



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**HUMAN RIGHTS
DIALOGUE BETWEEN
THE EUROPEAN UNION
AND CENTRAL AMERICA**

DROI

EN

2007



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

HUMAN RIGHTS DIALOGUE BETWEEN THE EUROPEAN UNION AND CENTRAL AMERICA

Abstract

Political dialogue is today considered to be the European Union's most important instrument for external action. It entails dialogue on equal terms that recognises the different situations of the parties involved and uses cooperation as a common working method.

This study was requested by the European Parliament's Subcommittee on Human Rights.

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LINGUISTIC VERSIONS

Original: EN translations FR, ES

ABOUT THE EDITOR

Manuscript completed on 12 October 2007.
© European Parliament, [2007]

Printed in [Belgium]

The study is available on the Internet at
<http://www.europarl.europa.eu/activities/committees/studies.do?language=EN>

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EXECUTIVE SUMMARY

This report is a brief study of the political dialogue on human rights between the European Union and Central America and acts as a basis for the preparation of an own-initiative report by the European Parliament's Subcommittee on Human Rights.

Political dialogue is today considered to be the European Union's most important instrument for external action. It entails dialogue on equal terms that recognises the different situations of the parties involved and uses cooperation as a common working method.

One result of this instrument is the development of relations with the Central American isthmus, based on the *Framework Cooperation Agreement* with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, which was signed on 22 February 1993 and entered into force on 1 March 1999. The so-called San José Dialogue has also helped to contribute to the stability of these relations.

The instability of the Central American region in past decades, caused by armed conflicts, has had a direct impact on the limited development of these nations. Nonetheless, and in spite of their terrible consequences, there is a social desire for change in the region, focusing on the improvement of living conditions in a peaceful context.

Aware of the new development situation arising in the region, the European Union decided that it was appropriate to include Central America in its human development programmes, based on the promotion of democracy and human rights.

This initiative gave rise to the Multiannual Programme for the Promotion of Democracy and Human Rights in Central America, which establishes different programmes for each country, and involves leaders and groups from civil society. By implementing these programmes the European Union is paving the way for comprehensive development among the actors involved.

After analysing the above channels, this paper suggests a series of strategic recommendations to be considered as a preliminary analysis for the formulation of a framework strategy.

1 BACKGROUND IN BRIEF AND LEGAL BASIS

1.1 Political dialogue as an instrument of external action of the European Union in its relations with Latin America

On 28 and 29 September 1984 the first conference bringing together representatives of Central American and European countries was held in San José, the capital of Costa Rica. Their aim was to work together to achieve peace, which went hand in hand with democracy, development and respect for human rights.

At that time a working method known as the *San José Dialogue* was set up. It identifies political dialogue as the main instrument of joint action by European countries. It was to symbolise the seeds of the European Union's desire to become the leader and promoter of world peace. The European Parliament (EP) recognised in its resolution of 16 January 1997 that the success of this dialogue was 'one of the greatest achievements to date of the EU's common foreign policy'. It is dialogue on equal terms that recognises the different situations of the parties involved and uses cooperation as a common working method.

The institutionalised political dialogue takes place through various mechanisms, in particular the high-level meetings or summits. With the region as a whole, there have been four summits with the countries of Latin America and the Caribbean⁽¹⁾, which have been used to strengthen the link between Europe and Latin America and draw up a bi-regional work agenda, concentrating on the creation of a bi-regional strategic association. Dialogue with the countries of Central America has continued since 1984, although it has diminished over time as it has become incorporated in the wider process of bi-regional dialogue.

The basis for the EU's relations with Central America is the *Framework Cooperation Agreement* with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama⁽²⁾. Based on democratic principles and the rule of law, the Agreement paves the way for broad cooperation on economic, social and scientific matters. In particular, it promotes the consolidation of the democratisation process and regional integration. Thus, Article 27 deals with cooperation in the consolidation of the democratic process in Central America, including implementation of the multiannual programme for the promotion of human rights approved in Lisbon in February 1992.

Another important instrument is the *Permanent Mechanism of Political Consultation and Coordination* (Rio Group), created in Rio de Janeiro on 18 December 1986. At the Rome Conference on 20 December 1990 the representatives of the European Community and its Member States and of the Rio Group agreed, amongst other things, to support democracy and the rule of law, respect for human rights and the promotion of social justice, respect for sovereignty, self-determination and non-intervention, and to work together to create the conditions needed to eliminate poverty and all forms of racial, political, religious and cultural discrimination.

Alongside the intergovernmental mechanisms, the EU has at its disposal a range of actions that reflect its supranational perspective, which in turn enhances the legitimacy of its actions. Interparliamentary dialogue began between Europe and Latin American in July 1974 in Bogotá (Colombia). The Third EU-LAC Summit held in Bregenz (Austria) on 24 and 25 April 2006 reaffirmed that the bi-regional strategic

¹ Rio de Janeiro, 1999; Madrid, 2002; Guadalajara, 2004; Vienna, 2006.

² Signed on 22 February 1993 and in force from 1 March 1999.

association should be a framework for peace, security and development, founded on respect for human rights, the primacy of the rule of law, international law and its fundamental principles, in particular the sovereignty of states, and the democratic values shared by both regions, as well as the rejection of coercive measures and laws with extra-territorial effect. On 9 November 2006 the Euro-Latin American Parliamentary Assembly (EuroLat) was set up to promote transparency and reduce the distance between the world of politics and the citizens, on the basis that dialogue and cooperation are the most appropriate methods of settling disputes. This new Assembly should make a vital contribution to achieving efficient, democratic government that requires participatory democracy and the presence of strong, open and democratic political parties.

Within the framework of the Central American Integration System, the Central American Parliament (PARLACEN), created at the Esquipulas meeting⁽³⁾, is the European Parliament's counterpart. On 25 June 1997 the President of PARLACEN and Chairman of the Delegation for relations with the countries of Central America signed a Joint Declaration on cooperation, on the basis of which interparliamentary meetings are held every year.

It is important to point out that, alongside the official dialogue, there is a whole range of political, social, economic, cultural, in short human, relationships, which embody the close relations between the people of Europe and the people of Latin America.

The objectives of the dialogue are to influence the political, economic and social agenda with a view to tackling some of the most pressing problems in the region, such as the fight against poverty and inequality, all the while supporting the efforts of each country and the region as a whole to attain these objectives. This is the goal of, *inter alia*, the *Framework Treaty on Democratic Security in Central America*⁽⁴⁾. This Treaty lays down the basic goal of the Central American Integration System (SICA) and the Alliance for Sustainable Development: integrating Central America so that it will be consolidated as a region of peace, freedom, democracy and development. It also stipulates that the Central American Democratic Security Model is based on the supremacy and strengthening of civil power, the reasonable balance of forces, the safety of persons and of their property, the elimination of poverty and extreme poverty, the promotion of sustainable development, the protection of the environment, the elimination of violence, corruption, impunity, terrorism, drug trafficking and arms trafficking. In addition, the Central American Democratic Security Model will increasingly devote resources to social investments.

The analysis on which the EU's political dialogue with Central America draws to a large extent on the reports drawn up by the UNDP entitled '*Democracy in Latin America: Towards a Citizens' Democracy*', and for this region in particular, '*Democracy, Poverty and Inequality in Central America, Panama and the Dominican Republic*', whose main objective is to make the transition from a voters' democracy to a citizens' democracy.

The EU therefore has a solid political base and sound experience for its dialogue with Central America. These must be supplemented with a series of concrete measures, in addition to those that already exist, so that it can consolidate its role as an active partner in democracy, development and human rights.

³ 25 May 1986.

⁴ San Pedro Sula, Honduras, 15 December 1995.

1.2 Human rights as the basis of the European Union's relationships with other actors

Incorporating the practices consolidated through extensive experience, the Treaty of Amsterdam stipulates that the EU '...is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'. Moreover, in accordance with its obligations under international law it must protect them wherever they are violated, and this is one of the main objectives of the common foreign policy.

The recognition and importance the EU gives to human rights is a result, first and foremost, of respect for them within its own borders. It is by virtue of this that the EU is completely legitimate in demanding them, protecting them and promoting them in third countries⁽⁵⁾.

Consideration of human rights encompasses a broad range of categories: civil, political, economic, social and cultural, all characterised by universality and indivisibility⁽⁶⁾. At a later stage, of course, women's and girls' rights came under the same banner⁽⁷⁾.

These specific amalgamations are linked to the historical context. Initially, priority was given to defending and promoting civil and political rights⁽⁸⁾. Later, economic, social and cultural rights⁽⁹⁾ assumed the importance they merited in the overall treatment of individuals.

It is evident that in order to improve the human condition poverty must be reduced, and it is also true that the EU has devoted itself to drawing up and implementing a solid development cooperation policy, of special significance for Latin America since the 1980s, which coincided with the accession of countries like Spain and Portugal that had close ties to that area. Nowadays, the EU is the largest donor of development funds to Latin America and promotes the Millennium Development Goals (MDGs).

Faced with an objective of such magnitude, it is vital to ensure that there are participatory and stable democracies in place that ensure two crucial conditions: firstly, legitimate and responsible states and governments, and secondly, organised civil societies with the capacity to put forward proposals, react to events and help to reduce tensions and conflicts. This requirement calls for determination to support democracy and the rule of law, conditions that in turn are prerequisites for coping with the negative consequences of globalisation at the lowest possible cost, particularly for the most vulnerable groups.

Further progress was made with this strategy in the Treaty of Nice. It extended the promotion of, and respect for, human rights under development cooperation to all forms of cooperation with third countries. In addition, Nice proclaimed the Charter of Fundamental Rights of the European Union, which provides the necessary cohesion for the EU's policies at both an internal and external level.

The vital importance of human rights and democracy has become a strategic challenge for the EU: it has made them the cornerstone of its foreign policy – as already mentioned, to ensure this it has to see to it that they are meticulously respected within the Union – to such an extent that today they have taken on a horizontal nature, which is absolutely crucial in order to achieve the goals in question.

⁵ See for example the last Report on the situation of fundamental rights in the European Union and its Member States in 2005: Conclusions and Recommendations, prepared by the Network of Independent Experts. Also see the recommendations by Amnesty International to the Germany Presidency-in-Office of the Council in January 2007. The Copenhagen Council (1993) laid down the political criteria to be met by the countries applying for accession and they are regularly revised, especially the aspects concerning human rights and the protection of minorities.

⁶ Vienna World Conference on Human Rights, held in 1993.

⁷ 1995 Beijing Declaration.

⁸ International Covenant on Civil and Political Rights (1966).

⁹ International Covenant on Economic, Social and Cultural Rights (1966).

The EP has a number of instruments it can use in pursuit of its goal of extending and consolidating democracy and human rights. On the one hand there are the so-called instruments of moral pressure while on the other hand there are the binding instruments. The former include its resolutions, the annual reports, public hearings – as well as the special defence of specific individuals⁽¹⁰⁾ – and the Sakharov Prize. The binding instruments include the possibility of withholding its assent to association agreements between the EU and third countries.

This is because since 1992 the EU has included in all its agreements with third countries what is known as a democracy clause, which stipulates respect for democratic government and human rights. This provision is governed by the so-called principle of conditionality, in the sense that if it is not respected the agreement as a whole may even be terminated or suspended⁽¹¹⁾.

It is therefore important to note the EU's concern in relation to this matter, and in the case of Latin America serious consideration in the so-called Bi-regional Association Strategies⁽¹²⁾, mentioned above⁽¹³⁾. In March 2007 the European Parliament adopted two reports with recommendations for those leading the negotiations with both the Andean Community and Central America in the light of new agreements laying down priorities for achieving democratic, social and environmental commitments, involving civil society at all stages of the discussion, negotiation and monitoring process.

The EP's most effective human rights initiative is the European Initiative for Democracy and Human Rights (EIDHR). It was created in 1994 and groups together the budget headings dealing specifically with the promotion of human rights, democratisation and conflict prevention. These policies are generally implemented in partnership with NGOs and international organisations. Its work programme emphasises the establishment of four priorities⁽¹⁴⁾. In December 2006 the European Instrument for Democracy and Human Rights was set up. It is a financial instrument that carries out an important role for the EP in relation to proposals, information and results monitoring.

The EIDHR also has specific instruments available to achieve its objectives, through projects selected through special calls for proposals. Evaluation of the Initiative has made it possible to identify its added value, in comparison to both other EU instruments and other donor support⁽¹⁵⁾, and to detect the shortcomings that make it less effective⁽¹⁶⁾.

Following a significant update, it is important to mention the Programme for the promotion of democracy and human rights, launched as a proposal based on the experience gained with the EIDHR and focusing on two main objectives: enhancing respect for human rights and fundamental freedoms, including support for, and solidarity with, victims, and strengthening the role of civil society in developing political participation and representation and in the area of conflict prevention. It also seeks to strengthen the international framework for the protection of fundamental rights and democracy as

¹⁰ The EP often calls for the release of political prisoners, conscientious objectors and other people detained for similar reasons.

¹¹ To which must be added the Cotonou Agreement, signed in 2000 and revised in 2005.

¹² Based on respect for common values, i.e. human rights and democratic principles, they have three main elements: stepping up political dialogue, strengthening cooperation, especially on cultural and economic matters, and improving trade relations.

¹³ It was in fact at the Guadalajara Summit that the key concept of social cohesion as a specific need was laid down.

¹⁴ They are: 1. Support to strengthen democratisation, good governance and the rule of law; 2) Activities in support of the abolition of the death penalty; 3) Support for the fight against torture and impunity; 4) Combating racism and discrimination.

¹⁵ See the Communication from the Commission to the Council and the European Parliament on the EU's role in promoting human rights and democratisation in third countries, 8 May 2001, p. 16.

¹⁶ For example, see also the Communication from the Commission to the Council and the European Parliament on the EU's role in promoting human rights and democratisation in third countries, 8 May 2001, pp. 14 and 15.

the best possible method of social understanding, emphasising that legitimate electoral processes are vital for adequate political systems. We will look at the specific programme for Central America below.

In addition to its internal mechanisms, the EU uses its synergy and works in conjunction with other international actors to improve the human rights balance. This complementary action mainly involves the United Nations, through both its General Assembly and the Human Rights Council. It also cooperates with the Council of Europe, an organisation that is particularly important in the area of human rights at a European level.

In addition, it is involved in other fora such as the Community of Democracies, which meets every two years, the Organisation for Security and Cooperation in Europe, the meetings under the auspices of the San José Dialogue, and the summits between Latin America and the Caribbean and the EU.

The existing social plurality gives rise to very different situations in which human rights may be violated; such possibilities thus need to be examined in great detail.

The EU works tirelessly to identify all the aspects of human rights. To mention them specifically, we take as a basis the analysis in the EP's Annual Report on Human Rights, which is perhaps the most comprehensive available. It lists the following forms of recognition and guarantees of human rights: combating the death penalty; combating torture and other cruel, inhumane or degrading treatment; children's rights, including the problem of children involved in armed conflict; protection of human rights defenders; women's rights; combating the trafficking of human beings; combating impunity and its most illustrious goal, the International Criminal Court; combating terrorism and its impact on human rights; the relationship between human rights and business enterprises; democracy and elections as its source of legitimacy; economic, social and cultural rights; the right to development; dialogue between cultures; the right to asylum of immigrants, refugees and the displaced; combating racism, xenophobia and discrimination in the face of diversity; supporting people with disabilities; supporting minorities; and supporting indigenous peoples⁽¹⁷⁾.

1.3 The human rights situation in Central America

The importance of human rights dialogue began to take hold throughout Latin America with the creation of the regional institutions. The European experience demonstrates that the growing interest in human rights is intrinsic to the evolution of the integration processes.

At the beginning of this integration, with the creation of the Organisation of Central American States (ODECA) in 1951, human rights did not receive the attention they merited, appearing only very generally and almost as an accompaniment to other issues. It was not until a series of reforms after the crisis in the 1980s and the creation of the Central American Integration System (SICA) in 1991 that human rights took their rightful place.

An important instrument at that time was the *Esquipulas II Accord*⁽¹⁸⁾: through this procedure the region hoped to achieve a 'firm and lasting peace'.

The process was possible because of the support of the Contadora Group⁽¹⁹⁾ and Europe. This firm and lasting peace was based on the triangle of democracy, development and human rights. Another important element was the 1990 *Antigua Declaration*, which was the first text to mention human rights

¹⁷ See, for example, within the framework of development cooperation, the Council Resolution of 30 November 1998. Later, on 18 November 2002, the Council suggested a number of measures to streamline the implementation of the 1998 principles.

¹⁸ Guatemala, 7 August 1987.

¹⁹ Multilateral body set up in 1983 to promote peace in Central America.

explicitly, stipulating in its preamble that all the member countries should ensure complete respect for human rights.

Returning to the SICA, it is defined in the *Tegucigalpa Protocol* as 'the institutional framework for the regional integration of Central America [...] within the context of the full integration of the region, including the economic, social, cultural and political sectors, [...] and whose fundamental objective is to bring about the integration of Central America as a region of peace, freedom, democracy and development', all of the above very closely linked to human rights. However, this is fine in theory but the reality is very different. Today, the integration institutions still do not have any mechanisms to regulate and protect human rights, although they are dealt with, to a greater or lesser extent, in most of the SICA's instruments.

One example of this involves three of the SICA's main organs (the Central American Court of Justice, PARLACEN and the Consultative Committee), in which human rights issues are dealt with horizontally but not specifically. We need to look to another major body, the Inter-American Court of Human Rights, to find an instrument devoted specially to the promotion and protection of human rights in the American hemisphere.

The Inter-American Court of Human Rights is an autonomous judicial institution based in Costa Rica and it has competence in all the member countries of the Organisation of American States (OAS). Its objective is the interpretation and application of the American Convention on Human Rights (Pact of San José, 1969) and its Additional Protocols⁽²⁰⁾. Together with the Inter-American Commission on Human Rights (based in Washington DC), it forms the basic pillar of the Inter-American Human Rights System, to which the seven countries of Central America belong.

At a national level, each of the countries has a human rights ombudsman's office, of varying names and substance.

However, over and above the institutional nature of human rights in Central America, their situation in the region does not look very promising. Following the crisis of the 1980s, characterised by the return to violence of a dangerous structural nature, the goal of the Central American countries in the 1990s was to get back to a state of relative prosperity. Seen as a region, Central America is quite stable from an economic and social perspective. Nevertheless, the human rights situation in Central America has little to do with that widespread well-being. On the contrary, human rights violations are evident in a very broad range of areas.

- In many cases, basic needs are not met, which culminates in a social crisis due to the increasing gap between the rich and the poor.
- The vulnerability of children, subject to abuse such as child labour, child sex trade, etc.
- The vulnerability of minorities, especially indigenous peoples.
- Violence against women.
- Violence: from young gangs to the judicial system, violence spans a very broad range of areas. Citizens' safety is constantly under threat. This category also includes attacks on human rights defenders.
- Attacks on freedom, both individual and collective. Attacks on the freedom of expression.
- Deterioration of the environment.
- Natural disasters.

²⁰ Additional Protocol in the area of economic, social and cultural rights (San Salvador, 1988) and Additional Protocol on the abolition of the death penalty (Asunción, 1990).

- Although the military regimes have disappeared, there is a crisis of governance, magnified by the high levels of corruption and the impunity enjoyed, in many cases, by the members of the governments and security forces.

This situation becomes clearer if we look at each member country separately. To this end, please refer to the country tables in the annex.

In conclusion, a basic indicator of the vulnerability of human rights in a region is the level of poverty. The Central American region has a relatively high poverty index, in spite of the fact that it has access to sufficient resources to relieve this situation. Nor is it helped by the fact that the funds and aid received under the framework of development cooperation are an increasingly important source of income of the countries' economies. From an economic perspective, the signature of the CAFTA-DR⁽²¹⁾, described as a treaty between unequals, has not achieved the desired reduction in inequalities. That economic situation is leading to growing social disillusionment, pushing up the number of forced migrations.

Therefore, despite the fact that an institutional framework exists for their protection, progress on human rights is insufficient, and this must be monitored. Although the actions launched to defend, protect and promote human rights in the region have come a long way, further efforts are needed to secure the rule of law, at both national and regional level. To achieve this, the cooperation of the governments and civil society of the member countries, and that of other international organisations, will be required.

²¹ 2005 Free Trade Agreement between the United States, Central America and the Dominican Republic.

2 DEVELOPMENT OF BI-REGIONAL POLITICAL DIALOGUE ON HUMAN RIGHTS

Relations between the EU and Central America on the issue of human rights began with the signature of the first *San José Dialogue*, which was the result of the meeting held between representatives of European and Central American countries in 1984 to look at such topical issues as peace and democracy in the region of Central America.

This initial dialogue urged the members to hold an annual meeting, thus initiating a process and bonds that are constantly evolving. As a result, in 1985 the EU signed the first *Framework Cooperation Agreement* with the countries of Central America, thus formalising the extension and deepening of economic, trade, financial, technical and social cooperation and enhanced political dialogue.

The following meetings were particularly important for human rights:

- *San José IV*: at this meeting held in Hamburg in 1988 the EU's support for the peace process that had been launched in Central America was underlined, and priority was given to cooperation in human rights-related fields such as food security and economic integration.
- *San José VII*, Managua 1991: this meeting reaffirmed the parties' support for the Special Plan of Economic Cooperation and for the creation of PARLACEN and a new human rights programme.
- *San José VIII*: at this meeting held in Lisbon in 1992 a multiannual programme on human rights was approved.
- At the following meeting, *San José IX*, held in San Salvador in 1993, a new Framework Cooperation Agreement was signed; it included the democratic and review clause, according to which countries that had any type of relationship with the EU had to abide by and respect human rights.
- *San José XI*, Panama 1995: at this meeting the bi-regional cooperation was reoriented to focus, *inter alia*, on the promotion of the peace process, the promotion of human rights and democracy, and the reduction of social inequalities.
- In 2002 the *San José XVIII* dialogue was held in Madrid: it confirmed the commitment to consolidate democracy, promote human development and eradicate poverty. This meeting was also important because during it a new format for the political dialogue was agreed upon; meetings would now be held in the first quarter of each year.

However, in addition to the San José Dialogue, there are other instruments used in the bi-regional relations that concern human rights:

- The new *Generalised System of Preferences* was revised to grant preferences in line with the criteria of sustainable development, the protection of human rights, environmental protection and good governance.
- The Political Dialogue and Cooperation Agreement between the European Union and Central America, signed in Rome in December 2003, has as its foundation 'respect for democratic principles and fundamental human rights as set out in the Universal Declaration of Human Rights ... and the principles of the rule of law...'. In addition, Article 8 of the Agreement is devoted to cooperation in the field of human rights, democracy and good governance⁽²²⁾.

²² ARTICLE 8: The Parties agree that cooperation in this field shall actively support governments and representatives of civil society through actions, in particular in the following areas:

More specifically, the *Multiannual Programme for democracy and human rights in Central America* for the period 2002-2006 is currently in force, having been extended until April 2007. Its main aim is to consolidate a new regional scenario, improving citizens' knowledge of their rights and encouraging the coordination of joint actions with local and regional authorities to solve the problems encountered in the medium and long term, with a view to a future in which the universal values of human rights and democracy are stronger.

On the basis of the EIDHR, a mechanism was sought to respond to the problem of human rights and democracy and the result was this programme. It has been implemented in all of the Central American countries, with the exception of Belize, and it incorporates two regional strategies (relating to access to the Inter-American Human Rights System and the training of the armed forces) and a specific programme for each beneficiary country.

As far as the country programmes are concerned, a consortium formed by civil society and NGOs is the only representative before the EU. As a result, the programmes focus on the reality in each country.

The Costa Rican programme concentrates on training and the promotion and defence of human rights in university. El Salvador's programme is geared towards encouraging democracy. Guatemala and Honduras are pursuing the same goal of consolidating the rule of law and democratic values. Nicaragua and Panama also have similar objectives, involving participation in education and with civil society in order to achieve fora for dialogue in which the values of human rights and democracy can be spread.

The regional programmes have different goals. The *Programme to combat impunity and strengthen the rule of law in Central America through international law and human rights* seeks to improve the human rights situation and compliance with international conventions in the region; while the *Programme on the military forces and human rights: training for possible, necessary and sustainable complementarity* seeks primarily to promote the incorporation of human rights doctrine within the military institutions of the countries in the region.

Therefore, while the first regional programme concentrates on the participation of civil society through NGOs, the second implies the participation of the armed forces in this area.

The 2002-2006 Programme for democracy and human rights in Central America is undoubtedly the most concrete expression of the bi-regional relations in the field of human rights. The results will be available in a few months.

This Programme demonstrates that political dialogue on human rights between the EU and Central America does not just involve institutions, the work of the European Parliament being of particular importance, but involves other important actors such as civil society, organised in associations aimed at promoting and defending human rights.

During the second quarter of 2007 the above Programme will be evaluated. Irrespective of the result this evaluation might produce, it is possible to identify the progress made in the promotion of democracy in the Central American isthmus. Nonetheless, there are still areas of human rights that have not been included in the programmes implemented to date, such as the promotion of economic, social and cultural rights.

(a) promotion and protection of human rights and consolidation of the process of democratisation, including the management of electoral processes;

(b) strengthening the rule of law and the good and transparent management of public affairs, including the fight against corruption at local, regional and national levels; and

(c) reinforcing the independence and efficiency of judicial systems.

3 POSITIVE AND NEGATIVE RESULTS. IMPACT

Promotion of democracy and human rights, both in Latin American and elsewhere, is not only the preserve of the EU institutions, with all of the abovementioned instruments. There are many other organisations and institutions that also contribute to their development. As a result, the results obtained cannot be attributed, in terms of both what should be done and what has been done, to the EU alone.

The common acceptance of the idea that the democratic system, based on respect for, and promotion of, human rights, along with all the differences that can be highlighted, is preferable to any other form of government should be seen as an achievement, to which the Latin American countries themselves have also contributed. Indeed, the EU has left its stamp through the way in which it has been disseminated and established, through dialogue with third countries, using mechanisms such as the democracy clause and conditionality in development cooperation.

The spread of democracy has meant that in Latin America at present the main leaders in almost all the countries are endorsed at the polls. This is a very positive result. Nevertheless, democracy, which is always an ideal, does not lie solely in the crucial holding of free, competitive and regular elections; it requires other associated elements and rights⁽²³⁾. Compliance with these is, by its very nature, flexible, since there are no universally applicable rules, in part because cultural, ethnic, religious and all kinds of other differences must be respected in accordance, precisely, with the right to difference.

However, at the root of these differences violations of human rights cannot be tolerated, as they sometimes are, for example discrimination, active or passive, against women in relation to the right to vote. Such aspects can be monitored by observers sent by the EU and others at least during the elections. In general, most of the reports on the elections held in the region in recent years have been favourable.

Most human rights infringements occur, however, out of sight of the observers when there are no elections or in situations where the observers have no means of denouncing them and eradicating them. One especially serious situation is the use of violence by armed groups, or even official security forces, that have the direct or indirect approval of the authorities. This has happened, recently in fact, in certain key parts of Central America (Haiti, and before that in Guatemala, El Salvador, Honduras, etc.).

The shortcomings in terms of the political integration of vast sections of society, which explain the difficulties involved in consolidating respect for human rights and democratic practices, are due, on the one hand, to the fact that the political actors that are supposed to represent the citizens, primarily the parties and parliaments, are seen as institutions that are very far removed from the population's problems and needs.

Indeed, it is this population that is primarily affected by poverty, including extreme poverty, and that faces daily struggles to obtain the very minimum requirements for a decent living. This is an aspect that needs to be dealt with through economic and social rights, which, if not protected as is currently the case, also affect the weakness of civic and political rights.

²³ Thus, the existence of alternative sources of information, the freedom to set up and join civic and political organisations, freedom of expression, the right to vote, the right of political leaders to compete for support, the existence of institutions that guarantee that the government policy is based on votes, and other forms of expressing differences (see Robert A. Dahl, *Polyarchy*, 2002), are some of the rights and elements that, if adequately developed, add quality to the democratic system.

At the same time, in most countries in the region the State bodies are not resolving adequately many of the main problems affecting a significant percentage of the population. Basic public services, from justice to personal safety, to mention just two, operate ineffectively, such that the citizens feel (or are) excluded and/or poorly treated by the State bodies. According to the UNDP Report mentioned above entitled *Democracy in Latin America*, most people in the region are not satisfied with the performance of their governments. In spite of the substantial progress made in the electoral field, given that elections are normally not rigged and are recognised as the only legitimate way of gaining power, 55% of those interviewed in 18 countries studied⁽²⁴⁾ would support an authoritarian government if it were capable of resolving the economic problems, compared with 45% who prefer democracy to any other form of government; 58% are in favour of the president of their country acting outside the law; and 56% believe that economic development is more important than democracy.

This demonstrates that, in spite of the progress made, it is difficult for democracy and human rights to consolidate their position in the region, particularly as they do not help to resolve the problems of poverty and inequality, which are very evident in all Latin American countries, especially Central America and large parts of the south of the continent. This also makes it difficult to spread a democratic political culture as a necessary favourable environment.

Consequently, too, some of the countries in the areas indicated have also leaned towards formulas that are denounced as populist, even though their leaders continue to be elected through elections, for now at least. In many places the conventional forms of political participation, with parties and trade unions, are being left behind by an emergence of alternative social movements.

However, the real danger that needs to be contained is that of extreme inequalities and widespread poverty, which also make it easier for political, social and corporate corruption to breed. It is thus easier for a certain degree of social violence to arise, as a way of achieving minimum levels of subsistence. On occasions this is carried out by organised groups that grow, in special circumstances, among the most needy young people in Central America, Colombia, Brazil and others.

The most vulnerable sections of society are those that suffer most from the setbacks of human rights violations. In the region in question the situation is particularly dangerous for the indigenous population, women and children.

In any case, the aim is to try to break the evil, vicious circle caused by unsatisfactory and inadequate states that do not provide the minimum services required in such unequal societies, thereby giving rise to very deep-rooted conflicts.

Traditionally they have not been resolved with the application of democratic rules based on human rights, which is why the difficulties that have taken hold are even greater. However, this is no reason to suspend or reduce the dialogue initiated, alongside the other mechanisms, between the EU and the relevant countries in the region in order to promote the means in question.

²⁴ Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela.

4 RECOMMENDATIONS TO THE EUROPEAN PARLIAMENT

The EU, in particular the EP, in its desire to continue the consensual spread of democracy and human rights, must emphasise and disseminate its own political vision of these issues by developing dialogue alongside political cooperation. Even where the goal is to combat terrorism and guarantee security, aspects that for various reasons have dominated the political agenda in recent years, it is important to maintain the guarantees provided by the rule of law that we seek to promote in third countries. The EU must get this message across.

Given the wide range of actions carried out by the EU, and in the interests of improving the results of the dialogue and other instruments used to spread democracy and human rights, it would be very interesting in terms of its relations with the Latin American countries to draw up a strategic plan that (1) lays down the general outlines, (2) combines all of the actions carried out, both direct and indirect, so that they can be considered as a whole, and (3) evaluates the work, with a view to (4) taking action in the right direction, ensuring that the active policies are stable and regular through the EIDHR and consequent multiannual programmes.

In order to draw up this strategic plan, assistance must be sought from the European Fundamental Rights Agency, the Special Representative of the Secretary-General on human rights defenders and other institutions interested in the promotion of human rights (Court of Justice, etc.), with the involvement, too, of the bodies responsible for implementing development cooperation. The EP must lead the proposal and set out its main objectives, while seeking the support of the institutions affected.

A certain degree of leadership must also be offered to the countries with vested interests in the region due to their traditional bonds with it (Spain, Portugal, France, Italy, etc.). The upcoming bicentenaries of independence in some Latin American republics present an opportunity that can be used to reaffirm the commitments made, through dialogue, to democratic values and defence of human rights.

During the consultation and evaluation of the strategic plan, representatives, not just official, must also social, must be involved so that they can help to establish the priorities for the most important topics and areas. NGOs from all areas that work to spread democracy and human rights must also be involved, together with those that strive to promote economic and social development through cooperation. Thus, the dialogue must be multilateral dialogue and involve civil society from the very outset. The EC delegations and EP offices in the region are ideal places to hold the consultations. They can also ask civil society once again to recommend individuals and groups that, in their opinion, should receive the Sakharov Prize for Freedom of Thought.

The recommended actions concern three areas: **A) direct promotion of democracy and human rights, B) strengthening of the rule of law and development of public administrations, and C) implementation of cross-cutting programmes focusing specifically on the groups likely to suffer most discrimination**, i.e. indigenous peoples, women and children, which should be present in the other activities. The three areas are, or should be, connected in such a way that the best possible use can be made of their energy. In none of the three areas can completely innovative actions be established, but it is possible to make them more effective through coordination with the strategic plan proposed.

It is also important to make it clear that such ambitious and complex objectives cannot be achieved in a short period of time. As a result, the actions already under way must be allowed to run their course so that the results can be examined. These results must be reflected in subsequent proposals and

recommendations. For example, the evaluation of the Multiannual Programme that is about to come to an end must be taken into consideration.

In the usual analyses of the issues in question there is normally little focus on the key sectors of the private economy, including multinational corporations. Special attention should be paid to the companies from the EU as they, too, make a vital contribution to the current situation.

As a consequence, businessmen and entrepreneurs, both national and foreign, must be involved in the application of corporate social responsibility. They should make greater investments in the regions from which they generate their income by establishing more decent working conditions, which encourage more just societies, and showing a responsible respect for the environment that allows sustainable development. An active part of civil society, they should participate more actively in the drafting of proposals and their implementation.

A) For the direct promotion of democracy and human rights, the electoral observers must continue their work. They must also increase their missions, which means staying in the countries that are holding elections for longer periods of time so that they can supervise in greater detail all the elements and rights involved in the democratic process, including observance of human rights. To this end, they need 1) more intense previous training and 2) additional resources. To provide the previous training requested, which is the EU's responsibility, collaboration with universities and other accredited institutions may be envisaged. As far as additional resources are concerned, collaboration with local bodies, such as ombudsmen, courts of justice and NGOs may be sought. In this way the tasks carried out by the groups of observers may also be expanded over time to include the preparation of research programmes concerning the issues on which least progress has been made in the region.

The results of such research will be taken into account in the continuation of the dialogue between the EU and the Latin America countries. Similarly, on the basis of the shortcomings identified as a result of the research, specific training programmes must be established for local actors, who in turn can contribute to the spread of education on democratic values.

In any case, the goal is to create and consolidate over time training structures based in the countries. Their operation and establishment must not be delegated to official centres, with which collaboration is possible however, nor to parties, trade unions, social movements, etc., which should, first and foremost, be the focus of the actions. The goal is to promote participatory and representative democracy and political pluralism, strengthening the institutions of the political actors mentioned above (parties, interest groups, trade unions, employers, etc.) and of the representative bodies (parliaments, economic and social committees, etc.) as well as the representative processes and institutions.

All of these tasks should also help to prevent and reveal, specifically, the situations in which violence is used by armed groups, police or paramilitary groups. In this respect, reliable warning systems are being established that can, in some cases, seek the suspension of open dialogue and impose stricter measures in relation to confidentiality and the democracy clause.

B) Actions aimed directly at strengthening the rule of law and the development of public administrations. Support is needed for the construction of efficient public services, which should not be conceived as privileges but as fair supplies of public goods, which the citizens have every right to receive. The institutions need to be strengthened and learn to combat corruption, with the establishment of specific programmes on public ethics and the promotion of mechanisms that make them responsible to the citizens: laying down guidelines for the rendering of accounts, setting up accessible information systems, with evaluation methods and rewards or sanctions for the bodies

concerned in order to improve the transparency and efficiency of public administration. The research and training referred to in section A) may be used to determine priorities.

C) In this respect, programmes designed to foster the creation of a professional civil service for the entire public administration may be implemented. These programmes should also extend to the courts, with measures for the training of independent judges, in collaboration with the ombudsmen, who also help, *inter alia*, to draw up codes of good practice focusing especially on the defence of human rights. In addition, the programmes must be applied to the policies dealing with the sentencing of crimes involving human rights violations, focusing, in particular, on violations of the rights of women and children and, specifically, programmes for the indigenous populations. Similarly, special programmes to strengthen the public institutions responsible for ensuring legal and economic security must be implemented, with support for the consolidation of notary, registration and land registry systems, paying particular attention to the most disadvantaged sections of the population. Political decentralisation may be encouraged through adequate training and research, where requested by the local research groups that will support the programmes concerned.

In any event, the aim is to continue to develop the dialogue under way along lines that generate greater mutual trust. In the countries in question, this may be achieved above all through more direct involvement of civil society in all stages of the process, although the connections formed with the official institutions must not be neglected.

5 ANNEX. COUNTRY TABLES

5.1 BELIZE

Date of independence: 21 September 1981 from the United Kingdom

Capital: Belmopan

Official language: English

Currency: Dollar

Population: Approx. 282 000

Form of government: Parliamentary democracy; member of the Commonwealth

HDI: 91

Body responsible for human rights: Human Rights Commission of Belize

Human rights situation:

There is not enough data available to complete the reference information on this country.

5.2 COSTA RICA

Date of independence: 15 September 1821 from Spain

Capital: San José

Official language: Spanish

Currency: Costa Rican colon

Population: Approx. 4 100 000

Form of government: Presidential democratic republic

HDI: 47

Body responsible for human rights: Costa Rican Human Rights Ombudsman

Human rights situation:

Generally speaking, Costa Rica has demonstrated a growing concern for the protection of human rights. Because it is the seat of the Inter-American Court of Human Rights and has the highest HDI in the region, it is often held up as an example.

Nevertheless, there are constant criticisms of its legal system and institutions. The most serious problems are legal texts without context, the slowness of the judicial system, violence by the State security forces and overcrowding in the prisons. In spite of the warnings from countless human rights organisations, there have been few improvements in this area.

However, much more seriously, it is the human rights of women and children that are abused most often. The statistics on domestic violence against women are terrifying. The Costa Rican Government has, through the National Institute for Women, established a number of programmes to provide economic and psychological support for victims and to promote equality. Nevertheless, the situation of children is even more worrying, with children being exploited for labour or prostitution purposes.

The situation requires urgent assistance. However, the Human Rights Ombudsman's competence in the public sector is limited: he is unable to get involved in cases between private individuals or cases being dealt with in the courts. Cooperation with other actors is therefore necessary. In Costa Rica, unlike the general situation in the region, human rights defenders and promoters operate without restrictions.

5.3 EL SALVADOR

Date of independence: 15 September 1821 from Spain

Capital: San Salvador

Official language: Spanish

Currency: US dollar

Population: Approx. 6 850 000

Form of government: Republic

HDI: 104

Body responsible for human rights: Office of the Ombudsman for Human Rights

Human rights situation:

The human rights situation in El Salvador has been affected by the military conflict in the 1980s. Having failed to mitigate its effects entirely, the abuses extend to economic, social and cultural rights.

There are criticisms of the restrictions on this set of rights, despite the government's promised structural improvements at macroeconomic level. However, these improvements are not felt on a more individual level, which gives rise to social frustration.

This social instability has led to the appearance of social groups that are an alternative to the official authorities and heirs of the war. They are primarily gangs of young people and they are highly organised. The government responded to this problem with the Anti-Gang Law of 2003, which has itself been criticised by various human rights organisations. They argue that, far from remedying the violations of specific rights, this Law infringes many more, thereby perpetuating the problem of citizens' safety.

Violence is thus one of the main problems in El Salvador.

5.4 GUATEMALA

Date of independence: 15 September 1821 from Spain

Capital: Guatemala City

Official language: Spanish

Currency: Quetzal

Population: Approx. 14 700 000

Form of government: Republic

HDI: 117

Body responsible for human rights: Office of the Human Rights Ombudsman

Human rights situation:

In Guatemala, in the light of the consequences of four decades of armed conflict and in spite of attempts to protect human rights through the Peace Accords, the main problem is democratic instability, aggravated by the constant abuses of individual rights.

The Guatemalan institutions have not been able or have not wanted to shed much light on the attacks carried out during the years of the conflict. With the people demanding that those responsible be found, the authorities were snowed under and returned to permissive practices in the open cases, which had a negative impact on human rights.

One of the cases that resulted in a successful conviction was that of the murder of the anthropologist Myrna Mack: one of her murderers, a senior army official, was sentenced to 30 years in prison. However, that is the exception rather than the rule. Today, the Myrna Mack Foundation is an organisation devoted to consolidating democracy in Guatemala. Just recently, the Foundation received the 2006 King of Spain Prize for Human Rights.

However, human rights violations do not stop there. The indigenous population also suffers constant abuse. Once again, civil society is the main actor involved in combating such attacks. The Rigoberta Menchú Tum Foundation, whose founder won the Nobel Peace Prize in 1992, acts as a permanent observer and defender of the rights of the indigenous peoples.

In spite of this support from civil society, Guatemala is one of the countries in which human rights defenders are most persecuted. According to the 2003 Human Rights Report, human rights defenders in Guatemala suffered more than 100 attacks in 2002 alone, from all areas. Sadly, the pressure the defenders are constantly under makes it much more difficult for them to work successfully.

5.5 HONDURAS

Date of independence: 15 September 1821 from Spain

Capital: Tegucigalpa

Official language: Spanish

Currency: Lempira

Population: Approx. 7 400 000

Form of government: Presidential republic

HDI: 116

Body responsible for human rights: National Human Rights Commission

Human rights situation:

The outlook in Honduras is no more promising. After the 2005 elections a series of reforms that imposed considerable restrictions in the field of human rights was presented but did not come to fruition. Some examples of these reforms are the restrictions on the habeas corpus and the approval of the death penalty.

The Constitution currently in force was approved in 1982. It lists a wide range of human rights. However, it was not until 1995 that a body responsible for overseeing human rights in the country was set up. Since then, its work has improved more and more.

Nevertheless, contrary to how things seem, in the reports on the human rights situation in Honduras, the same weaknesses appear time and again: institutional weakness, shortcomings in the legal framework and shortcomings in the prison sector.

In addition to these attacks on rights in less individual areas, once again it is the women and children who are the main victims of abuse. Violence and exploitation diminish their human rights to the extent that there are practically non-existent.

International bodies and various organisations work together in Honduras to promote democracy as a basis for the construction of a peaceful state.

5.6 NICARAGUA

Date of independence: 15 September 1821 from Spain

Capital: Managua

Official language: Spanish

Currency: Cordoba

Population: Approx. 5 500 000

Form of government: Republic

HDI: 112

Body responsible for human rights:

Human rights situation:

Despite having experienced generally positive growth on a macroeconomic level, the human rights crisis in Nicaragua is already an almost structural problem. According to the data of the Nicaraguan Centre for Human Rights, 45% of the population subsists on less than a dollar a day and it attributes this situation to the growing inequality in the distribution of wealth.

One of the most controversial topics in recent months has been the issue of therapeutic abortion (to save a woman's life). In the Penal Code therapeutic abortion is listed as one of the justifications for the crime in question. Since April 2006 many groups have called for this justification to be repealed and withdrawn from the Code, while other groups have called for it to be retained. The debate is still ongoing in the Nicaraguan Parliament.

In addition to the topical issues, attacks on human rights occur in all areas. They range from attacks on individuals' most intimate rights (homosexuality is still a crime) to attacks on economic, social and cultural rights.

Nonetheless, and in spite of this situation, in order to demonstrate its commitment to change and support for the defence of human rights, Nicaragua has applied to become a member of the UN Human Rights Council.

5.7 PANAMA

Date of independence: 28 November 1981 from Spain

Capital: Panama City

Official language: Spanish

Currency: Balboa (the US dollar is also legal tender)

Population: Approx. 3 200 000

Form of government: Presidential republic

HDI: 56

Body responsible for human rights: Office of the Ombudsman

Human rights situation:

Panama has the second highest HDI in the region. However, its ranking in the Corruption Perception Index (according to the organisation Transparency International, responsible for the list) is 70th out of 159 countries. The same report describes the corruption as endemic, and evident in the granting of presidential pardons during different terms of office to individuals on trial for human rights violations.

In addition, the corruption extends to the area of private business, in which certain bodies are accused of receiving tax and financial perks from the State.

Furthermore, the Office of the Ombudsman itself has criticised the situation in prison facilities as well as the treatment of prisoners. Violence also extends to other areas, such as workers' rights and social security.

Similarly, children's rights are being abused and they are subject to exploitation. According to the *Report on the Human Rights Situation in Central America* by the Lutheran World Foundation, in Panama one out of every three children is malnourished and more than 50 000 children between the ages of 10 and 17 work.

The indigenous peoples are suffering the same deterioration in respect for their rights.

And all of this occurs in a country that is ranked 56th in the UNDP's HDI.

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