

The EU's campaign against the death penalty in China

overshadowed by strategic interests?

A document analysis in light of normative and strategic interests

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Executive Summary

Over the years, two essential arguments have evolved around the EU's external identity. The first one representing Europe as a 'Normative Power' and the second one corresponding to the claim that the EU's external agenda is driven by strategic interests. In the case of EU-China relations, the EU claims to pursue likewise a strategic agenda and a normative agenda. By focusing on the EU's campaign against the death penalty this will be tested via means of a document analysis.

Contrary to the expectation that the EU balances its strategic interest versus its goal to abolish the death penalty in China, the conclusion will be that its normative interest is being overshadowed by the EU's pursuit of strategic relations with China.

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1. Introduction

“The EU strongly opposes the death penalty in all circumstances and reaffirms its objective of working towards its universal abolition. The EU believes that the abolition of the death penalty contributes to enhancing human dignity and to the progressive development of human rights. It considers capital punishment to be cruel and inhuman, and that it represents an unacceptable denial of human dignity and integrity.” (EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, June 16th, 2010)

This excerpt shows the EU’s commitment to advocating the abolition of the capital punishment in retentionist countries. The promotion of the abolition of the death penalty is considered to be a “personal priority” (Catherine Ashton, 2010) of the EU’s human rights agenda, which is based on the “belief in the inherent dignity of all human beings and the inviolability of the human person, regardless of the crime committed” (European Commission, 2007).

This paper intends to shed more light on the EU’s campaign against the death penalty, focusing on China as a specific case. Capital punishment has a long tradition in China and “is deeply rooted in Chinese social culture” (Jianping and Jian, 2006). Annually, China carries out more executions than the rest of the world combined (Amnesty International, 2011a). In total, there are 68 crimes which are punishable by death, including not only murder, but also ‘endangering national security’ and economic crimes, such as corruption and tax fraud (Macbean, 2008). Official numbers are unknown due to the fact that the death penalty is considered to be a state secret. However, estimates range from 1000 and more (Amnesty International, 2011), over 8000 (Macbean, 2008), and up to 15000 executions carried out per year (Nathan and Gilley, 2002).

Some changes in the application of the death penalty have occurred recently, such as negotiations about removing the capital punishment for 13 crimes and for persons over the age of 75 (Amnesty International, 2011). Furthermore, the position of defence lawyers has been strengthened and it has been mandated that persons facing the death penalty must have legal representation (Macbean, 2008). Furthermore, China changed its judicial review status and allowed the Supreme People’s Court to review all death penalty cases which are referred to it by lower courts.

Then again, these are only small steps towards a more transparent system. Scholars argue that it will be unlikely that China abolishes the death penalty in the near future, as the government uses the capital punishment as a means to maintain and demonstrate its own power (Svensson, 2001). Furthermore, it is assumed that any form of international pressure by governments or NGOs will be resisted and even backfire to express national sovereignty (Macbean, 2008). With this in mind, it is believed that “China remains the leading executioner in the world” (Amnesty International, 2011b).

The EU's campaign against the death penalty has produced much debate on the EU's role in international relations, especially concerning its external identity when it comes to the EU's human rights agenda. The fact that the EU has *de facto* abolished the death penalty within its boundaries elicits the question of the EU's interest in abolishing the death penalty in third countries. Scholars, such as Manners (2002), consider the EU to act as a 'normative power', so to speak a 'force-for good' in its campaign against the death penalty. His claim is that the EU's normative legitimacy and motivation for the pursuit of human rights outside of its territory derives from its historical context, its evolution into a hybrid polity, composed of both supranational and international modes of governance, and its 'political-legal constitution', such as the strengthening of human rights, democracy and the rule of law (TEU art 6, 11, TEC 177). This legitimacy clears the way for acting on behalf of principles which it considers to be universally valid. Manners suggestion, namely that the EU acts as a normative power in the campaign against the death penalty, is therefore relatively clear and straightforward. However, other scholars argue that the EU's pursuit of human rights norms in third countries is unexplainable by Manners theory of 'Normative Power Europe' but is rather subject to self-interested, strategic behaviour and constitutes merely 'second-order concerns' (Hyde-Price, 2006). This argument fits the fact that the EU has considerably strengthened its strategic relations with China in the past decade (and still does).

Both its anti-death penalty campaign as well as its strategic relationship with China are claimed to be vital parts of their relationship (EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, June 16th, 2010; RAPID, 2004). This paper therefore expects to find that, in light of normative and strategic interests, none of those underlying dynamics prevails in their relationship. Instead, it is being hypothesised that the EU is able to equilibrate both interests. The overarching research question that this study intends to answer is therefore posed as follows: *Is the EU able to balance its strategic interests in China with its normative interest of abolishing the death penalty?* The research question will be answered in a twofold way, the first one being the analysis of joint summit statements between the EU and China in order to be able to investigate the strategic relationship. Finding an answer to the second sub question will result to be more difficult as information on specific EU action against the death penalty in China is rare. Therefore, a combination of official EU statements and reports, as well as NGO and expert reports will be used in an attempt to firstly reconstruct actions taken by the EU before being able to answer the question of how the EU pursues its campaign against the death penalty.

The relevance of this paper derives from the findings of previous research in this area, which mainly focused upon either accepting or rejecting Manners theory. However, there is a lack of empirical evidence that the EU's goal of abolishing the death penalty is driven by either normative or strategic interests. Therefore, this paper will examine more closely the strategic relations in light of its anti-

death penalty campaign, as well as specific actions taken by the EU through its campaign. The results of this study will add to the existing knowledge about the underlying motivations of the EU's campaign against the death penalty. Moreover, the research aims to add to the discussion about normative and strategic interests.

The next chapter of this study will shed more light on both the concept of strategic interests as well as on normative interests by means of recapitulating on previous empirical research. It will also generate two sub questions that need to be answered in order to be able to analyze the overarching research question. The third chapter will explain the methodological approaches that will be taken in the analysis. Consequently, the fourth chapter constitutes the analysis, in which both the first and the second sub question will be answered. Finally, the ultimate conclusion will be elaborated on in the fifth chapter.

2. Normative and Strategic Interests in the EU's campaign against the death penalty

Over the years, two essential arguments have evolved around the EU's foreign policy and especially its human rights agenda, the first one being the prevalence of strategic interests (Hyde-Price, 2006) over ethical concerns, and the second one being the opposite, that normative interests have a greater impact on the EU's foreign policy than, say economic matters. This chapter therefore sets out to elucidate the two concepts at hand in order to be applied in the analytical part of this study. It will conclude with the expectation to find that both normative and strategic interests are a vital part of the EU-China relations, hence, that EU-China strategic relations are of equal weight as its campaign against the death penalty.

2.1. Strategic Interests – the case of EU-China relations

Critics of the EU's human rights agenda claim that strategic interests preponderate the EU's motivations to diffuse its norms across the world. It is suggested that so-called second-order concerns, such as human rights may appear on the agenda of international actors, however, only as long as they do not conflict with primary goals of survival, security and power maximization (Hyde-Price, 2006). According to Hyde-Price's definition, the EU's campaign against the death penalty constitutes such a second-order concern and thus will be inferior to "long-term strategic and economic interests of its [EU] member states" (Hyde-Price, 2006). Consequently, the EU is able to pursue its plan of abolishing the death penalty, as it only interferes in "parts of the world where the great powers have no significant interests" (Hyde-Price, 2006). Specifically the abolition of the death penalty is mentioned as it is being argued that this is "a policy which has no impact on the balance of power and minimal impact on trade promotion" (Hyde-Price, 2006). This argument is corroborated by Jørgensen and Laatikainen (2004),

who state that the EU is “downplaying [its] interests” when it is representing itself as a “force for goodness in international society”.

When it comes to the conceptualization of strategic partnerships, no clear and straightforward definition exists. However, Holslag (2011) provides “five main features”, which will be elaborated on in order to assess the strategic partnership between the EU and China later in this research. The goal of doing so is to be able to analyze EU-China relations with regard to the inclusion of the abolition of the death penalty in its strategic relationship.

First, “a strategic partnership requires explicitly identified *common interests and expectations*” (Holslag, 2011). Second, these common interests and expectations are said to embrace *long-term* relations between the two actors, and, third and fourth, are *multidimensional* and *global*. At last, *co-dependence* fosters the strategic partnership, as “incentives should be of such a nature that they cannot be achieved without partnership” (Holslag, 2011).

In the case of EU-China relations, both actors emphasize the importance of the relationship and continuously refer to it as a “strategic relationship” (EU-China summit statements 2001-2007, 2009, 2010). Indeed, it can be said that economic relations have developed substantially and mutually in the past. As of 2010, China is the EU’s most important partner for imports and second in export (behind the US). Moreover, the EU is China’s most important partner in trade, being second in imports (after Japan) and first in exports (European Commission, 2011). Furthermore, there are considerable efforts from the European side to expand and to strengthen EU-Chinese relations, which can be illustrated with the commencement of the annual EU-China Summits or the launching of negotiations about a new Partnership and Cooperation Agreement since 2003.

Concluding, it can be said there clearly are strategic interests in China from the European side. However, in light of the EU stating that the abolition of the death penalty constitutes a “personal priority” (EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, June 16th, 2010) the following question arises:

In how far do human rights and the anti-death penalty campaign in more particular form part of EU-China strategic relations?

This question forms the first sub question which needs to be answered in the analytical chapter of this study. The next part of this chapter aims to explain the concept of normative interests more precisely.

2.2. Normative Interests – the EU’s anti-death penalty campaign in China

As already mentioned above, the EU claims to have made its campaign against the death penalty into a “personal priority” (EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, June 16th, 2010). The statement illustrates the EU’s normative interest in China’s death penalty policy. Within this study, Manners (2002) conceptualization of Normative Power Europe (NPE

hereafter) will be made use of, who states that it is “the ability to define what passes for ‘normal’ in world politics”. However, as will be clarified below, it is not intended to investigate the EU’s normative *power* over China’s death penalty policy, but rather, its *implementation* of its “ability to shape conceptions of ‘normal’” (Manners, 2002), having in mind that the ultimate goal of this study is to analyze whether the EU is *able to balance the pursuit of its anti-death penalty campaign* (its normative interest) *with its strategic interests in China* as proposed. The following part paragraph will therefore firstly elaborate on Manners (2002) concept of NPE as a guidepost for acting on behalf of ‘normative interests’, before turning towards the illumination of the EU’s pursuit of its campaign against the death penalty in order to generate the second sub question of this research.

Three specific features of NPE stand out that are of relevance to this study. The first feature of Manners (2002) concept of NPE can be ascribed to the *lack of self-interest*, seeing that there are no obvious gains from pursuing its norm, such as economic advantages. The norm that an actor is trying to diffuse is therefore value- rather than self-interest-driven. Second, the concept of normative power is built upon the idea that soft-power; hence, coercive power is limited. Consequently, normative power relies upon *persuasion and diplomacy* as a means to convey its normative conviction. Third and most importantly, Aggestam (2008) attaches to the concept of NPE “a shift in the EU’s role and aspirations from what it ‘is’ to what it ‘does’”. This shift brought along a self-imposed “self-image of the EU as an ethical power ‘doing good’ in the world” (Aggestam, 2008). This implies that the EU *continuously seeks to act on behalf of its normative interests*. This furthermore entails that it is not the *success* of EU action on behalf of its normative interests, but rather, it is the *action* itself that accounts for the EU to be regarded as acting on behalf of its normative interests. In other words, the EU is seen as a “force for good” when it acts in support of its normative interests, regardless of whether these actions are considered to pay off.

In general, these three features of normativity demonstrate the ideational character of the concept. This ideational attribute provides for the course that the rest of this chapter intends to take. Instead of examining the EU’s normative *power* over China in the case of human rights, rather, it will be looked more closely at how the EU *proceeds* in its normative interests, that is to say in its anti-death penalty campaign. Consequently, it has to be asked what the mechanisms and instruments in the EU’s anti-death penalty campaign are in China. These will now be itemized below.

The framework of the Common Foreign and Security Policy (CFSP) allows the EU to access different tools and mechanisms in order to address specific human rights issues in third countries. Its 1998 “guidelines towards third countries on the death penalty” commences a global campaign against the capital punishment in retentionist states, showing a sense of political commitment of mutually working

together towards the abolition of the death penalty and setting out a general framework for specific actions that might be taken while reaching out to retentionist countries.

The most common instruments to address the topic of the death penalty include the commencement of political dialogues between the EU and the third country, the pursuit of démarches which directly address problems in the implementation procedure of the death penalty (such as the violation of “minimum standards”¹) and action in multilateral fora, such as the United Nations.

Beyond international actions being taken, the EU also makes use of its commitment to create awareness in its human rights reporting, in which annually, the EU publishes its report of actions being taken and reasons justifying those actions. The death penalty in connection with China is a frequent topic and is mentioned extensively in these reports.

Complementary to these tools is the financial support system of the European Instrument for Democracy and Human Rights (EIDHR), allowing for a more pragmatic approach to assist and promote projects advocating the abolition of the death penalty beyond the scope of “human rights clauses” (European Commission, 2007). Human rights clauses serve as a “positive basis for advancing human rights in third countries through dialogue and persuasion” (European Commission, 2007) and are included into nearly every partnership agreement between the EU and third countries.

However, in the case of EU-China relations, such a human rights clause is not included. Its relationship is controlled by the 1985 Trade and Co-operation Agreement, whereas the human rights clause came into existence only in the mid 1990s (European Commission, 2007). A human rights dialogue was therefore set up in 1995, and was pursued regularly since 1997, alternating between Beijing and the country currently hosting the EU Presidency. It focuses exclusively on the topic of human rights and is divided into senior official meetings, legal seminars and technical co-operation projects. However, several scholars and NGOs criticise this approach as the dialogue is kept behind closed doors, is very discrete in character and is believed to be too isolated from other political and strategic concerns of the EU (Kinzelbach & Thelle, 2011).

Recapitulating this section of the chapter, the EU’s campaign against the death penalty is believed to constitute the diffusion of an EU norm in the world. It suits the features of the theoretical understanding, as it is believed that there is a lack of self-interest in the campaign and its means to accomplish the goal are persuasive and diplomatic, rather than conditional or coercive. Furthermore, it is not the success or failure of the abolition of the death penalty as such that represents the EU as a

¹ Acting on behalf of “minimum standards” (1998 Guidelines to EU Policy Towards Third Countries on the Death Penalty) means that certain principles should be followed by retentionist countries when applying the death penalty. These principles are, inter alia, to pursue standards of transparent and fair trials and the non-imposition of the death penalty to certain groups of people, such as pregnant women, the mentally-ill and minors.

normative actor, but rather the actions itself. Put differently, it is the nature of the pursuit of the campaign rather than the goal of abolishing the death penalty that this study is interested in. The specific mechanisms and instruments available to the EU have therefore been itemized above. However, it is believed that not all channels of rapprochement are being used to an equal extent. A second sub question will hence help to clarify the discussion in light of normative and strategic interests of the EU's anti-death penalty campaign in China. The question that needs to be answered is the following:

How does the EU pursue its campaign against the death penalty in China?

The following abstract will reconsider the two concepts at hand – normative and strategic interests in the case of the EU's campaign against the death penalty in China – and will conclude with expectations resulting from the arguments above.

2.3. Normative actions and Strategic Interests - Expectations

The two essentially different types of arguments that have been explicated above show the conflicting nature of the EU's human rights agenda in the world. On the one hand it is believed that strategic interests are prioritized, while human rights are put on hold, whereas on the other hand it is believed that the EU's human rights agenda is driven by its normative interests.

However, considering that the EU enhances both its strategic relationship while at the same time it claims that it pursues its anti-death penalty campaign, this study expects to find that there is a “co-existence between strategic and ideational dynamics” (Youngs, 2004). Consequently, the two concepts do not contradict each other, but rather exist side by side. This argument can be underlined by the fact that the EU published two country strategy papers on China for the period of 2002-2006 and from 2007-2013. Both these reports heavily emphasize the importance of human rights attached to its strategic relationship with China (European Union External Action, 2002, 2007).

It is argued by Youngs (2004) that the EU's goal of abolishing the death penalty in China is neither exclusively driven by strategic choices, nor by purely normative interests, but rather, that it constitutes a result of “setting general ideational parameters within which more instrumental choices are made” (Youngs, 2004). Contrary to the assumption put forward above – that strategic interests are woven into normative parameters – Meyer and Strickmann (2011) propose that it is the other way around, that is to say, that it should be investigated “how ideas operate within a given material context”. Nevertheless, the general assumption is the same: It is here also being argued in favour of the interaction “between ideational and material factors” in European foreign policy.

In light of the fact that both strategic interests as well as normative interests appear to play a role in EU-China relations, this study expects to find that the two arguments are able to co-exist, that is to say, that the EU pursues a strategic partnership with China, and likewise, it seeks to abolish the death

penalty. It needs to be analyzed whether this expectation proves to be true. The overarching research question that this study intends to answer results from the expectations laid down above and will consequently be:

Is the EU able to balance its strategic interests in China with its normative interest of abolishing the death penalty?

The next chapter will shed light on the methodological approach of how the research question with its underlying sub questions will be answered.

3. Research Design

The study will engage itself in a qualitative document analysis by means of an in-depth case study (Babbie, 2010). Furthermore, a longitudinal design covering the period from 2000 to 2011 will allow for a more comprehensive insight of developments and EU actions.

The logic behind a qualitative, instead of quantitative analysis is that this study only involves one case – China. The primary reason for choosing a ‘qualitative strategy’ (Punch, 2006) is the limited amount of data which can be contemplated (see Data Selection). Hence, a qualitative study is better able to look at the complexity of the reality in this case. The ‘case-oriented analysis’ (Babbie, 2010) is partly descriptive and partly explanatory. The analysis will comprise two parts, the first one being the investigation of the strategic relationship between China and the EU and the second one being the reconstruction of specific EU action against the death penalty in China. The rationale behind this twofold analysis derives from the circumstance that the EU has two main ways of conduct of its relationship with China which are of interest here, the first one being the EU-China summits and the second one being the mechanisms and instruments set out in its “1998 Guidelines towards third countries on the death penalty” (the 1998 Guidelines). It is expected that both channels are relevant in order to make statements about the overarching research question – whether the EU is able to balance its strategic and normative interests in the case of the death penalty in China. Taking together these two means, it is assumed that a general pattern on the pursuit of normative and strategic interests can be detected. The following section will therefore give more insight into how data was collected, followed by the method of analysis.

3.1 Data Selection

This study aims to describe and explain the EU’s campaign against the death penalty in terms of normative and strategic interests. As already pointed out above, it will look at two different aspects: the EU-China summits, aiming to detect strategic interests and the influence of human rights/ the death penalty in these high level meetings, and the means and methods set out in the 1998 Guidelines

seeking to identify specific actions on China's death penalty policy, hence, the pursuit of its normative interest.

Strategic Interests

Data on the first aspect – ‘strategic interests’ – will be drawn from EU-China summit meetings. These political dialogues constitute the EU’s bilateral relationship with China and are the highest ranking meetings between China and the EU. The summits take place annually and they are concluded with the drafting of joint statements illustrating the scope of their relationship. These statements are suitable for this study as they show which topics dominate EU-China relations. It has to be noted however, that the joint statements of the summits will only be used from 2001 (the fourth summit) until 2010, as there are no statements on earlier summits available. It also has to be noted that there is no joint statement from the year 2008, as the EU-China summit has been cancelled by the Chinese side. However, the summit meeting has been continued with two summits in 2009.

Table 1: Source of data collection of ‘strategic interests’

Document	Year
EU-China Summit Joint Statements	2001 – 2007; 2009 – 2010; (10x)

Normative interests

The norm that the EU attempts to establish in China in this case will be the abolition of the death penalty. As already briefly touched upon in the foregoing chapter, the EU uses several channels of rapprochement. This study uses these channels in order to investigate which paths the EU chooses in its campaign against the death penalty in China. Information will therefore be drawn from official EU démarches, action in multilateral fora such as the UN, documents from the EU-China human rights dialogues and funding provided through the EIDHR. Additionally, the EU’s publication of its annual human rights reports will allow for a more detailed and exhaustive analysis of EU action.

Generally, it is more complex to assess the EU’s normative dimension, as very little information is publicly available on EU action against the death penalty in China. An example is provided by the EU-China human rights dialogue, which is mainly kept behind closed doors and very limited information will be available. To allow for a better understanding of what the EU does and how it is approaching the Chinese government in these meetings, information will be drawn from NGO reports and evaluations of the dialogue. Moreover, the EU published few statements and evaluations on the dialogue itself, which will be used in an attempt to recreate the dialogue, its contents and its primary issues.

In order to make the process of this part of the document analysis more transparent, a list of documents used will be provided. The documents, in particular NGO statements and publications,

have been deliberately chosen based upon their connection to the EU's campaign against the death penalty, as well as upon their significance to reveal information about the channels (e.g. the human rights dialogue), their way of conduct, and their effectiveness

Table 2: Documents used for analysis of 'normative interests' (according to publisher, title and date)

Publisher	Title	Date of Publication
EU	Annual Report on Human Rights	2000-2009 (10x)
EIDHR	Compendium 2007-2010 – the abolition of the death penalty world wide	2010
EIDHR	Evaluation on the Abolition of Death Penalty Projects – Final Report 2007	2007
EU	Press Release EU-China Human Rights dialogue	2009 (2x), 2011
HRIC & FIDH	Preliminary Assessment of the EU-China Human Rights Dialogue	2004
HRIC & FIDH	Joint assessment of the EU-China Human Rights Dialogue and Legal Expert Seminars	2008
CECOFORMA	EU-China Human Rights Dialogue Seminar – Report and Recommendations	2005
HRIC	Human Rights and Chinas Soft Power Expansion	2009
Human Rights Watch	Human Rights Watch Evidence Submitted for Consideration in the Inquiry into “The European Union and China”	2009
Human Rights Watch	China: EU should demand concrete process on Rights in Dialogue	2010
HRIC	The EU-China Human Rights Dialogue should change its course	2010
HRIC	The EU-China Human Rights Dialogue: Perspectives from NGO Representatives	2010
Human Rights Watch	China/EU: Rights Dialogue needs clear results	2011

3.2 Data Analysis

Strategic Interests

The documents at hand will be subject to a qualitative document analysis in order to investigate the EU's strategic interests in China. More specifically, it will be examined which topics dominate the relationship between the two stakeholders. Five have already been proposed by Holslag (2011), which will be complemented by six other categories, chosen based upon their frequent reference. A qualitative document analysis is the appropriate method of analysis, as it allows for a more detailed and comprehensive picture, whereas a quantitative content analysis would not be suitable given the wording of the documents (formal and repetitive). The document analysis will be backed up by

displaying the categories into pie charts which illustrate the relative shares of categories mentioned throughout the summit meetings. The relative shares of categories will be calculated as follows:

$$\text{Number of words per category} / \text{Number of words in total per joint statement}$$

In the following, a table will provide further information on the labelling of the categories and the estimated contents that they represent:

Table 3: Categories and contents represented by category

Category	Content Represented by Label
Introduction/Closing	Welcoming and Closing words, listing of participants, etc.
Taiwan	EU reiterates to works towards peaceful resolution of Taiwan conflict
Human Rights/Rule of Law	Ratification of ICCPR, Continuation of EU-China Human Rights Dialogue, fight against genocide, crimes against humanity and war crimes, cooperation with UN human rights mechanisms
Economic-Commercial	trade, FDI, transport, high technology, fiscal and financial policies, macroeconomic issues, competition policy, nuclear energy (ITER) , information society, civil aviation, intellectual property rights, etc.
International Political Diplomacy	WTO accession, G20, etc.
International Security	Fight against terrorism, non-proliferation, arms control, arms embargo, production of weapons of mass destruction in the DPRK and Iran, etc.
Strengthen Bilateral Relations	Expansion of strategic relationship, Partnership and Cooperation agreement, etc.
Environment	Kyoto Protocol, climate change and associated new technologies, etc.
Education	Erasmus Mundus projects, academic exchange, etc.
Health	AIDS/HIV, SARS
Others	Cultural exchange, 2008 Beijing Olympics, etc.

It has to be noted that the labelling of some categories will be quite straight forward and uncomplicated, while for other categories it will be more difficult to determine which category the topic belongs to. Let me give one example: The sixth joint statement (2003) states that:

“15. Leaders emphasised the need to enhance cooperation in facing trans-national challenges in the field of justice and home affairs. They acknowledged the importance of China-EU operational cooperation to combat illegal migration and trafficking in human beings. Leaders took note of the progress made in this field, in particular the positive result of the fourth round of the China-EU High Level Consultations on the fight against illegal migration and trafficking in human beings held in Beijing on 28 October 2003, and reiterated their commitment to deepen this cooperation and make it more results-oriented. The EU side stressed the need of an early launch of exploratory discussions on a future China-EU readmission agreement”

This paragraph will be classified as belonging to the category of ‘human rights and the rule of law’. However, the 8th joint statement (2005) mentions “illegal migration” in a different connection:

“25. The leaders underlined that activities on facilitating people-to-people exchanges and cooperation in combating illegal migration are a priority for both sides. In the spirit of full reciprocity, leaders discussed issues of readmission and visa facilitation. The two sides planned to open negotiations on issues of their respective concern.”

In this case, illegal migration is associated with the topics of “people-to-people exchanges”, “readmission and visa facilitation”. Since these seem to be the overarching issues, the paragraph will now be classified as belonging to the category ‘Others’.

Furthermore, in cases where two topics are captured in one paragraph where it is impossible to identify the general topic, the paragraph will be divided according to the topics. However, these cases are rare and typically the classification will be straightforward.

Normative Interests

Data on normative interests will likewise be analyzed via a qualitative document analysis, which is able to account for the complexity of the reality. However, many documents are not officially published by the EU, but rather by scholars and NGOs, such as Human Rights in China (HRIC), Amnesty International and International Federation for Human Rights (FIDH). This creates a trade-off, as it becomes more difficult to obtain a comprehensive and independent picture of the situation. Similarly, the limited amount of information available complicates the acquisition of an impartial and comprehensive research. A partial solution can be found by means of a reconstruction of EU action on the death penalty in China, which will make this part of the analysis partly descriptive and partly explanatory, as there is a need “to present a clear description, offer a convincing analysis, and make a strong argument for the interpretation” (Mannheim et al, 2002).

To be more concrete, information from the data available will firstly be perused intending to look for general patterns and abnormalities that can be found on EU actions. Subsequently, the data will be analyzed in order to verify the patterns found. To clarify how information is going to be processed one abstract will be exemplified. CECOFORMA (2005) – the organizing institute of the legal seminar in 2005 accompanying the EU-China human right dialogue – states that the topic of the death penalty “...was divided in six issues:

- The status of death penalty in international law
- *Offences considered as “most serious crimes” under ICCPR*
- *Right to defence (ICCPR art.14§1 and 14§3) and death penalty*
- *Persons protected from death penalty (ICCPR article 6§5)*
- *Judicial Review of death penalty sentences (ICCPR art.14§5)*
- Torture, inhumane and degrading treatment related to death penalty”

It can be seen that four out of the six issues concern legal implications of the death penalty (in italics). Only the first topic concerns the “*status* of the death penalty in international law”. However, when looking at the more detailed description of this topic below, it becomes clear that this issue is concerned with how countries in general are supposed to abolish the death penalty. This topic has thus

not been discussed in a way that directly confronts the Chinese delegation (e.g. conclusion 4: “Each country will have to find its own proper way to work towards the full abolition of the death penalty”). The sixth topic on “torture, inhumane and degrading treatment related to the death penalty” has only been discussed very briefly, concluding that “1. *It is hard to conclude that one method of execution is more humane than another*” and “2. *In accordance with international law, executions should not be held publicly, nor should they be used for the purpose of organ harvesting.*”

The conclusion that will be drawn in such a case is that much focus is put upon the improvement of China's judiciary in its application of the death penalty. Furthermore, it can be concluded that there is no direct demand to abolish the death penalty in China.

This chapter has shed light on the methodological approaches that need to be taken in order to answer the overarching research question and its two sub questions. Concluding, four steps need to be taken in order to generate an answer to the general research question:

Table 4: Process Model for this research

Step 1	Collect data for 1.) Strategic interests and 2.) Normative interests
Step 2	Peruse information and search for general patterns, abnormalities and peculiarities
Step 3	Analyze data and answer both sub questions
Step 4	Interpret findings in light of general research question, expectations, literature, relevance and implication of results

4. Analysis

The EU's campaign against the death penalty is expected to be steered by both normative and strategic interests. This chapter of the study therefore intends to shed more light on both aspects by means of a document analysis. It is divided into two parts, which facilitates the analysis of strategic and normative interests. The first part of this chapter deals with the strategic relationship between the EU and China in order to identify the essence of the content of the strategic partnership between the two actors. The second part will consequently turn towards the campaign against the death penalty with the purpose of reconstructing the implementation of the EU's goal. Finally, the aim of this chapter is to investigate whether the EU is able to balance the underlying dynamics in the EU's campaign against the death penalty as proposed.

4.1. The EU's strategic relationship with China

This part of the analysis attempts to answer the first sub question of this study, that is: *In how far do human rights and the anti-death penalty campaign in more particular form part of EU-China strategic relations?*

As discussed above, the magnitude of the EU-China strategic relationship becomes most apparent through its annual summit meetings. These are the highest level meetings and ought to embrace the entire scope of the relationship. The purpose of investigating the summit statements is to find out whether human rights in general, and the issue of the death penalty as the EU's human rights priority in more particular, play a significant role in the overarching relationship between the two actors.

Three intermediate conclusions have been drawn, which will lead to the conclusion of the first part of the chapter, that is to say, that human rights in general, and the death penalty in particular, are no influencing factors in the strategic relationship between China and the EU. The three intermediate conclusions will now be discussed in more detail, in order to be able to elaborate on the final conclusion.

Growth of strategic relationship

The first finding concerns the growth of the relationship since the commencement of the EU-China summit. As expected and claimed by the two actors, it can be said that the EU-China strategic partnership has grown substantially over the years. This can be recognized by the fact that the overall volume of the joint statements has increased from being short and imprecise to being specific and far-reaching. Furthermore, the summit statements increasingly expand and now include a wider variety of topics, covering also health, education and the environment.

Considering that the strategic relationship is growing substantially, including more and more areas of mutual concern, it can be observed that the topic of human rights is not incorporated in this growth. The table below shows that the topic of human rights is mentioned to a decreasing extent over the last five summits (varying between 0% and 5%).

Summing up, this first intermediate conclusion observes that the EU-China strategic partnership has grown substantially, however, that the topic of human rights is not incorporated into this growth. This finding is of relevance, as it shows the dimension of the strategic partnership between the two actors. It is all the more important through the fact that the topic of human rights appears to be more and more an irrelevancy.

The next finding will therefore turn towards the contents of the summit statements, with the purpose of examining the strategic relationship in more detail.

Summit statements with regard to contents

As can be seen below, the most frequently stated topic in the EU-China strategic partnership are economic-commercial concerns, which peak at 35% in 2005 at the 8th summit. As envisaged by the two actors, the areas of interest within this category have grown considerably, ranging from trade, FDI, energy, fiscal and financial policies, macroeconomic issues, competition policy and nuclear energy (ITER) to civil aviation and many more (see appendix 1 for more detailed list of contents).

The same holds true for other categories, such as environment, international political-diplomatic issues, and international security, where concerns are considered extensively and specific targets and goals for the future are mentioned. This is especially true for China's accession to the WTO and commitments to the fulfilment of the rules. The categories of environment, international security and health are mostly mentioned in relation to global concerns, such as climate change, fighting AIDS/HIV, the fight against terrorism, non-proliferation and associated countries suspected to produce weapons of mass-destruction, such as Iran and the DPRK.

This second finding consolidates the first intermediate conclusion – that human rights are not included in the growth of the strategic relationship – that is to say, that other strategic interests, economic-commercial concerns in particular, play a vital role in EU-China relations. With regard to human rights and the death penalty in more particular, the next finding will lead us to the third and most important intermediate conclusion.

Human Rights in the strategic partnership

The topics of human rights and the rule of law are mentioned only vaguely and without concrete policy objectives. Furthermore, their wording is very formal and repetitive. The paragraphs on human rights resemble each other over the years, as they usually deal with the same specific topics. The 8th joint statement in 2005 is particularly exemplary and will therefore be dismantled in more detail in order to underline the argument:

“The two sides underlined their commitment to the protection and promotion of human rights and continued to place a high value on the EU-China human rights dialogue. They underlined the importance of concrete steps in the field of human rights and reaffirmed their commitment to further enhance co-operation and exchanges in this field on the basis of equality and mutual respect, while making efforts to achieving more meaningful and positive results on the ground. The EU welcomed China’s commitment to ratifying the International Covenant on Civil and Political Rights (ICCPR) as soon as possible. Both sides confirmed their commitment to co-operate with UN human rights mechanisms and their respect for international human rights standards provided for in relevant international human rights instruments, including the rights of minorities. In respect of the global fight against genocide, war crimes and crimes against humanity, they also noted the importance of the International Criminal Court”

Source: 8th joint statement, 2005

Four terminologies and choices of phrasing stand out in every joint statement. The first one being the consecutive agreement that the dialogue should serve as a forum for discussing human rights in more detail (“to place a high value on the EU-China human rights dialogue”). Secondly, it has also been

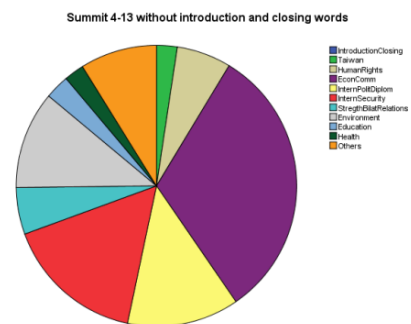
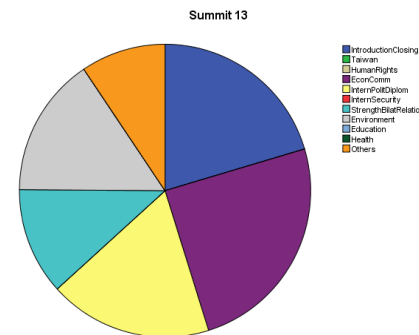
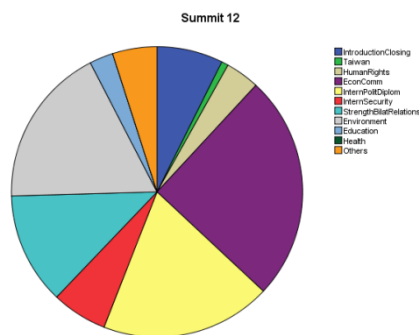
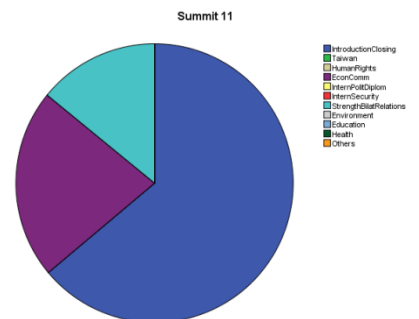
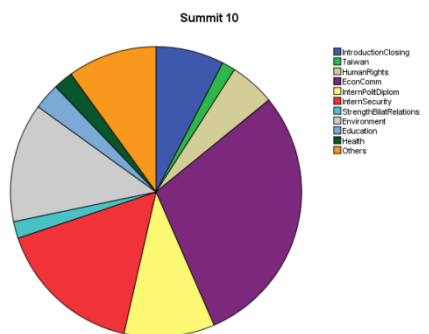
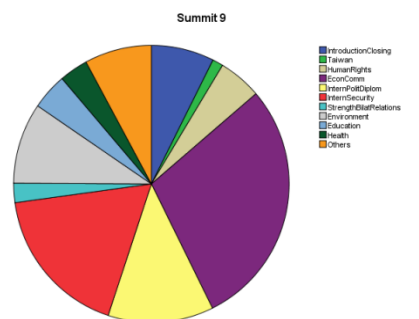
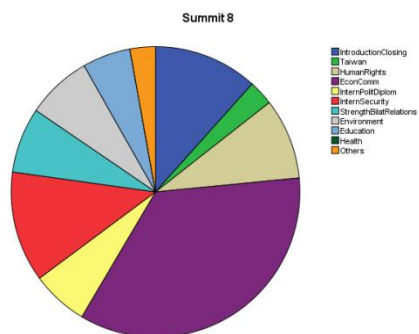
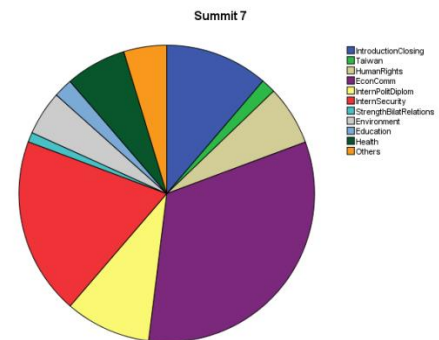
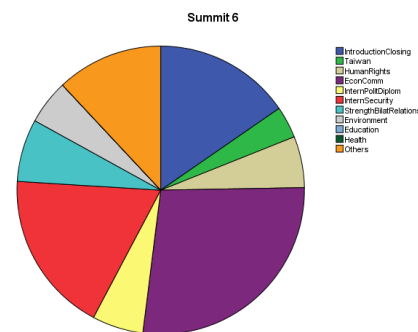
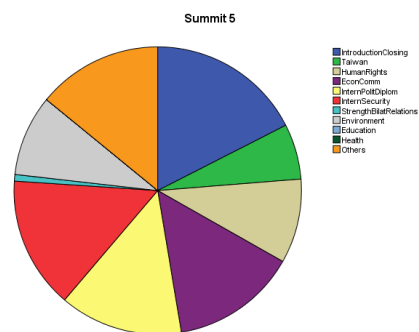
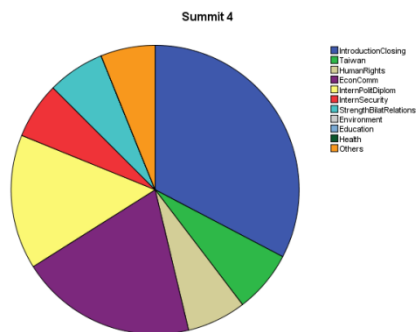


Table 5: Categories according to summits (percentages)

Summit	4	5	6	7	8	9	10	11	12	13
Introduction and closing	32,67	17,49	15,4	11,28	11,67	7,38	7,58	63,9	7,35	20,41
Taiwan	6,96	6,23	3,57	1,59	2,78	1,26	1,48	0	0,76	0
Human Rights and Rule of Law	6,64	9,49	5,75	6,48	9,01	5,08	5,06	0	3,77	0
Economic-commercial	19,81	14,16	27,28	32,62	35,07	28,97	29,37	21,99	25,11	24,76
intern.political diplomacy	15,07	13,86	5,75	9,36	6,34	12,4	10,01	0	18,96	18,12
Intern. Security	6,32	14,83	18,22	19,35	12,32	17,75	16,29	0	6,18	0
strengthen bilateral relationship	6,43	0,74	7,03	1,06	7,29	2,25	1,88	14,11	12,44	11,84
Environment	0	9,12	5,01	4,83	7,29	9,44	13,26	0	17,87	15,46
Education	0	0	0	2,08	5,39	4,25	2,93	0	2,64	0
Health	0	0	0	6,65	0	3,37	2,19	0	0	0
Others	6,11	14,09	11,99	4,7	2,84	7,87	9,92	0	4,94	9,42

recognized that discussions about human rights should be more result-oriented (“concrete steps”, “more meaningful and positive results”). However, the summit statements do not go into detail about what the results should entail. Specific goals are hence never mentioned. The third striking phrase is the need for “equality and mutual respect”, which leaves room for interpretation and could insinuate that each partner determines its own goals in the field of human rights and that there should be no interference by the other actor. Especially China consistently reminds its foreign policy partners not to interfere in its human rights policies (Cornelia Vutz, 2010). Lastly, the fourth outstanding phrasing is the reference to specific human rights, such as genocide, crimes against humanity and war crimes. None of these rights are very characterizing for EU-China relations, meaning that there is not a specific need to include these in the strategic partnership between the two actors as such as there is no violation of these rights at the moment (these rights only exist in international humanitarian law, hence, when there is war). The third intermediate conclusion is therefore the vagueness of human rights mentioned in the joint summit statements.

The three intermediate conclusions lead to the final conclusion of this first part of the chapter, that is, that human rights do not form part of the strategic relationship between China and the EU. Over the years, the relationship has grown from traditional bilateral interests, to cover a more global range of issues, such as environment, health, education and cross-cultural understanding. The topic of human rights is raised constantly, however, the wording is vague and repetitive and without specific goals or expectations to be accomplished in the future. This shows that both partners rely upon the human rights dialogue to accomplish more specific goals. For the summit statements, the topic of human rights is left to be a frequent reference but not an influence on other interests. Accordingly, whereas the topic of human rights and the rule of law are a constant upon which both partners agree in the broadest sense of the wording, other strategic interests can be seen as changing variables, which are growing and prospering.

Returning to the five features of a strategic partnership (Holslag, 2011) between two actors, it can be noted that specifically formulated policy objectives symbolize congruent and reciprocal strategic interests. The second to fifth features imply that the strategic relationship be *long-term*, *multidimensional*, *global* and *co-dependent*. These four features prove to be true, as multiple global plans are envisaged for the future and the summit statements refer to the need for greater cooperation in the future. However, the first feature prerequisites the *existence of common interests and expectations*. As the statements are published by both actors, the content of the statement consequently constitutes the common interests and expectations. However, specifically formulated policy objectives can only be found in the categories of economic-commercial matters, international security, international political-diplomatic issues, health, education and environment. The topic of human rights

is merely drafted out to a point where both actors agree. As this is done very vaguely, it can be concluded that there is no strategic partnership in the field of human rights and the rule of law.

Turning to Hyde-Price's (2006) argument that the death penalty constitutes a second-order concern, this cannot be concluded from the findings as of now. Rather, it can be argued that the EU has no leverage in the field of human rights in its strategic relations with China. Strategic relations require common interests and expectation (Holslag, 2011), which cannot be said to hold true for human rights in this case. As the abolition of the death penalty is a subordinate of the broader field of human rights, this argument can be extended to the EU's campaign against the death penalty in China.

In order to investigate whether the EU is able to counterbalance the preponderance of strategic interests in the summit meetings the second part of this chapter intends to analyze the EU's rapprochement through other channels and examines whether those specific actions are able to impact China's policy on the death penalty.

4.2. The EU's pursuit of its anti-death penalty campaign

After having analyzed that the EU is not able to impact China's death penalty policy through its strategic relationship, this study will turn towards the EU's specific action in abolishing the death penalty in China, although it is difficult to draw a clear-cut picture about the European approach as the availability of information to the public on specific actions is limited. Much action takes place behind closed doors. Most information is therefore drawn from NGO reports and evaluations, in an attempt to reconstruct the EU's campaign against the death penalty.

Two general conclusions have been uncovered in the EU's campaign against the death penalty. The first one being that it is very difficult for the EU to impact China's human rights policy in general. The topic of the death penalty is particularly sensitive to China. Consequently, the EU has no clout on China's death penalty policy. As a result of this lack of leverage, the second finding is that the EU does not exhaust its remaining range of options and abandons its priority human rights concern - the campaign against the death penalty.

In the following, the specific means and instruments at hand will be examined in order to see whether the EU is making full use of its options to impact China's death penalty policy. Four intermediate conclusions have been drawn which will lead to the final conclusion of this second part of the chapter.

Limited Access

The first intermediate conclusion is the EU's use of its human rights dialogue with China as the main channel to address the topic of the death penalty. There are several reasons why other channels of rapprochement are usually set aside. One of the reasons is the fact that China considers the death

penalty to be a state secret. Consequently, the EU is not able to act upon individual cases as extensively as in other countries, such as the US, where it regularly addresses executions in which it considers that minimum standards have been ignored (e.g. eleven démarches in 2008 (European Union External Action 2011)). Only few such démarches exist in the case of China. Furthermore, actions in multilateral fora have proven to be non-starters. This can be exemplified by two cases. The first one being the EU's tabling of a resolution in the UN against human rights abuses in China in 1996, in which China threatened to terminate the EU-China human rights dialogue and indicated that such a move would result in possible economic consequences for individual member states. The second action has been the resolution on the suspension of the death penalty by the UN General Assembly, which has been initiated by Italy and supported by the EU in 2007 and 2008. However, China voted against it and thus is not obligated to abide by it (Amnesty International, 2008)

It can be concluded that individual démarches are rarely possible in the case of China and action in multilateral fora have been proven to be unsuccessful. Hence, there is simply no point to follow through with these instruments. It has already been expected that the EU does not use all channels of rapprochement. The finding is important in order to see whether the EU is able to exhaust its remaining channels - its human rights dialogue and funding provided through the EIDHR.

Insignificant Results

In this paragraph, the study investigates the overall success of the human rights dialogue – the EU's main channel to approach the issue of the death penalty in China. The EU-China human rights dialogue has been subject to much criticism by NGOs and experts, mostly concerning the very limited results it produced during its almost 15 years of existence (“a toothless talk shop”, Human Rights Watch, 2010). This critique can be applied to the death penalty as well. The EU set as a benchmark of its human rights dialogue with China the disclosure of statistics on the application of the death penalty². It has been pointed out several times in the EU's annual human rights reports that it called upon China “to disclose death penalty statistics” (EU Annual report on Human Rights, 2006) but that the Chinese delegation refuses to do so. Hence, the “continued extensive use of the death penalty” (EU Annual report on Human Rights, 2009) remains a considerable concern of the EU. Furthermore, NGOs indicate that the death penalty has been highly politicized in its use to combat governmental opposition (FIDH & HRIC, 2004). Consequently, the much anticipated “progress made with respect to the Supreme People's Court now exercising full review power over death penalty sentences issued by

² Benchmarks as of 2001 are: 1. ratification and implementation of the two covenants; 2. Cooperation with HR mechanisms (visit by the rapporteur on torture, invitation to other rapporteurs, follow-up to recommendations from conventional mechanisms and rapporteurs, implementation of the agreement with the Office of the High Commissioner for HR); 3. Compliance with ECOSOC guarantees for the protection of those sentenced to death and provision of statistics on use of the death penalty; 4. Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence; 5. Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU; 6. Freedom of religion and belief, both public and private; 7. Respect for the right to organize; 8. Respect for cultural rights and religious freedoms in Tibet and Xinjiang, taking account of the recommendations of the UN treaty bodies, halt “patriotic education” campaign in Tibet, access for an independent delegation to the young Panchen Lama who has been recognized by the Dalai Lama; Source: FIDH and HRIC. (2004). Preliminary Assessment of the EU-China Human Rights Dialogue February 2004.

lower courts” did not result in “a reduction in the number of effective death sentences and executions” (Ferrero-Waldner, 2007).

The second intermediate conclusion concerns the dialogue itself. It can be said to be of a negative nature, which has been confirmed in many NGO reports and evaluations. It has been recognized by the EU itself, stating that “there was little progress on core issues such as the death penalty” and that it wishes to see “measurable results and progress on the ground” (EU Annual Report on Human Rights, 2003). Resulting from this finding – the inefficacy of the human rights dialogue with China to address the death penalty – the study will move on to analyze other ways of rapprochement. These are the legal seminars, a subordinate meeting accompanying the human rights dialogue, and funding provided through the EIDHR.

Indirect Rapprochement

The third intermediate conclusion which has been found is that the EU chooses the method of indirect rapprochement rather than direct confrontation. This finding will be elaborated on in this section, with particular focus on the improvements of procedural safeguards going along with the application of the death penalty.

The death penalty has been discussed twice in more detail in the legal seminars supplementing the human rights dialogue, the first time in 1998 and the second time in 2005. While there is no information available for the 1998 seminar meeting, CECOFORMA - the organizing institute of the 2005 expert meeting – published a report on the proceedings of the second seminar (CECCOFORMA, 2005). Accordingly, the discussion was divided into six main topics, mostly concerning procedural safeguards, such as the right to defence and the judicial review of death penalty sentences. Focus on procedural safeguards is a trend that can be followed through much of the EU’s action against the death penalty in China. The EU emphasizes the right to defence, the freedom of human rights lawyers and the rule of law in more general, even in cases not directly concerning the death penalty. This can be exemplified by two press releases following the human rights dialogue with China, which both highlight the importance of “access to justice” (Council of the European Union, 2009a) and “stressed the need to ensure fully the independence of the judiciary and to allow lawyers to exercise their professional duties without interference” (Council of the European Union, 2009b)

Additionally, the EU provides funding to civil society organizations through the EIDHR. Three projects specifically targeting the death penalty in China have been funded, with the goal of improving procedural safeguards. The description of the projects laid out below illustrates that all three projects highlight the need to modify China’s judiciary. Only the last project somewhat aims at raising awareness among decision-makers and public opinion.

Project 1: Strengthening the Defence of Death Penalty Cases in the People’s Republic of China: “Strengthen the capacity of defence lawyers in promoting the legal rights of those

accused of capital crimes, by building up a body of experience, successful defence for those facing the death penalty, identify best practice for legal aid in these cases and increase the professional standards of Chinese defence lawyers.”

Project 2: Promoting Judicial Discretion in the Restriction and Reduction of Death Penalty use: “*This project aims at training local judges to judicial discretion and development of strict sentencing and evidence guidelines for trial procedures*”

Project 3: Moving the Debate forward: China’s Use of the Death Penalty: “*Reduce the use of the death penalty in China, and specifically to raise awareness among the public and key decision-makers on the main arguments against the death penalty, and to promote a legislative reform to the Criminal Law to reduce the number of capital crimes*”

Source: EIDHR, 2010

The EIDHR recognizes “that explicit and direct focus on abolition of the death penalty is a non-starter in China” (EIDHR, 2007). Confirmations from the European side have been made, stating that “China has reacted strongly against EU statements on its executions, accusing the EU of interfering in its internal affairs” (Cornelia Vutz, 2010). A more indirect approach towards the Chinese death penalty policy can therefore be observed, for instance when looking at the latest press release of the human rights dialogue from June 2011. The death penalty has not been discussed by any means. Rather, emphasis is put on the rule of law and the independence of the judiciary system (Delegation of the European Union to China, 2010).

By and large, it can be said that there is a trend that increasingly focuses on the improvements of procedural safeguards as a way to address the death penalty, while it is being recognized that direct confrontation and the call for an immediate abolition of the death penalty might produce more headwind.

Detachment and De-politicization of Legal Seminars

A fourth observation has been that the seminar meetings, in which the topic of the death penalty is mainly discussed, are becoming more and more detached from the human rights dialogue itself (HRIC, 2010b). As NGO representatives observed, while there was much NGO participation in the seminar at the beginning, “this has since evolved into more of an academic exchange, with NGO participation fluctuating depending upon the desired level of civil society participation” (Sharon Hom, HRIC, 2010b). This leaves the impression of a de-politicization of the seminar meetings. The general development of the seminars turns towards more academic communication than political discussion. Confirmatory of this notion, the Irish Centre for human rights - a branch of the National University of Ireland - has been commissioned to organize the seminar meetings during the period from 2002-2005 and again from 2009-2012 (NUI Galway, n.d.). As a result, Antoine Madelin of FIDH (HRIC, 2010b)

states that, at this moment, NGO participants in the seminar meetings “are not serving a purpose”. In addition to the selective exclusion of NGOs from the legal seminars (HRIC, 2010b), it is believed that Chinese academic participants are not independent from the government (HRIC, 2010a). This leads to the conclusion that the seminar not only has become de-politicized, but, moreover, it has become subject to the control of the Chinese government. An illustration of such control can be provided through the 2007 seminar meeting in Berlin, in which the Chinese delegation walked out on the seminar participants as it was dissatisfied with the participation of two NGOs (FIDH & HRIC, 2008), even though the “list of participants had been shared with the Chinese weeks before they travelled to Berlin” (Antoine Madelin, HRIC, 2010b). This incident nicely demonstrates the arbitrariness of the Chinese government and its ability to assert itself over the EU.

Concluding this second part of the chapter, two important lessons can be drawn. The first one being that China spoofed the EU with the commencement of the human rights dialogue. The dialogue has shown nearly no results on the topic of the death penalty. Rather, the EU is becoming increasingly aware that direct confrontation is a hopeless case. On that account, it chooses for more indirect approaches, such as the promotion of procedural safeguards accompanying the death penalty. The Chinese government increasingly controls the contents of the seminars, as well as the participants (its own people and the participation of independent observers). At the same time, the seminar meetings are increasingly cut off from the human rights dialogue. Consequently, the EU has almost no leverage on the topic of the death penalty. China uses the dialogue as a compromise solution in order to avoid direct confrontation. Moreover, it is being used to show willingness to cooperate internationally on human rights issues, while internally, these rights continue to be repressed and denied.

The second conclusion of specific EU action against the death penalty in China follows from China’s power to prevent any independent and fruitful discussion on the topic of the death penalty, that is to say, the EU does not exhaust its full range of options anymore. This can be seen by several factors. For instance, even though the EU only has limited access to all channels of rapprochement, these are rarely used. The two most important channels of EU-China communication – the Summits and the Human Rights Dialogue – do not address the topic of the death penalty by any means.

This chapter allowed for a more comprehensive view on the EU’s anti-death penalty campaign. The aim of this study was to answer the sub questions in light of the overarching research question – whether the EU is able to balance its strategic interests with its normative interests. The expectation was that both interests are able to co-exist, that is to say, that the EU is indeed able to balance its interests. The findings from the two sub questions will be reiterated before turning to the final conclusion of this study in the last chapter. A table below will serve as a clarification of the results found in this study.

The first part of this chapter dealt with EU-China strategic relations. In light of scholars such as Hyde-Price (2006) arguing that normative interests are only pursued in “parts of the world where the great powers have no significant strategic interests” this analysis was necessary in order to investigate whether the EU is able to include the sensitive topic of abolishing the death penalty in its strategic relations with its most important economic partner – China. The findings of this study underpin Hyde-Price’s assumption. Hence, the EU is not able to incorporate human rights and the death penalty (as a more specific case) in its strategic relationship with China. However, from this finding it cannot be concluded that the EU chooses strategic interests over its normative obligation to abolish the death penalty. As there are many other ways to impact China’s death penalty policy, one has to turn towards the examination of other channels used to approach the death penalty before being able to conclude. This has been done in the second part of the analysis. The findings brought about from this section are twofold. The first one being that the EU has no leverage on China’s death penalty policy as it is, while the second one shows that not all options to impact China’s death penalty policy are being exhausted. It has already been expected that China does not make concessions to the EU’s wish to abolish the death penalty. However, it has also been found that the EU does not exhaust its remaining range of instruments and mechanisms available. This raises the impression that the EU neglects its normative interest of abolishing the death penalty. The discovery that the EU does not exhaust all its options available contests Aggestams (2008) suggestion of the EU’s self-imposed image to *act* as a normative power. It has been argued above that it is not the completion of the goal to abolish the death penalty, but rather the means and methods employed to pursue this goal. The implications of the outcomes from the twofold analysis will lead to the final conclusion of this study: The EU chooses strategic interests over its normative goal to abolish the death penalty. This will be further elaborated on in the last chapter of this research.

Table 6: Summary of findings of this study

Pursuit of strategic interests	Pursuit of normative interests
Continuing growth of strategic relationship excluding the topic of human rights	Limited Access to all mechanisms
Economic-commercial concerns prevail in EU-China strategic relations	Insignificant Results of human rights dialogue
Vagueness of human rights references	Indirect rapprochement
	Detachment and De-politicization of legal seminars
Human Rights do not form part of the strategic relationship with China	EU has no clout on China’s death penalty policy
	EU does not exhaust remaining range of options in its fight against the death penalty
EU chooses strategic interests over the pursuit of its normative interest to abolish the death penalty in China	

5. Conclusion: Dominance of Normative or Strategic Interests?

Contrary to the expected outcome, the final conclusion of this study is that the EU does not balance its normative and strategic interests according to Youngs (2004) claim. Rather, strategic interests are being favoured to the disadvantage of the pursuit of abolishing the death penalty.

Two questions ultimately arise out of the findings which need to be answered in order to shed more light on the final conclusion. In light of Youngs (2004) suggestion – that the EU balances its normative and strategic interests – the first question is whether the EU has deliberately chosen to take the particular approaches, so as to be able to combine both its strategic and its human rights interests.

However, in light of the findings above, another question surfaces. Having proven that the EU does not exhaust its residual options to address the Chinese delegation in its aim to abolish the death penalty, one has to wonder whether the EU's priority human rights goal has been replaced by the EU's wish to expand its strategic relationship with China.

Therefore, the discussion in light of normative and strategic interests seems to be appropriate.

Certainly, several factors point into the direction that strategic interests are being favoured. Human rights in general are only mentioned in the strategic relationship to a point where both actors agree. All opportunities to include human rights in the strategic partnership, in particular the anti-death penalty campaign, have failed to do so. While this does not confirm that the EU chooses strategic interests over its normative interests, it certainly means that strategic interests are not being risked to the advantage of normative interests, e.g. the abolition of the death penalty. In light of the concept of strategic interests this would mean that the anti-death penalty campaign only constitutes a so-called second-order concern. Compatible with this assumption is the suggestion by Holslag (2011), who argues that strategic relationships illustrate a sense of co-dependence. This can be supplemented by a conclusion of Human Rights Watch (2009) stating that “China needs the EU as much or more than the EU needs China”. Consequently, the EU should be able to take greater advantage of China's co-dependence and be able to address the topic of the death penalty in its strategic relations – a forum which is important to China. If this statement were to be true – that China needs the EU more than the other way around – then the EU should theoretically be able to combine its strategic interests with its normative interests. However, given the statement by Human Rights Watch (2009) and the suggestion by Holslag (2011), as of right now, strategic interests are being favoured over the abolition of the death penalty.

When looking from a normative perspective, it was expected that the EU pursues its anti-death penalty campaign regardless of success or failure. As stated by Aggestam (2008) the “shift in the EU's role and aspirations from what it ‘is’ to what it ‘does’” implicates that the EU ought to pursue its campaign against the death penalty in China despite the fact that it is likely to encounter high resistance.

However, since the EU has no clout on China's death penalty policy as it is, it seems as if it has lost sight of its goal and instead gave in to its strategic interests.

The final conclusion of this study therefore is that in spite of the expectation that the EU is balancing its anti-death penalty campaign with its strategic interests as proposed by Youngs (2004), this argument has to be refuted. A 2001 Draft conclusion of the General Affairs Council on the EU-China Human Rights Dialogue stated that the “the European Union's objective remained a stable and prosperous China, *governed* by the rule of law and based on respect for democratic principles and human rights” (Council of the European Union, 2001, emphasis added). However, instead of observing that the EU's human rights policy is steered by certain ideational parameters, “within which more instrumental choices are made”, it rather is the other way around. In the case of the EU's campaign against the death penalty in China, certain instrumental choices are made, within which more ideational parameters are set. Hyde-Price's (2006) assumption that the EU acts as a “repository for shared ethical concerns as long as this does not conflict with [...] core interests” can therefore be confirmed. Consequently, the EU's campaign against the death penalty is overshadowed by its strategic interests.

The findings of this study add to the existing knowledge on the motivations of the EU's external human rights agenda in two ways. First, in 2002, Manners suggested that the EU's campaign against the death penalty served as a primary example to “conceive of the EU as a normative power [...]” as it would be “inaccurate to argue that the pursuit of abolitionist norms in international relations is for the benefit of a domestic audience or to serve national interests” (Manners, 2002). While this is true, this study argues that the conception of normativity not only entails that the campaign be *value-driven* and *diplomatic*, but furthermore that these ideational principles are *pursued regardless of the outcome*. Second, there has been much debate about whether strategic or normative interests prevail in the EU's external human rights agenda. While it was expected that they are both able to co-exist, the outcome showed that strategic interests are being favoured in the EU's campaign against the death penalty. This finding corroborates the suggestions by scholars such as Hyde-Price (2006) and Jørgensen and Laatikainen (2004). Strategic interests play more into the equation of the EU's pursuit of human rights norms in countries where tactical considerations exist.

The findings of this research are part of a more comprehensive discussion on EU-China relations and on the EU's pursuit of human rights, in particular the abolition of the death penalty as its priority human rights concern. On the one hand, it can be observed that the overall relationship between the two actors is increasingly growing. Both aim to expand economic exchange and both agree that they need each other in the future. This can be seen by the frequent reference in the joint summit statements on the category “strengthening bilateral relations”. On the other hand, over the last decades the EU

increasingly engaged itself in human rights projects, aiming to standardize human rights norms which it considers to be appropriate. Both these objectives possibly display a constraint on the overall relationship between the two actors. As of right now, it has not been possible to combine strategic interests and the abolition of the death penalty within the given framework. Since 2003, the EU and China are in negotiation to conclude a new Partnership and Cooperation Agreement (PCA), intending to replace the 1985 Trade and Cooperation Agreement. This agreement aims to include a human rights clause (Sautenet, 2007). However, adding human rights to the strategic partnership, especially in the case of the death penalty, will be difficult not only between China and the EU, but also in terms of the relationships between the different member states with regard to China, as each member state hopes for different sets of actions in order to attain the best possible outcome. This can be illustrated with regard to the arms embargo that was imposed on China after the 1989 Tiananmen Square incidents. While some member states wish to end the arms embargo (France and Germany), other member states wish to continue the arms embargo until more progress on human rights has been achieved (Congressional Research Service, 2005).

Having this in mind, several questions arise for the future of EU-China relations: *Is the EU able to expand its strategic relations with China in the future while at the same time being able to impact Chinas human rights policy?* If so: *How will such a policy look like?* Consequently: *What are possible repercussions of such actions?*

It has been argued that “the relatively low level of economic development in China provides support for capital punishment since the relative value placed on human life is low” (Macbean, 2008). This theory insinuates that the EU’s preferential treatment granted towards strategic interests is in fact facilitating the EU’s aim to abolish the death penalty in China. However, this preliminary thought has to be revised in the case of China. While it certainly might be true that the death penalty serves as an inexpensive and simple instrument to deter crime in cases where economic underdevelopment exists, one has to consider that the death penalty in China is not only being used to discourage crime, but also to counter political dissidents.

Coming back to the question of how such a policy towards China might look like, the conclusion of this study leads to the assumption that economic cooperation alone will not abolish the death penalty in China. Rather, it is being argued that the EU should act more audaciously and try to take a tougher stance against China in its goal to abolish the death penalty. One suggestion would be to use carrots and sticks methods. More particularly, in its negotiations with China about the new Partnership and Cooperation Agreement, the EU should insist to include a human rights clause which is linked to certain conditions. In the case of the death penalty, the conditions do not necessarily have to include the immediate abolition of the death penalty. Rather, a gradual ebbing of the application of the death penalty can be envisaged. Conditions can involve the limitation of crimes punishable by death,

enhancement of judicial review and more transparency, such as the disclosure of death penalty statistics. A specific policy that exemplifies an approach to greater compliance with internationally accepted rules constitutes China's accession to the WTO. Its accession was conditional upon changes in its governmental set-up, which improved "its regime in order to better integrate in the world economy and offer a more predictable environment for trade and foreign investment in accordance with WTO rules" (WTO, 2001). This serves as an example to show that conditional approaches can prove to be more successful than isolated diplomatic efforts as is the case in the EU's anti-death penalty campaign. More concrete, the EU should include specific goals on the topic of the death penalty in its relationship with China.

However, one should keep in mind that more direct action on the death penalty in China comes with repercussions. Yet, granted that China needs the EU more than the EU needs China, such repercussions should be of a short-term nature. It is likely that China might break off the human rights dialogue with the EU, as was already done in 1996, when it contested the tabling of a resolution aimed at its human rights abuses. However, if the EU does not give in and stays persistent in its demands to include human rights in the Partnership and Cooperation agreement, the EU should be able to leverage China's death penalty policy.

To conclude, what is needed of the EU is to be more persistent if it were to be sincere in its aim to abolish the death penalty in China. As of right now, strategic interests are being favoured over its anti-death penalty campaign. However, the different member states should unite and stand together to pursue one policy towards China. Moreover, it should be clear that actions have repercussions, but, granted China's co-dependence on the EU, those repercussions should only affect EU-China relations in the short-term.

6. References

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7. Appendix

Appendix 1: Contents of Categories (joint summit statements)

Category	Content Represented by Label
Introduction/Closing	Welcoming and Closing words, listing of participants, “Leaders had an in-depth exchange of views on EU-China relations”, “on the basis of equality and mutual benefit”, win-win results, common prosperity,
Taiwan	EU reiterates to works towards peaceful resolution of Taiwan conflict
Human Rights/Rule of Law	Ratification of ICCPR, Continuation of EU-China Human Rights Dialogue, fight against genocide, crimes against humanity and war crimes, cooperation and compliance with UN human rights mechanisms, combating illegal migration and trafficking in human beings, International Criminal Court, EU-China Legal and Judicial Cooperation Programme, refugee law and humanitarian law,
Economic-Commercial	trade, FDI, energy, transport, high technology, fiscal and financial policies, macroeconomic issues, consumer safety, genetic engineering, competition policy, nuclear energy (ITER) , information society, civil aviation, intellectual property rights, maritime transport, sectoral dialogues, competition policies, anti-dumping and quantitative restrictions, food and consumer safety problems, sanitary and phytosanitary issues, satellite navigation, Galileo Programme, customs co-operation agreement, enterprise policy, rules-based and equitable multilateral trading system, China-EU scientific and technological cooperation, space exploitation, extension of Beijing airport, financing agreements of biodiversity and river basin management programmes, China-EU Financial Dialogue, market economy, China-EU Business Summit, China-EU Science and Technology Partnership/Year, improving market access, EU-China Customs Cooperation Agreement, R&D cooperation, EU-China Managers Exchange, transparent, open and predictable regulatory environment, High Level Economic and Trade Dialogue (HED), SMEs, Joint Task Force on Investment, avoid drastic movement of exchange rates, agricultural products and trade, road and inland waterways transport,
International Political Diplomacy	WTO accession, strengthening multilateral trading system, Doha development Agenda, world peace and sustainable development with the United Nations at its core, Millennium Development Goals, reform of UN system, trilateral dialogue with Africa, G20 summits,
International Security	International and regional security issued, fight against terrorism, non-proliferation, arms control, disarmament, arms embargo, production of weapons of mass destruction in the DPRK and Iran, conflicts in the Middle East, Western Balkans and Central Africa, reconciliation

	<p>process of the Korean Peninsula, Afghanistan, relations between India and Pakistan, support to the International Energy Agency safeguards, ASEM (in relation to security and stability in East Asia), Burma/Myanmar, Israel-Palestinian conflict, Arab Israeli conflict, humanitarian assistance in Lebanon and Darfur, Sri Lanka, Africa Union/UN hybrid peacekeeping operation UNAMID</p>
Strengthen Bilateral Relations	<p>Expansion of strategic relationship, Partnership and Cooperation agreement, etc., policy papers on strategic relationship, new EU-China Framework Agreement, updating 1985 Trade and Cooperation Agreement</p>
Environment	<p>Commitment to the UN Framework Convention on Climate Change, Kyoto Protocol, climate change, and associated new technologies, China-EU Environmental Ministers' Dialogue Mechanism, low carbon technology, near-zero emissions coal technology, carbon capture and storage, illegal logging, reducing emissions for motor vehicles, technology transfer in environmental matters, energy efficiency, global energy security, sustainable urban development, renewable energy, Bali Action Plan, pollution control and management, emergency response to environmental accidents, chemicals management, disposal and management of dangerous wastes,</p>
Education	<p>Erasmus Mundus projects, academic exchange, China-EU forum on higher education, exchange between scholar and think-tanks between China and the EU, Chinese Academy of Social Sciences, EU-China Law School, five-year Chinese Government Scholarship Programme, dialogue on educational mechanism,</p>
Health	<p>AIDS/HIV, SARS, avian influenza,</p>
Others	<p>People-to-people contacts between China and the EU, increased number of visits by organized travel groups of Chinese citizens to Europe, agreed destination status for the EU, Dialogue of Cultures and Civilisations, China-EU cooperation programme, visa facilitation, development cooperation, UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, developing civil society, good cultural relations, 2008 Beijing Olympics, employment and social affairs, exchange of experience in labour dispute settlement</p>

Appendix 2: Findings according to Indicators and Source

Finding	Indicator	Source
Limited Access to all mechanisms	“The thousands of executions that were likely to have taken place in China, where information on the death penalty remains a state secret.”	Amnesty International, 2010
	“Dialogue was initiated in January 1996, but interrupted by China after ten member states tabled a resolution on the human rights situation in China at the 1997 CHR”	HRIC and FIDH, 2004
	Draft resolution of UN suspension of death penalty	Amnesty International (2008)
Insignificant Results of human rights dialogue	“the EU-China human rights dialogue has been a toothless talk shop which has failed to meaningfully address the Chinese government’s poor record on human rights”	Human Rights Watch, 2010
	“There are many things we can critique about the human rights dialogues as a whole, such as a lack of measurable progress and lack of transparency”	HRIC, 2010b (Corinna-Barbara Francis)
	“ but China continues not to disclose death penalty statistics raising concern over the number of people executed annually”	EU Annual report on Human Rights, 2006)
	“continued extensive use of the death penalty”	EU Annual report on Human Rights, 2009
	“ The extensive and politicized use of the death penalty”	FIDH & HRIC, 2004
	“We are also particularly pleased to note the progress made with respect to the Supreme People's Court now exercising full review power over death penalty sentences issued by lower courts. We understand that the result is a reduction in the number of effective death sentences and executions.” (this quote has been refuted)	Ferrero-Waldner, 2007
	“The EU regretted, however, that there was little progress on core issues such as the death penalty”	EU Annual Human Rights Report, 2003
Indirect rapprochement	<p>“23. This topic was divided in six issues:</p> <ul style="list-style-type: none"> • The status of death penalty in international law • Offences considered as “most serious crimes” under ICCPR • Right to defence (ICCPR art.14§1 and 14§3) and death penalty • Persons protected from death penalty (ICCPR article 6§5) • Judicial Review of death penalty sentences (ICCPR art.14§5) • Torture, inhumane and degrading treatment related to death penalty” 	CECOFORMA, 2005
	“The right to defence was discussed, as well as the prevention of miscarriage of justice in criminal cases. A session was devoted on the review of death penalty cases. A presentation was made on ICCPR and the right to a fair trial in death penalty cases”	

	<p>“The possibility of wrongful convictions is a particularly strong practical argument against the death penalty.”</p> <p>“A number of improvements in the criminal justice system of China should be implemented to avoid wrongful convictions, i.e. video-taping confessions, more reliance on the (improved) development of scientific evidence and the development of a stronger criminal defense bar.”</p>	
	<p>“The EU and China expressed their commitment to continue the legal seminar, which took place for the 18th time on 12-13 May in Prague, focusing on access to justice”</p>	Council of the European Union, 2009a
	<p>“On these issues, the EU voiced its concerns on a number of recent developments and stressed the need to ensure fully the independence of the judiciary and to allow lawyers to exercise their professional duties without interference”</p>	Council of the European Union, 2009b
	<p>“Project 1: Strengthening the Defence of Death Penalty Cases in the People’s Republic of China: “Strengthen the capacity of defence lawyers in promoting the legal rights of those accused of capital crimes, by building up a body of experience, successful defence for those facing the death penalty, identify best practice for legal aid in these cases and increase the professional standards of Chinese defence lawyers.”</p> <p>“Project 2: Promoting Judicial Discretion in the Restriction and Reduction of Death Penalty use: “This project aims at training local judges to judicial discretion and development of strict sentencing and evidence guidelines for trial procedures”</p> <p>“Project 3: Moving the Debate forward: China’s Use of the Death Penalty: “Reduce the use of the death penalty in China, and specifically to raise awareness among the public and key decision-makers on the main arguments against the death penalty, and to promote a legislative reform to the Criminal Law to reduce the number of capital crimes”</p>	European Commission, 2010
	<p>“direct focus on abolition of the death penalty is a non-starter in China”</p>	European Commission, 2007
	<p>“China has reacted strongly against EU statements on its executions, accusing the EU of interfering in its internal affairs”</p>	Cornelia Vutz, 2010
	<p>“There were extensive discussions on the rule of law”</p>	EU statement on Human Rights Dialogue, 2011
	<p>“It stressed the importance of an independent judiciary and protection of the rights of lawyers to exercise their profession.”</p> <p>“The EU and China agreed to continue the practice of regular legal experts’ seminars.”</p>	
Detachment and De-politicization of legal seminars	<p>“this has since evolved into more of an academic exchange”</p>	HRIC, 2010b (Sharon Hom)
	<p>“ NGO participation fluctuating depending upon the desired level of civil society participation”</p>	HRIC, 2010b (Sharon Hom)
	<p>“...the Berlin seminar and the clash that came out of it, it had no political consequence in EU-China relations”</p>	HRIC, 2010b (Antoine Madelin)
	<p>“[seminars are] isolated from the rest of the EU-China relations”</p>	

<p>“From 2009-2012, the Irish Centre for Human Rights, along with the lead Chinese institution the Chinese Academy of Social Science (CASS), will direct the strategic development of the EU-China Human Rights Seminar process”</p>	NUI Galway, n.d.
<p>“ The project closely mirrors the 2002-2005 EU-funded Human Rights Network, also led by the Irish Centre for Human Rights.”</p>	
<p>“Right now, the seminars are a waste of time and money. Right now, we—NGO participants—are not serving a purpose. There is no room for exchanges or follow-up”</p>	HRIC, 2010b (Antoine Madelin)
<p>“the head of the Chinese delegation threatened that its delegation would leave the room if the representatives of HRIC and of the China Labour Bulletin were not disinvited, even though these participants were present “</p>	HRIC, 2010b (Antoine Madelin)
<p>“The demands on Chinese official delegations are even stricter. The official delegations are led by the Ministry of Foreign Affairs, officials from various relevant departments and committees, as well as academic experts and scholars. Before they go abroad, they undergo special training, are informed of the disciplinary rules, and given explicit assignments. After they come back, they have to attend meetings to summarize their experiences. Those who say the wrong things never get another chance to go abroad. Westerners usually think that Chinese scholars are independent like Western scholars, but the truth is they are not. In China, though they may be university professors or research institute scholars, they are all inside the system and depend on the government for their livelihood. There can be no independent scholars inside the system; in public or official settings, there can only be the mouthpieces of the government.”</p>	HRIC, 2010a
<p>“the list of participants had been shared with the Chinese weeks before they traveled to Berlin”</p>	HRIC, 2010b (Antoine Madelin)