rule 90 procedure to human rights breaches, might have been more appropriate.

Non-legislative resolutions referring to **Rule 45** (resolutions on own initiative reports – e.g. EP resolution on the human rights and democracy clause in European Union agreements, 14 February 2005) are also very important for the expression of human rights concerns, but are treated separately by the EP and are not included in the list annexed to the EP Annual Report on Human Rights for 2005 of EP “human rights resolutions”.

2. Focus of the resolutions

The content of a human rights resolution can be described in three main ways: according to its geographical focus, thematic focus, or focus on the situation of named individuals or organisations. The prevailing characteristic of a given resolution is usually explicit in its title. Obviously, however, many resolutions will display a combination of the three main characteristics. A thematic resolution, e.g., will often at the same time concern a specific country or region, and all resolutions on individual cases at the same time have a certain thematic focus (e.g. the case of Francesco Larrañaga falls into the thematic resolutions on death penalty, the case of Tenzin Delek Rinpoche is a matter of freedom of religion, etc.). The latter class, furthermore, is typically geographically delimited as well.

In order to better capture the existing complexity, the categorisation adopted in the present context departs from the one in common use whereby the category “country resolutions” comprises all resolutions that have an explicit geographical focus and the category “thematic resolutions” comprises only resolutions that concern a human rights theme but have no geographical remit. This division has the unfortunate effect of not rendering visible how many resolutions in fact address specific thematic and/or individual issues. It is therefore proposed to categorise the resolutions as follows:

Type of resolution	Number of resolutions	Share of total number of resolutions
Country or regional focus only	186	49.2%
Thematic and country specific	120	31.8%
Thematic focus only (“purely thematic”)	36	9.5%
Individual focus (thematic, geographic and individual focus)	36	9.5%
Total	378	100%

- **Geographical focus**

With the exception of purely thematic resolutions, all EP resolutions under present consideration focus on the human rights situation in one or several named countries (90.5%). For the present purposes, it is of primary interest to see how the resolutions are distributed according to main regions concerned.

Regions	Number of resolutions	Share of total number of resolutions
Asia/Oceania	98	28.7%
US, Canada, Australia	9	2.6%
Latin America and Caribbean	29	8.5%
Africa (south of Sahara)	87	25.4%
Mediterranean, Middle East and Gulf	42	12.3%
Eastern Europe and Central Asia	53	15.5%
Candidate countries and Balkans	24	7%
Total	342	100%

- **Thematic focus**

It follows from above that three types of resolutions can be considered as addressing having a special theme: the “purely thematic” resolutions, the country resolution with a thematic focus, and the resolution on individual cases. In total, 192 resolutions – a little more than half of the resolutions under consideration – have a thematic focus. Analysis of the thematic focus of resolutions is a valuable indication of EP priorities.

It is only an indication of the themes which have been deemed so important as to adopt a special resolution on it. Other resolutions, not focussing on a particular theme, encompass several issues and offer a sort of “panaché” of themes. Nevertheless, the same priorities generally apply. The most prevalent themes are: humanitarian issues, regional conflicts, women and children, elections, and political repression. It is noted that some themes are made of a variety of sub-themes like, for instance, the humanitarian issues which comprise issues like refugees, war prisoners, weapons, and emergencies. The following overall breakdown is observed.

Thematic focus	Number of resolutions	Share of total number of resolutions
Humanitarian issues	24	12.5%
Regional conflicts (regarding a region and/or a ethnic/national minority)	22	11.5%
Women and Children	20	10.4%
Elections	18	9.4%
Political repression (incl. political prisoners)	16	8.3%
Impunity and ICC	13	6.8%
Freedom of expression / Media	12	6.2%
Freedom of religion	12	6.2%
Death Penalty	10	5.2%
NGOs and Human Rights Defenders	8	4.1%
International/regional human rights protection mechanisms	6	3.1%
Other	31	16.2%
Total	192	100%

The category “other” comprises: development (4 resolutions); sudden regime changes (3); protection of EU citizens abroad (3); cultural heritage (2); sexual orientation (2); health (2); indigenous rights (2); racism (2); education (1); food (1); conditions of detention (1); terrorism (1); labour standards (1); economic projects (1); Olympic Games (1); nuclear activities (1); human rights dialogue (1), misc. (2).

- **Individual cases**

Definition and methodological parameters

Individual cases in the EP resolutions are identified as cases involving explicit reference to named persons or groups who are victims of human rights violations.

The notion of individual extends to groups and organisations. References to entities (a specific NGO, a radio, TV channel or newspaper, or a political party), can be the expression of the exercise of a right (freedom of expression for instance). They have

been compiled, when they do represent specific and explicit cases where human rights are violated and for which action is required. This is in line with the definition of human rights defenders provided in the “UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms”, also known as the “UN Declaration on Human Rights Defenders”.

Being a victim of human rights violations is taken as criteria to identify individual cases. The present compilation does not take into account “individuals” who are mentioned in resolutions but whose rights have not been violated, even if the resolution exclusively deal with their situation. Are therefore not indexed references to Charles Taylor, Alberto Fujimori, former Khmers like Ta Mok and Kang Kek Leu, Augusto Pinochet, Radovan Karadjic, Ratko Mladic, Mengistu Haile Mariam, Hissène Habré, and so on. Resolutions might be entirely dedicated to them, but these are no “individual cases”. Also, in most resolutions the heads of States and Governments (or certain ministers/public persons) are individually mentioned, but do not fall into the category of “individual cases”.

Deceased persons (at the time of the resolution) explicitly referred to by their names are taken into consideration when their death is linked with human rights violations and when the resolution requires the authorities to take action (typically, an investigation of the circumstances of the death and/or the trial of presumed perpetrators). They represent 6.4% of the individual cases.

Besides the number of individual cases, the grid of analysis details the “capacity”, or “identity” of the persons/organisations mentioned. The aim is to identify which categories of persons/cases are mostly referred to in the resolutions. The original grid of analysis distinguished between the following:

- journalists and media/journalists associations (channels, newspapers, etc.)
- politicians/political activists and political parties or informal opposition groups
- human rights defenders and human rights NGOs
- Other individuals and other precise entities

However, the last category was subsequently analysed and sub-groups were consolidated.

One weakness of this classification is that identities are permeable. First, the “capacity” of the persons is not always mentioned nor even relevant, when the violation of one’s rights has little to do with one’s personal characteristics. Second, one can be journalist and politician, or writer and human rights defender at the same time. In that case, categorisation has followed as much as possible the text of the resolution, which usually clarifies how the EP sees the individual. This problem is specially affecting the category of “human rights defenders”, which are generally defined as “individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms” (EU Guidelines on Human Rights Defenders, UN Declaration mentioned above). They can be politicians, journalists, unionists, sport players, etc. However, usually, the resolutions will explicitly indicate that an individual is considered a human rights activist, or its functions in a NGO promoting human rights would be mentioned. Methodological flaws have been taken into consideration.

Number of resolutions mentioning at least one individual case

36 resolutions out of 378 focus specifically on individual cases. Many others, however, also make some mention of the situation of individuals. Generally the resolutions are classified in two groups almost even.

Resolutions	Number of resolutions	Share of total number of resolutions
With no reference to any individual case	190	50.3%
With at least one reference to an individual case	188	49.7%
Total	378	100%

Number and frequency of references to individual cases

It is possible to analyse the frequency of the references to the same cases by comparing the total number of different individual cases raised in all resolutions combined with the total number of references to these cases in the resolutions (thus taking into account repetitions of a case in different resolutions).

Identity	Total number of references in different resolutions	Total number of references in any resolutions	Average frequency of repetition of same cases in different resolutions
Human Rights Defenders – Individuals	32	27	1.19
Human Rights Defenders – NGOs/groups	42	32	1.31
<i>Subtotal human rights defenders</i>	<i>74</i>	<i>59</i>	<i>1.25</i>
Politicians and political activists	240	162	1.48
Political parties and groups	84	50	1.68
<i>Subtotal politicians and parties</i>	<i>324</i>	<i>212</i>	<i>1.59</i>
Journalists	78	70	1.11
Media and journalists organisations	56	40	1.4
<i>Subtotal journalists and media</i>	<i>134</i>	<i>110</i>	<i>1.22</i>
Others - individuals	208	181	1.15
Others - groups	46	28	1.64
<i>Subtotal others</i>	<i>254</i>	<i>209</i>	<i>1.21</i>
Total	786	590	1.33

Read, for instance, for the line on journalists: 240 individual cases on politicians and political activists have been addressed in different resolutions (possibly the same case, in different resolution), but 162 different cases have been addressed in any resolutions over the period (repetitions excluded). It means that in average the individual cases concerning politicians and political activists have been repeated 1.68 times in different resolutions.

It follows from the above two tables that:

- There is an average of 2.08 references to different individual cases in the resolutions (from 0 reference in half of the resolution up to 34 references to different cases in the resolution on the human rights situation in Cambodia, Laos and Vietnam adopted on 1 December 2005).
- On the total number of resolutions which address at least one individual case, the average is of 4.18 references to different individual cases.
- Individual cases are on average repeated 1.33 times in different resolutions.
- Repetitions of cases is more frequent concerning politicians and political parties (1.59 times on average). The most repeated individual cases concern Burmese opposition leader Aung San Suu Kyi (referred to in 14 different resolutions) and the party to which she belongs, the National League for Democracy (13 resolutions), and Zimbabwean opposition leader Morgan Tsangirai (9 resolutions) and its party the Movement for Democratic Change (MDC, cited in 13 resolutions).
- Individual cases concern more frequently persons (in 71% of the cases) than organisations or groups/organisations (29%). This is true for all categories of individual cases, except for the human rights defenders category. In this category NGOs are more frequently referred to (56.8% of the cases) than the persons defending human rights (43.2%).

Eventually, the analysis of the repetition of cases indicates that frequently there is no fixed spelling of the persons' names or a fixed translation for organisations' names (ex: the Belarusian opposition leader Mikhail Marynich becomes Mikhail Larinich on 16 September 2004), sometimes even within the same resolution (ex: Yasir Salim, resolution on Sudan, 12 May 2005).

Number of individual cases concerning European citizens abroad

47 individual cases concern the situation of EU citizens abroad, and one the situation of a European NGO abroad. EU citizens therefore represent 8.4 % of all the persons mentioned as individual cases, and total EU individual case 6.1 % of all individual cases.

Break down of the individual cases by identity

The breakdown of the individual cases by identity is as follows:

Identity	Number of references in different resolutions	Share of total number of cases
Political leaders and political parties/groups	324	41.2%
Journalists and media	134	17%
Religious/Believers and specific religious organisations	95	12.1%
NGOs and Human Rights defenders	74	9.4%
Women condemned under Shariah rules	22	2.8%
Unionists and unions	13	1.7%
Lawyers and Judges	11	1.4%
Students, universities and students organisations	11	1.4%
Businessmen	8	1%
Minorities representatives/unions	7	0.9%
Farmers	7	0.9%
Persons in death row / facing death penalty	5	0.6%
Writers	5	0.6%
Others (cricketers, mathematician, guides, interpreters...) or undefined	70	9%
Total	786	100%

References to individual cases concerning human rights defenders and NGOs have been increasing over last couple of years. 35 of these references, that means, almost half of the total number of reference to HRD and NGOs have been done in 2005 and the first 4 months of 2006.

3. Sources of information – Background references in the resolutions

The present section aims at analysing how the EP contextualises its resolutions on human rights and the way in which it refers to other entities as sources of background information for its own understanding of the facts and relevant recommendations. References are not limited to the citations and the recitals of the resolutions, further references can be noted in the paragraphs of the resolutions.

All resolutions include reference to facts and specific situations.

- **Self-references and references to the Council and the Commission**

Besides facts, the most commonly invoked background information is the activities previously undertaken by the Council, the Commission, and especially the EP itself.

References to	Number of resolutions	Share of total resolutions
Previous EP activities/positions	330	87.3%
- <i>including references to EP President previous activities</i>	9	2.4%
Previous activities/positions of any of the other two EU institutions	220	58.2%
Previous activities/positions of the Council only	199	52.7%
- <i>including references to EU Guidelines on Human Rights</i>	10	2.7%
Previous activities/positions of the Commission only	90	23.8%
Reference to the EU Charter on Fundamental Rights	16	4.2%

Further notes and details:

- Previous EP activities are generally referred to without any indication of the substance of these activities. Usually, it consists in a general reference to previous resolutions in the opening citation of the resolution (sometimes complemented with a list of relevant resolutions). In several cases, however, more substantial references to other activities are incorporated: public hearings and activities undertaken by specific committees, activities of the inter-parliamentary and *ad hoc* delegations, Sakharov Prize awards, and activities of

the EP President. To take the latter example, EP resolutions mention previous activities undertaken by its President in nine resolutions (including, one resolution which refers to the work done by both the current and the previous EP Presidents). Previous written and oral questions from MEPs to the Council and the Commission are mentioned in three resolutions.

- References to EP previous activities and positions in connexion with other parliamentary bodies are, where applicable, systematic. They comprise references to the “Parliamentary Troika” (EP and the Assemblies of CoE and the OSCE), ACP-EU Joint Parliamentary Assembly, Euro-Mediterranean Parliamentary Assembly.
- The European Charter for Regional or Minority Languages is referred to in one resolution.
- References to previous activities and positions of the Council and the Commission are generally more substantiated, but much more various. EU Guidelines on Human Rights are mentioned in ten resolutions. References to the Guidelines are rapidly growing (they are a recent creation) and consolidating, but are not yet systematic.

▪ **References to UN mechanisms, main HR international treaties**

References to	Number of resolutions	Share of total resolutions
At least one main human rights international treaties/UN Declarations	138	36.5%
At least one body of the United nations	191	50.5%
<i>Including specific references to:</i>		
- <i>UN Special Rapporteurs</i>	26	6.9%
- <i>UN Committees monitoring the implementation of main HR treaties</i>	11	2.9%
- <i>UN High Commissioner</i>	21	5.6%
- <i>UN Commission on Human Rights (Geneva sessions)</i>	28	7.4%
- <i>General Assembly</i>	28	7.4%
- <i>Security Council</i>	58	15.3%

Further notes and details:

- The main international HR treaties/UN Declarations referred to in EP resolutions are the following: UDHR, ICCPR, ICESCR, CRC, CAT, CERC, CEDAW, Convention on the Prevention and Punishment of the Crime of Genocide, Geneva Conventions, UN Declaration on Human Rights Defenders, Mine Treaty Ban. These instruments, expect, surprisingly, the Geneva

Conventions and the Convention on the Prevention and Punishment of the Crime of Genocide, are listed in Annex III of the EP Annual Report on Human Rights for 2005. Other treaties and declarations are occasionally mentioned, depending on the subject, like for instance the Convention for the Protection of Cultural Property in the Event of Armed Conflict, the UN Declaration on the Rights of Persons belonging to National or Ethnic Religious and Linguistic Minorities, the Convention on Biological Diversity, or the Convention on Certain Conventional Weapons.

- References to UN special procedures, High Commissioner and Commission on Human Rights fulfil two types of roles: act as a source of information and support their mandates (with, in addition, some calls placed upon the UN High Commissioner in certain resolutions). For instance, out of the 26 resolutions referring to UN Special Rapporteurs and Representatives, 12 refers to them as a source of information on a specific issue, nine mention them explicitly in order to support their activities and mandate, while five resolutions perform both at the same time.
- Others UN bodies referred to are various, but include most notably the activities and statements of the UN Secretary General, activities of UN agencies (mainly UNDP), UN Missions in different countries, and so on.
- The International Committee of the Red Cross is mentioned as a source of information in nine different resolutions (2.4% of the resolutions).

▪ **References to other international organisations and to financial institutions**

References to	Number of resolutions	Share of total resolutions
ILO (treaties and activities of ILO bodies)	14	3.7
NATO activities	10	2.7
Financial and monetary institutions	10	2.7

Further notes and details:

- Financial and monetary institutions consist of: IMF, World Bank, European Investment Bank, and Asian Development Bank.

▪ **References to regional organisations**

References to	Number of resolutions	Share of total resolutions
European organisations	70	18.5%
<i>Including specific references to:</i>		
- OSCE	39	10.3%
- Council of Europe (incl. ECHR)	51	13.5%
- European Court of Human Rights only	29	7.7%
African organisations	33	8.7%
Asian, Pacific and Central Asian organisations	14	3.7%
American organisations	9	2.4%

Further notes and details:

- In total, 126 resolutions out of 378 (exactly one third of all the resolutions) mention at least one regional organisation (other than the EU).
- The League of Arab States is mentioned once, but to be called upon for action.

▪ **References to Non-Governmental Organisations (NGOs)**

55 resolutions (14.6% of the total number) explicitly mention international and local NGOs as a source of information. Not all of the resolutions, however, mention the names of the organisations, especially when they are local ones.

In total, 18 NGOs (or coalition of NGOs) are explicitly referred to as sources of information

- 5 local NGOs (the National Council of Women – Fiji, ODHIKAR, ONIPED, Memorial and the Russian-Chechen Friendship Society)
- 2 regional networks (Euro-Med HR network, Asian Network for Free Elections)
- 10 international NGOs or networks (Amnesty International, FIDH, HRW, RSF, OMCT, Oxfam, Transparency International, International Crisis Group, the International Helsinki Federation for Human Rights and the Cluster Munitions Coalition)

Amnesty International is by far the most frequently mentioned source of information (referred to in 18 different resolutions as a source of information). It is presumed that NGOs referred to as individual cases also supply the EP with information, although they are not mentioned as sources of background information.

▪ **References to the actions of countries as background information**

82 resolutions (21.7% of the resolutions) refer to policies or information detained by countries other than the ones on which the resolution focuses, as background information. This complements the observation of the facts. The activities undertaken by specific EU member states or EU candidate countries are sometimes mentioned, but it will more typically be neighbouring countries of the State under scrutiny, or major countries whose activities impact on the situation under scrutiny. Main references concern the following countries.

References to activities undertaken/information provided by	Number of resolutions	Share of total resolutions
USA	29	7.7%
South Africa	10	2.7%
Russia	9	2.4%
China	5	1.3%

Further notes and details:

- The US State Department is mentioned as a source of information in four resolutions (1.1% of the resolutions).
- Activities of the Commonwealth are mentioned as background information in ten resolutions (2.7% of the resolutions) and the Organisation Internationale de la Francophonie in two resolutions (0.5%).

▪ **References to the actions of countries as background information**

Other references made as background information are various, but mainly include:

- references to special agreements applying to a given situation (Dayton Agreement, Stability Pact, Arusha Peace Accord, Linas-Marcoussis Agreement, Lusaka Ceasefire Agreements, Naivasha Peace Accords, etc.)
- references to activities undertaken by corporations
- references to G8 activities
- references to Nobel Prize awards

- references to religious movements
- references to activities of Sport organisations (Olympic Committee, FIFA...)

In only two resolutions are newspapers mentioned as a source of information: *The Washington Post* (Resolution on the Presumed use of European countries for the transportation and illegal detention of prisoners by the CIA, 15 December 2005), and the *National Catholic Reporter* (Resolution on Violence towards Catholic nuns, 5 April 2001).

4. Calls to act: addressees of the EP resolutions

Resolutions may reaffirm a key principle or belief, express a point, or express an official condemnation. Virtually all resolutions combine the above objectives. But there is no resolution which does not, in addition, call on and urge an entity to act (notwithstanding the last paragraph of the resolutions instructing EP President to forward the resolution). This section shows statistical evidence identifying entities called upon.

▪ Calls on targeted countries

334 resolutions (88.4% of the total number of resolutions) call upon the authorities of the scrutinised country (or those detaining power and leading the regime) to act.

In 78 resolutions (20.6%) calls are placed on other main parties to a problem in a given country (liberation fronts, regional authorities or, most typically, opposition leaders).

13 resolutions (3.4%) call upon the “people of the country”, and 23 resolutions (6.1%) upon “all parties” (or similar formulas like “all those involved”, etc.).

▪ **Calls upon the other EU**

Calls upon the EU can take different forms. Generally resolutions call upon the Council/Presidency or the Commission, but also make general calls on “the EU”. Other calls are placed upon the Member States.

Calls upon	Number of resolutions	Share of total resolutions
Any EU entity (“EU” in general, Commission, Council/Presidency or MS)	337	89.2%
Council/Presidency	256	67.7%
Commission	226	59.8%
Member States	154	40.7%
“EU” only, without further detail	20	5.3%

The European Investment Bank is called upon in five resolutions (1.3%) and the European Bank for Reconstruction and Development in one resolution, the European Economic and Social Committee is called upon in one resolution and the European Agency for Reconstruction are called upon in one resolution each (0.3% of the resolutions).

▪ **Calls upon the international community and international organisations**

Calls upon:	Number of resolutions	Share of total resolutions
“International community/organisations” without further indication	43	11.4%
Specific UN bodies (Security Council...)	80	21.2%
NATO	6	1.6%
G8 Member States	5	1.3%
Financial institutions	5	1.3%
Including specific references to:		
- World Bank	5	1.3%
- International Monetary Fund	2	0.5%
ILO bodies	5	1.3%
Commonwealth	7	1.9%

▪ **Calls upon regional organisations**

Calls upon	Number of resolutions	Share of total resolutions
European organisations	18	4.8%
Including specific references to:		
- OSCE	17	4.5%
- Council of Europe	7	1.9%
African organisations	29	7.7%
Asian, Pacific and Central Asian organisations	15	4%
American organisations	2	0.5%
League of Arab States	1	0.3%

In total, 62 resolutions out of 378 (16.4%) call at least one regional organisation (other than the EU).

▪ **Calls upon other States**

76 resolutions (20.1% of all the resolutions) call upon other States (most of time, several other State) to perform an action with regard to the main country under scrutiny. In more than half the case, the resolution call upon “neighbouring States” or “all the countries in the region”. Major countries are nonetheless called upon action.

Calls upon other States	Number of resolutions	Share of total resolutions
Any other States	76	20.1%
USA	14	3.7%
South Africa	12	3.2%
Russia	10	2.7%
China	3	0.8%

▪ **Other entities called upon**

Nine resolutions (2.4% of the resolutions) place calls upon private corporations.

- Resolution on human rights violations in connection with the Chad/Cameroon oil and pipeline project, 20 January 2000, calls on the “International consortium” (responsible for the project)
- Resolution on human rights in Chad, 15 March 2006, calls on “all oil companies”
- Resolution on human rights in Sudan, 21 November 2002, calls on “European oil companies”
- Resolution on Children abduction by the Lord's Resistance Army, Uganda, 6 July 2000, calls on “international oil companies working in Sudan such as Talisman Energy Inc. of Canada” and “EU Companies”
- Resolution on human rights in Zimbabwe, 7 July 2005, calls on “companies in EU Member States trading with Zimbabwe”
- Resolution on Democratic Republic of Congo, 13 February 2001, calls on “health-related companies”
- Resolution on respect for core labour standards in the production of sports goods for the Olympic Games, 22 April 2004, calls on “Sportswear

companies, supplier and manufacturers of sportswear” and the “World Federation of the Sporting Goods Industry”

- Resolution on child labour in the production of sports equipment, 13 June 2002, calls on “all sporting goods companies”
- Resolution on the third UN Conference on the Least Developed Countries, 5 April 2001, calls on “multinational pharmaceutical companies”

Other calls are placed on:

- EU universities (resolution on Belarus, 7 July 2005)
- ICTY (Resolution on Serbia, 7 July 2005)
- ICTR Prosecutor (Resolution on Rwanda, 18 November 1999)
- NGOs (Resolution on Portuguese kidnapped in Cabinda, Uganda, 15 March 2001)
- ICRC (in three different resolutions)
- International media (Resolution on Democratic Republic of Congo, 13 February 2001, “calls on the media and the international press (to break the silence on this humanitarian tragedy)”), and national media (Resolution on Cambodia, 3 July 2003, calls on “the public and private broadcasting media”)
- Sometimes, in country focused resolutions, general calls are made to wide ranges of persons, such as “all political, military and religious leaders” (Resolution on the right to freedom of expression and respect for religious beliefs, 16 February 2006)
- “Mediator in the peace process in Burundi Nelson Mandela” (Resolution on Burundian refugees in Tanzania, 5 July 2001)
- International Olympic Committee (Resolution on Olympic Games, 5 July 2001).
- “eminent personalities in southern Africa to use their influence to bring about change” (Resolution on Zimbabwe, 15 January 2004)
- “sporting federations of EU MS which are due to play matches in Zimbabwe” (Resolution on Zimbabwe, 15 January 2004)
- “kidnappers belonging to the terrorist group Abu Sayyaf” (Resolution on the Philippines, 18 May 2000)
- WHO (in two resolutions)

- “FIFA, footballers and their representative associations” (Resolution on child labour in the production of sports equipment, 13 June 2002)
- Holy See (Resolution on Violence towards Catholic nuns, 5 April 2001)
- WTO (Resolution on the third UN Conference on the Least Developed Countries, 5 April 2001)

▪ **Cross-statistics on entities called upon**

This section only deals with the resolutions which have a country focus, which means 342 resolutions. Purely thematic resolutions have specificities regarding calls from the EP and cannot offer ground for proper comparisons.

Main addressees of the resolutions are the authorities of the countries under scrutiny, and the EU. The nature of the entity called upon is an indication of how the EP sees its role in the field of external relations and human rights: do its calls have to be intermediated through other EU bodies, or can the EP directly call upon third countries to act? In most cases, resolutions call on both EU (either “EU”, Council/Presidency, Commission or Member States) and the authorities of third countries. Less frequently, they call on one or the other only. In a very limited number of cases (interesting enough to be detailed in their entirety) they do call neither on EU nor on third country’s authorities. The break down is as follows.

Calls upon	Number of resolutions	Share of resolutions
EU (any EU body) AND Third countries authorities	279	81.6%
Third countries authorities only	34	9.9%
EU only	25	7.3%
Other entities only	4	1.2%
Total	342	100%

Calls on third countries only are usually observed in application of Rule 115 (urgent procedure) and are used as a direct “parliamentary diplomacy” instrument, without requiring the Council or the Commission to act (for instance: resolution on the violations of human and rights and democracy in the Republic of Mari El in the Russian Republic, 12 May 2005; resolution on Peru, 19 January 2006; resolution on human rights in Vietnam, 19 November 2000, etc.). The standard structure of these resolutions is: facts – condemnation or (re-)affirmation of principles – calls on the

authorities to act. There is a direct relation EP-third country in which the Council and the Commission have no role to play.

In contrast, certain resolutions call only on the Council and the Commission to act, in recognition of the indirect relation established between the EP and third countries, and emphasising EP role of monitoring the policies of the Council and the Commission. The most typical example in this regard is the resolution on the Moluccan Islands adopted by the 6 July 2000. The full text of the paragraphs is reproduced. The EP:

- “1. Asks the Commission and Council to support the process of re-establishing democracy in Indonesia and to support the present government and its honest efforts to establish democracy and respect for human rights;*
- 2. Asks the Commission and Council to warn the forces which are trying to destabilise the present government that the international community will not accept a relapse in Indonesia;*
- 3. Asks the Commission and Council to call on the Indonesian Government to do all within its power to put an end to the violence on the Moluccan Islands in order to re-establish peaceful co-existence between the Muslim and Christian population, as has proved possible for many years;*
- 4. Asks the Commission and Council to call on the Indonesian authorities to open humanitarian aid corridors so that assistance can reach people displaced by the fighting and others in need of relief, and to stress in their contacts with the Indonesian Government the importance of strict requirements in ports and airports of the Moluccans, including thorough checks for weapons coming into and out of the Moluccans;*
- 5. Asks the Commission and Council to urge ECHO to increase support for relief efforts, considering the recent deterioration of conditions on the Moluccan Islands;*
- 6. Asks the Commission and Council to examine ways in which the international community can help to restore calm to the Islands, for instance by sending international observers;*
- 7. Asks the Commission and Council to call on the Indonesian Government to suspend from duty members of the security forces suspected of directly or indirectly taking sides in the conflict and to judge and punish all those guilty of these provocations and violence, if necessary by establishing a special national or international court;*
- 8. Instructs its President to forward this resolution to the Commission and Council, the governments of the applicant states and the Indonesian Government.”*

There are differences in approach from one resolution to another, even when it concerns the same country and the same issue. Approach change over time. This is the case for resolutions on Laos (resolution on 15 February 2001 calls on the authorities only; resolution on 15 November 2001 on the EU institutions only), the USA (out of eight resolutions passed over the period under consideration, three resolutions call on both EU and the USA, three only on US authorities, one only on the EU Council, and a last one on neither the EU nor the USA) and Indonesia (see resolutions adopted on 5 June 2003 and 6 July 2000).

The resolutions calling neither on third countries authorities nor on EU institutions are:

- the resolution on Iraq, 6 July 2000, “calls upon the UN Security Council to commence a dialogue with a view to lifting the economic embargo” (it also “reiterates the need for the UN, WHO, and Red Cross to continue to monitor the importation and equitable distribution of goods and services”)
- the resolution on the attempted coup d’état in Paraguay and the arrest of General Oviedo, 15 June 2000, “calls upon assistance from neighbouring countries”;
- the resolution on the detainees in Guantanamo Bay adopted, 7 February 2002, “calls [...] on the UN and its Security Council to pass a resolution establishing a tribunal to deal with Afghanistan, with the aim of clarifying the prisoners’ legal status”;
- the resolution on Beijing’s bid to host the 2008 Olympic Games, 5 July 2001, “urges the International Olympic Committee [...] to make a thorough environmental impact assessment” and “invites [it] to reconsider Beijing’s candidacy when the authorities of the PRC have made a fundamental change in their policy on human rights, and the promotion of democracy and the rule of law”.

Annex III

Statistical overview of different plenary sessions' activities in the year 2005

Urgent resolutions, question time and formal sittings

1. Urgent resolutions (Rule 115 of the EP Rules of procedure)

Procedure for the adoption of resolutions following “debates on cases of breaches of human rights, democracy and the rule of law” (so-called “urgent resolutions”) is based on Rule 115 of the EP Rules of procedures and Annex III of the Rules of procedure which contains Guidelines and general principles to be followed when choosing the subjects to be included on the agenda under Rule 115.

The Sub-Committee for Human Rights is not responsible for the agenda under Rule 115, since it has not the capacity to propose urgent resolutions, neither *de jure* (only a Committee, an inter-parliamentary delegation, a political group or at least 37 MEPs), nor *de facto* (the Sub-Committee is made of 32 MEPs only; it has also been argued that the Sub-Committee cannot easily convene a meeting within the days preceding the plenary session – although a limited number of DROI members could meet). The responsibility of the agenda in practice lies on the dialogue between political groups and to a certain extent on the Committees on Development and on Foreign Affairs.

There is a limit of three motions for resolution under Rule 115 to be submitted for vote and debate during each plenary.

Drawing on the data released by the EP Plenary sittings Directorate (minutes of proceedings - results of roll-cast votes)²²⁷ it is possible to conclude that during 2005:

- 36 resolutions were adopted under the procedure described at Rule 115, on a total of 112 non-legislative resolutions adopted over the same period (and 103 initiative procedures). Urgent resolutions therefore represented 32.1% of the non-legislative resolutions in 2005.
- 100 % of the motions for resolution submitted in plenary under Rule 115 were adopted.
- In average, the resolutions were adopted with 93.9 % MEPs for the motion, 3.7% against, and 2.3% abstaining. The only notable exception is the resolution on Lampedusa adopted on 14 April 2005 with 50.5% vote in favour and 49.5% against (0% abstention), that is, in absolute terms, a difference of one vote.
- In average, 88.3 MEPs participated in the vote, which took place in average at 16.52hrs on Thursday afternoons. In comparison, an average (based on sampling) of 563 MEPs participated in the votes scheduled on the same days around 12.10hrs.
- The total duration of the “urgent debates” under Rule 115 of the Rules of procedure amounted to 13h57, on a total of 430h26, in other terms urgent debates represented 3.2% of the total debates in 2005 (3.2% over the full sixth legislative period until May 2006).

²²⁷ Available at http://www.europarl.europa.eu/sce/server/internet/home_page/sce_home_page_01.jsp (last seen 31.05.2006) and in part in the Official Journal of the European Community (2005 and 2006).

The geographical distribution of urgent resolutions focus is as follows.

Regions	Number of resolutions	Share of total number of urgent resolutions in 2005
Asia/Oceania	13	36.1%
US, Canada, Australia	0	0%
Latin America and Caribbeans	2	5.6%
Africa (south of Sahara)	7	19.4%
Mediterranean, Middle East and Gulf	7	19.4%
Eastern Europe and Central Asia	5	13.9%
Candidate countries and Balkans	1	2.8%
EU	1	2.8%
Total	36	100%

2. Question time

The “question time” is one of the possibilities for the MEPs to address questions to the Council and the Commission. The other possibilities are the questions for oral answer and debate (Rule 108 of the Rules of procedure) and the questions for written answer (Rule 110). Question time is widely used and is governed by Rule 109 and Annex II of EP Rules of procedure.

Questions are normally addressed to Council or Commission in plenary, which offers possibility for supplementary questions. But if time is insufficient remaining questions are answered in written.

The following statistical evidence is based on the analysis of all questions (except those lapsed, withdrawn and inadmissible) asked under Rule 109 in the year 2005. The aim is to analyse the number and the main features of the questions under Rule 109 addressing human rights issues, taking 2005 as a sample.

▪ **General presentation of activity under Rule 109 in 2005**

Addressee of the question	Number of questions tabled	Questions addressed in plenary	Supplementary questions	Questions with written answers	Lapsed questions (absence author)	Withdrawn questions	Inadmissible Questions
Commission	725	140	103	564	10	2	10
Council	433	154	119	252	10	6	11
Total	1158	294	222	816	20	8	21

Addressee of the question	Total duration of debate under question time in 2005	Share of total time devoted to plenary sittings in 2005
Commission	16h35	3.9%
Council	12h10	2.9%

▪ **Questions concerning human rights**

Human rights related questions can be classified in 3 types:

- questions which core concern is a human rights issue outside the EU, whether this issue is related to a specific country or not;
- questions which core concern is not human rights outside the EU, but for which human rights are a correlative issue of the question (for example foreign affairs issues, ACP, status talks, HIV/AIDS, enlargement, peace, development aid...);
- questions which concern human rights within the EU.

Only the first category is relevant for the present study. The questions asked in 2005 divide as follows (break down by plenary sitting not presented).

Addressee of the question	Total number of questions taken	Total number of questions addressing HR outside the EU (1)	Share of HR questions out of the total number of questions taken	Number of HR questions (1) answered in plenary	Number of questions having a correlation with HR issues outside EU	Questions on human rights within the EU
Commission	703	70	10%	13	77	33
Council	406	85	20.9%	41	78	35
Total	1109	155	14%	54	155	68

Repartition of questions between purely thematic and country focus (noting the fact that questions with a country focus usually have a thematic focus in addition, see Annex II).

Focus	Total number of questions	Share of the total number of HR questions
"purely thematic"	24	15.5%
Country focus (and, if applicable thematic focus)	131	84.5%
Total	155	100%

▪ **Repartition by regional focus**

Regions	Number of resolutions	Share of total number of urgent resolutions in 2005
Asia/Oceania	11	8.4%
US, Canada, Australia	5	3.8%
Latin America and Caribbean	17	13%
Africa (south of Sahara)	16	12.2%
Mediterranean, Middle East and Gulf	32	24.4%
Eastern Europe and Central Asia	12	9.2%
Candidate countries and Balkans	38	29%
Total	131	100%

There is room for even more precise geographical breakdown of the questions asked. Indeed, it is noted that some countries boost the number of questions for a whole region. Questions on Latin America and Caribbean, for instance, only concern two countries: Colombia and Cuba. Iraq and Turkey are referred to in respectively 17 and 24 questions. The USA and Israel/Palestine have also received much attention. In total, questions on Iraq, Israel/Palestine, Turkey, Colombia and Cuba represent more than half (52.7%) of the questions on human rights issues, with a geographical focus.

▪ **Themes and individual cases**

30 questions specifically focus on individual cases. In more than half of them the individual case refers to an EU citizen abroad (Commission Official Carlos Ayala Saavedra; EU journalist José Couso – no less than 11 questions asked on his murder; Swedish journalist Dawit Isaak). Concerns for EU citizens or Christians abroad are at the centre of 23 questions (14.8% of the questions). Besides the individual cases already mentioned, they concern the Protection of Patriarchate and of Christians in Turkey and the fundamental rights of Greeks in Georgia.

Main themes addressed are: minorities and indigenous (18 questions), women and children (12 questions), elections (11 questions) and freedom of religion (9 questions).

▪ **Questioners – discrepancies in the use of the questions by political groups and nationalities**

Break down of questioners by nationalities

Countries	Number of questions	Share of the questions relating to human rights
Greece	25	16.1%
Ireland	23	14.8%
UK	20	12.9%
Sweden	14	9%
Spain	14	9%
Belgium	11	7.1%
Germany	11	7.1%
Poland	8	5.2%
Portugal	7	4.5%
Others	Less than 5 by nationality	(14.3% split between remaining nationalities)

Break down of questioners by political groups

Political group	Number of questions	Share of the questions relating to human rights
PSE	40	25.8%
GUE/NGL	38	24.5%
PPE-DE	32	20.6%
ALDE	19	12.3%
UEN	15	9.7%
Verts/ALE	5	3.2%
ID	1	0.7%
NI	5	3.2%
Total	155	100%

The correlation of different statistics on the nationality and the political affiliation of questioning MEPs on one side, and on the other the concentration of questions on certain countries and on certain individual cases clearly appears from the reading of all questions. Certain trends have been observed. Greek members asked one third of the questions on Turkey, and most of the questions on Christians (especially Orthodox) abroad, while Spanish MEPs have asked most of the questions concerning the individual cases of two Spanish abroad (in Iraq and Colombia). GUE/NGL MEPs

have asked most of the questions on the USA (especially those concerning the attitude of US authorities in relation with Cubans).

Some MEPs have “specialised” in the use of the question time, as far as human rights issues are concerned. It is very frequent that MEPs have used this mechanism several times during 2005 (generally at least to repeat the same question both to the Council and to the Commission). More than half of these questions have been asked by 20 MEPs only, some using the mechanisms up to 7 times in the year. The proportion of questioners being member of the Sub-Committee on Human Rights is not particularly high.

3. Number and duration of formal sittings in 2005

Formal sittings represented a total of 4 hours, or 0.93% of the total duration of the plenary sitting in 2005.

Date	Guest speaker or subject	Duration
23.02.2005	Viktor Yushchenko, President of Ukraine	0h30
09.05.2005	Celebration of 60th anniversary of the end of World War II	0h28
10.05.2005	Hamid Karzai, President of Afghanistan	0h26
11.05.2005	Grand-Duc Henri de Luxembourg	0h26
05.07.2005	Carlo Azeglio Ciampi, President of Italy	0h37
25.10.2005	Ricardo Lagos Escobar, President of Chile	0h32
14.12.2005	Sakharov prize winners : Damas de Blanco (Cuba), Hauwa Ibrahim (Nigeria) and Reporters Sans Frontières	1h01

Annex IV

References to EP activities in Human Rights Watch World Reports (2002-2006)

Reports	Countries and/or themes addressed	Types of activity	Additional remarks	Pages
2006 World Report; 532 pages; 10 references to EP	Liberia/Nigeria	Resolution	List of different calls (US Congress, UN High Commissioner on HR, Mano river Union...)	31
	Cuba	Sakharov Prize	-	191
	Bangladesh	Resolution	Emphasis from reaction of authorities to the resolution (excerpts)	228
	Cambodia	Not specified	Reference to EP general criticisms	242
	Vietnam	Public hearing	-	323
	Belarus	Resolution	-	340
	EU - migration	Formal powers	Non-binding amendments	361
	EU – Italy/Lampedusa	Delegations	Excerpts from delegations' report	363
	Serbia	Resolution	-	393
Tunisia	Resolution	-	493	
2005 World report; 527 pages; 5 references to EP	EU – institutions	Formal powers – Approval of European Commission	-	40
	Vietnam	Individual action	Open letter signed by 109 MEPs	338
	EU – Tampere process	Formal powers – Deferral of a directive to ECJ	-	370
	EU – UK/migrants	Committee's work (LIBE)	Expression of concerns	372
Syria	Formal powers - Assent	-	490	
2004 World Report; 407 pages; 2 references to EP	Children and armed conflicts	Not specified	List of organizations where the issue receives growing attention	222
	Cluster munitions (in relation with Afghanistan)	Resolution	List of resolutions passed on the issue by different organizations	274
2003 World Report;	Angola	Not specified	General reference to EP and ACP-EU JPA views	18

558 pages; 18 references to the EP	DR of Congo	Not specified	Ref. to views	30
	Eritrea	Not specified	Emphasis and excerpts of authorities' reactions to EP criticisms.	32
	Cuba	Sakharov Prize	-	140
	Venezuela	Resolution	-	170
	Cambodia	Sequence of activities	Resolutions + Delegations, excerpts of delegations' report	215
	India	Resolution	Excerpt of strong language of the resolution	246
	Indonesia	Sequence of activities	-	258
	Vietnam	Resolution	-	277
	EU – constitutional developments	Formal participation of EP in Convention on the future of EU	-	285
	EU – migration	Public hearing	Emphasis on HRW contribution to the hearing	298-299
	Albania	Sequence of activities	-	303
	Algeria	Formal powers - Assent	Emphasis on HRW lobby	417
	Algeria	Formal powers - Assent	-	429-430
	Egypt	Sequence of activities	Long developments (resolutions, hearings, assent...)	439-440
	Iraq	Sequence of activities	Excerpts from resolution and from EU Council commitments made during an hearing	457
	Israel/Palestine	Resolution	References to the absence of consequences of the resolution (asked for sanctions)	470
Tunisia	Sequence of activities	References to resolution, parliamentary questions and answers from Commission, and to individual MEPs actions	494	
2002 World Report; 670 pages; 26 references to EP	Angola	Sakharov Prize	-	35
	DR of Congo	Resolution	Call on EP vis-à-vis EU and not Congo	48
	Sierra Leone	Resolution	-	86
	Cambodia	Resolution	-	205
	China/Tibet	Formal sitting	Speech of Dalai Lama in plenary	211
	India	Annual Report	-	228
	Indonesia	Resolution	-	237
	Vietnam	Sequence of activities	Urgent resolution and individual actions (notably detention of 2 MEPs and expulsion of another by Vietnamese authorities)	264

	Belarus	Delegation	EOM - MEPs served as STOs	295
	Bulgaria	Resolution	Context of accession process	305
	Czech Republic	Sequence of activities (report and resolution)	Context of accession process	311
	EU – Greece	Report	-	320
	Hungaria	Sequence of activities (report and resolution)	Context of accession process	324
	Romania	Report	Context of accession process	340
	Russia	Resolution	Excerpt of strong language used	347
	Slovakia	Sequence of activities	Context of accession process	351
	Turkey	Sequence of activities	Context of accession process. Ref. to individual action of a MEP, as rapporteur on Slovakia	361
	Yugoslavia	Resolution	-	382
	Algeria	Individual action of a MEP (written report on visit)	References to commitments made by authorities (including PM) to individual MEP during its visit	407-409
	Algeria	Sequence of resolutions	-	412
	Egypt	Resolution	-	421-422
	Iraq	Sequence of activities (resolution and debate)	-	438
	Israel/Palestine	Resolution	Excerpt of strong language used, also vis-à-vis EU Council and Commission	450
	Tunisia	Resolution	-	479
	Women	Resolution	Note the wording “both the Security Council and the European Parliament adopted resolutions on women and peace-building	536
	Women	Not specified	References to views	552

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Annex VI

List of Acronyms

ACP Agreement	African, Caribbean and Pacific States party to the Cotonou Agreement
ACP-EU JPA	ACP-EU Joint Parliamentary Assembly
AI	Amnesty International
AFET	Committee on Foreign Affairs
ALA	Programme of Community aid to Asia and Latin America
ALDE	Group of the Alliance of Liberals and Democrats for Europe
ASEAN	Association of South-East Asian Nations
BSE disease	Bovine Spongiform Encephalopathy, also known as mad cow disease
BUDG	Committee on Budgets
CCP	Common Commercial Policy
CARDS	Community Assistance for Reconstruction, Development and Stabilization (to Western Balkans)
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CFSP	Common Foreign and Security Policy
CLAHR	Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe
CoE	Council of Europe
COHOM European Union	Working Group on Human Rights of the Council of the European Union
Coreper	Permanent Representatives Committee
COSAC	Conference of Community and European Affairs Committees of Parliaments of the EU
DEVE	Committee on Development
DROI	Sub-Committee on Human Rights
EC	European Commission
ECHR	European Convention on Human Rights
EctHR	European Court on Human Rights
ECJ	European Court of Justice
ECT	Treaty establishing the European Community
EDF	European Development Fund
EIB	European Investment Bank
EMP	Euro-Mediterranean Partnership

EMHRN	Euro-Mediterranean Human Rights Network
EMPA	Euro-Mediterranean Parliamentary Assembly
ENP	European Neighbourhood Policy
EOM	Election Observation Mission
EP	European Parliament
EPP-ED Democrats	European People's Party (Christian Democrats) and European Democrats
EU	European Union
EIDHR	European Initiative for Democracy and Human Rights
FEMM	Committee on Women's Rights and Gender Equality
FIDH	International Federation of Human Rights Leagues
FYROM	Former Yugoslavian Republic Of Macedonia
GSP	Generalised System of Preferences
GUE/NGL Left	Confederal Group of the European United Left - Nordic Green Left
HoM	Head of Mission
HOM	Humanist Committee on Human Rights
HR	Human rights
HRIA	Human rights impact assessment
HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR Rights	International Covenant on Economic, Social and Cultural Rights
INTA	Committee on International Trade
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MEDA	Programme of Community aid to Mediterranean countries (French: Mesures d'accompagnement des réformes des structures économiques et sociales dans les pays tiers méditerranéens)
MEP	Member of the European Parliament
MS	Member State
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OCT	Overseas Countries and Territories
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OJ	Official Journal
OLAF	European Antifraud Office
OSI	Open Society Institute
OSCE	Organisation for Security and Cooperation in Europe
PA	Palestinian Authority
PACE	Parliamentary Assembly of the Council of Europe
PCA	Partnership and Co-operation Agreement
PHARE	Action plan for co-ordinated aid to Poland and Hungary (Programme of Community aid to Central and East European Countries)
PLC	Palestinian Legislative Council
PSC	Political and Security Committee (French: COPS)
PSE Parliament)	Parti Socialiste Européen (Socialist Group in the European Parliament)

RSF	Reporters Sans Frontières (Reporters Without Borders)
SEA	Single European Act
TACIS	technical assistance to the Commonwealth of Independent States
TEU	Treaty on European Union
UN	United Nations
UNCHR (or CHR)	United Nations Commission on Human Rights
UNGA	United Nations General Assembly
UNHCR	(Office of the) United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNSG	United Nations Secretary General
US (or USA)	United States of America
WOAT	World Organization Against Torture (French: OMCT, Organisation Mondiale Contre la Torture)

Annex VII

List of interviews held

Interviews were mainly conducted by Dr. George Ulrich, Prof. Florence Benoit-Rohmer, Sébastien Lorion, Magalie Jurine, Saed Zein, and also by Anne Weber, Ingrid Nifosi and Alberta Rocca.

Interviews with Members of the European Parliament

Vittorio Agnoletto, Human Rights Coordinator of the GUE/NGL; Rapporteur, Report on the human rights and democracy clause in European Union agreements.

Simon Coveney, Human Rights Coordinator of EPP, Rapporteur, EP Annual Report on Human Rights in the World 2004.

Véronique De Keyser, Head of EOM in Palestine, Parliamentarian Elections, 2006; Rapporteur, EP Annual Report on Human Rights in the World 2003.

Hélène Flautre, Chairwoman, Sub-Committee for Human Rights.

Michael Gahler, Vice-Chairman, Committee on Development; Vice-Chairman, Delegation to the ACP-EU Joint Parliamentary Assembly.

Richard Howitt, Rapporteur, Annual Report on Human Rights in the world 2005; Vice-Chairman, Sub-Committee for Human Rights.

Glenys Kinnock, Chairwoman, Delegation to the ACP-EU Joint Parliamentary Assembly; Co-President of the ACP-EU JPA.

Miguel Angel Martínez Martínez, Vice-Chairman, Delegation to the ACP-EU Joint Parliamentary Assembly.

Edward McMillan-Scott, Vice-President of the European Parliament; Vice-Chairman, Delegation to the Euro-Mediterranean Parliamentary Assembly. Phone interview, mail exchanges.

Luisa Morgantini, Chairwoman, Committee on Development. Phone interview.

Jan Mulder, Vice-Chairman, Committee on Budgets; Vice-Chairman, Delegation for relations with the countries of South Asia and the South Asia Association for Regional Cooperation (SAARC).

Raimon Obiols i Germà, Chairman, Conference of Delegation Chairmen; Chairman, Delegation for relations with the countries of Central America.

Raül Romeva i Rueda, Human Rights Coordinator of the Greens/EFA, Vice-Chairman, Delegation for relations with the countries of Central America.

Interviews with officials or mandate holders from other international/regional organisations

Laure Beloin, Associate Fund-raising Officer, Office of the High Commissioner for Human Rights.

John Dalhuisen, former Special Adviser at the Office of the Commissioner for Human Rights, Council of Europe.

Andrew Drzemczewski, Head of Secretariat, Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe.

Hina Jilani, Special Representative of the UN Secretary General on Human Rights Defenders. Written replies by mail.

Manfred Nowak, United Nations Special Rapporteur on Torture.

Compton D. Persaud, Principal Officer-Administration, Office of the High Commissioner for Human Rights.

Annabelle Roig, EU Affairs Officer, Office of the United Nations High Commissioner for Refugees, Brussels Office.

Massimo Toschi, Child Protection Advisor with the United Nations Stabilization Mission in Haiti, MINUSTAH.

Interviews with representatives from Non-Governmental Organisations

International NGOs

Daphné Bouteillet-Paquet, Executive Officer, Justice and Home Affairs, Amnesty International, EU Office.

Tanya Cox, EU Advocacy Associate, Human Rights Watch, Brussels Office.

Mariette Grange, Advocacy Director, Human Rights Watch, Geneva Office.

Sandrine Grenier, Representative of the Euro-Mediterranean Human Rights Network in Brussels.

Luisa Mascia, Europe Coordinator, Coalition for the International Criminal Court. Phone interview.

Antoine Madelin, Permanent Representative of the FIDH to the EU and Coordinator for the IGOs, International Federation of Human Rights Leagues (FIDH).

Dick Oosting, Director, Amnesty International, EU Office.

Russell Pickard, Deputy to the Director, Open Society Institute, EU Office.

Local NGOs

Taleb Awad, Head, Civil Society Committee for Monitoring the Palestinian Elections.

Naseif Mu'alleem, Director, Palestinian Centre for Peace and Democracy (PCPD).

Raji Sourani, Director, Palestinian Centre for Human Rights (PCHR). Phone interview.

Interviews with representatives from third countries

Representatives in Brussels

Maged Aboulmagd, Counselor, Embassy of the Arabic Republic of Egypt in Belgium.

Taous Djellouli, Ministre Plénipotentiaire, chargée du Parlement européen, Embassy of the People's Democratic Republic of Algeria in Belgium.

Wei Min, Counselor, Embassy of the People's Republic of China in Belgium.

H.E. Mr. Elio Eduardo Rodríguez Perdomo, Ambassador, Embassy of Republic of Cuba in Belgium.

H.E. Mr. Thongphachanh Sonnasinh, Ambassador of Lao People's Democratic Republic in Belgium.

Officials or former elected representatives met in Palestine

Ziad Abu Zayyad, Former Head of the Legal Committee, Palestinian Legislative Council.

Samia Bamieh, Director General of the Europe Desk, Ministry of Foreign Affairs, Palestinian Authority.

Zahira Kamal, Former Minister, Ministry of Women Affairs, Palestinian Authority.

Ahmed Soboh, Deputy Minister of Information, Ministry of Information, Palestinian Authority.

Interviews with representatives from other EU institutions and EU Member States

Paola Amadei, International Relations Officer, Policy Desk Officer, Human Rights and Democratisation Unit, Directorate B - DG RELEX, European Commission.

Thierry Bechet, Minister Counsellor, Head, UN Section, Permanent Delegation of the European Commission to the International Organisations, Geneva.

Patricia Bocchi, Assistant Policy Desk Officer, Human Rights and Democratisation Unit, Directorate B - DG RELEX, European Commission.

Anne Goedert, Secrétaire de Légation, Ministry of Foreign Affairs, Luxembourg, COHOM members.

Hadewych Hazelzet, Human Rights Desk Officer, Council of the European Union.

Jean-Paul Jacqué, Director, Legal Service of the Council of the European Union.

Jörg Ketelsen, Policy Desk Officer, Human Rights and Democratisation Unit, Directorate B - DG RELEX, European Commission.

Michael Matthiessen, Personal Representative of the Secretary-General/High Representative for Human Rights, Council of the European Union.

Régis Meritan, First Secretary of the European Commission Technical Assistance Office to the West Bank and Gaza Strip and UNRWA. Answers received by mail.

Danièle Smadja, Director of Multilateral relations and human rights Directorate B - DG RELEX, European Commission.

Different COHOM members have informally given their opinion on the matter during EIUC Diplomatic Conference organised in Venice on 15 July 2006 on “the role of the European Union in the newly established UN Human Rights Council”.

Interviews with (or information received from) EP staff, group staff and assistants

Patrick Costello, Advisor to the President of the European Parliament.

Joëlle Fiss, Press officer, ALDE.

Alberto Fumagalli, former Administrator, Human Rights Unit.

Geoffrey Harris, Head of Unit, Human Rights Unit, DG EXPO.

Zsuzsanna Kiss, Administrator, Secretariat of the Committee on Development, DG EXPO.

Jacques Lecarte, Human Rights Advisor, ALDE.

Maria Muñiz de Urquiza, Human Rights Advisor, PSE.

Monika Nogaj, Administrator, Human Rights Unit, DG EXPO.

Michael Rupp, Administrator, Human Rights Unit, DG EXPO.

Eva Sanjuan Guerrero, Political Adviser to Elena Valenciano Martínez-Orozco.

Chadi Sidhom, Political Adviser to Hélène Flautre.

Andrea Subhan, Administrator, Policy Department, DG EXPO.

Richard Wester, Administrator, Secretariat of the Committee on Budgets, DG IPOL.

Contributions from Sakharov Prize Laureates

Hebe de Bonafini, President of the Asociación Madres de Plaza de Mayo, 1992 Sakharov Prize Laureate. Answers received by mail.

Adem Demaçi, 1991 Sakharov Prize Laureate. Answers received by mail.

Zlatko Dizdarevic, Editor of the newspaper Oslobodjenje, 1993 Sakharov Prize Laureate. Answers received by mail.

Hauwa Ibrahim, 2005 Sakharov Prize Laureate. Answers received by mail.

Miriam Leiva, on behalf of Damas de Blanco, 2005 Sakharov Prize Laureate. Answers received by mail.

Taslina Nasrin, 1994 Sakharov Prize Laureate. Answers received by mail.

Nurit Peled-Elhanan, 2001 Sakharov Prize Laureate. Answers received by mail.

Reporters Without Borders (RSF), 2005 Sakharov Prize Laureate. Phone interview.

Other interviews

Hanna Nasser, Head, Central Elections Committee (CEC), Palestine.

Guiseppe Milazzo, EOM Media Expert, Osservatorio di Pavia. Answers received by mail.