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# Can Shaming Promote Human Rights? Publicity in Human Rights Foreign Policy

A Review and Discussion Paper

Katrin Kinzelbach, Julian Lehmann

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: This review and discussion paper presents contemporary academic findings on :  
: human rights shaming, relates them to experiences in liberal political foundations :  
: and formulates open questions as well as courses of action regarding human rights :  
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: :  
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: .....

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## Executive Summary

NGOs and states alike can publicly criticize repressive governments. Such “shaming” serves to attract attention to actions perceived as wrongful. Shaming seeks to increase the costs for offenders and thus acts as a deterrence mechanism. In the international political arena, it needs an audience to function; therefore, by definition, it is public. Shaming can work as a megaphone to build up pressure from “above” and “below.” It can also serve as one of several mechanisms of human rights change, including dialogue, deliberation, capacity building, persuasion, incentives and coercion.

There is robust academic evidence that shaming can have a positive impact on the human rights situation in targeted states. Both qualitative and quantitative research points out that the success of shaming hinges on the health of the domestic opposition, but that shaming by international actors is also an important remedy against deadlock when the space for domestic opposition shrinks. When domestic actors coordinate with international actors, shaming is most effective. Shaming works for economically weak and strong states alike, suggesting that most states care about their reputation rather than only about the immediate economic effects.

Human rights shaming carries risks. Shaming can backfire when shamed states develop effective counter-frames that challenge the legitimacy of criticism, such as by pointing to neocolonial interference. Governments may strategically make concessions out of concern for human rights, only to clamp down on other rights. Shaming may also have detrimental economic side effects, though there is no academic evidence of such effects being long-term.

Academic findings on the effectiveness of human rights shaming are largely echoed in the experiences of practitioners in liberal political foundations, as indicated by a perception survey on shaming that was kindly distributed for the purposes of this study by the Friedrich Naumann Foundation (FNF) through its country offices. Respondents answered in a personal capacity and on an anonymous basis. Because of the snowball sampling approach, the survey results do not provide conclusive evidence. Nevertheless, they indicate that staff members of liberal political foundations and their NGO partners expect the effect of domestic criticism to increase if an individual European Union member state echoes that criticism. More important is shaming by multiple EU governments, particularly by governments of bigger EU member states. In follow-up interviews, respondents stated that local actors are mostly better suited to shame,

unless there is no space for them to do so. Likewise, they stressed the need to complement shaming with other measures, such as incentives and coercion, and deplored the lack of EU coordination.

A small sample of shaming practice in the EU indeed raises the question of to what extent shaming by the EU and member states is consistent. EU member states regularly coordinate on human rights issues in the human rights working group of the council of the EU. However, with some exceptions (i.e., joint shaming in response to prominent individual cases), shaming practice appears to be erratic.

What is the best way towards a more consistent practice? While academic research on the effectiveness of shaming can inform policy, there are limits to this. Because the effectiveness of shaming is highly context-specific, there cannot be a universal protocol for when – and when not – to shame. Authoritarian states seek to remain unpredictable. Given such uncertainty, predictions about the effectiveness of shaming are important but cannot be the only consideration that determines when to shame. Ultimately, at least keeping the human rights discourse alive and on the international agenda can be a legitimate consideration for whether to shame.

Against this background, the present study proposes a “principled pragmatism” informed by research. Such an approach needs *strategic, coordinated action*. Effective shaming requires clear strategizing about the vulnerability and potential counter-discourses of the targeted state, as well as the alliances that need to be built. It also necessitates closely coordinating with local actors and, where possible, synchronizing the actions of international actors more so than what seems to be the case today. The EU has great potential for such coordination and synchronization, but it should not seek to centralize human rights criticism. Because EU actors in Brussels are not perceived as being as powerful as the member states on issues of foreign policy, they should encourage and support member states to shame in a coordinated manner. Without a concerted effort across all European capitals, perpetrating states can easily dismiss human rights criticism as a concern of a Brussels apparatus that is out of touch with the member states, and opponents of more-consistent shaming can point to the EU’s responsibility in order to justify their own inaction.

## Introduction: “As Loudly as Possible”

### “Thank You, But No”

In December 2014, the Azeri government arrested Khadija Ismayilova, an independent journalist renowned both nationally and internationally for her investigations into the corruption of the country’s political elite, including the family of President Ilham Aliyev. Facing criminal libel, Ismayilova had anticipated her arrest and prepared a letter instructing foreign diplomats and journalists in how to react to her custody. This was her message to those who wanted to help but could only do so by using “private diplomacy”: “Thank you, but no.” Diplomats should stand “as loudly as possible” for freedom of speech and the right to privacy, she argued, because the people of Azerbaijan need to know that there is international support for human rights.<sup>1</sup>

Ismayilova’s letter raises the question of how, and in particular how “loudly,” both international governmental and non-governmental actors should criticize norm-violating states. That question does not arise only in connection to individual cases, such as Ismayilova’s; it is equally pertinent in respect to human rights concerns that are more general or structural. Consider, for example, calls by Chinese activists to make public the results of secret human rights talks with China<sup>2</sup>; open criticism of a Russian law that brands NGOs with foreign funding as “foreign agents”; or calls for legal reform, such as the abolition of the death penalty.<sup>3</sup>

### Introducing Shaming

According to international law, criticism of human rights violations is always legitimate. The International Court of Justice – the world’s top judicial authority that regulates disputes between states – has made clear that human rights

1 The letter was published by the UK NGO Article 19, “If I Get Arrested’: In Solidarity with Khadija Ismayilova,” February 28, 2014, <http://www.article19.org/join-the-debate.php/137/view/>. Accessed August 17, 2015.

2 “Chen Guangcheng pressures the EU on ‘secret’ human rights talks with China,” *The Telegraph*, May 19, 2013, <http://www.telegraph.co.uk/news/worldnews/asia/china/10066972/Chen-Guangcheng-pressures-the-EU-on-secret-human-rights-talks-with-China.html>. Accessed August 17, 2015.

3 “US/Death penalty: UN experts call for federal moratorium as Boston bomber gets death sentence,” OHCHR, June 16, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16160&LangID=E>. Accessed August 17, 2015.

obligations are owed to the international community as a whole.<sup>4</sup> Therefore, every state has a legitimate interest in the human rights performance of another. Nevertheless, states can ignore or rebut human rights norms with relative ease. Governments may deny involvement outright or argue that a given human rights norm does not constrain them in their actions. They may claim their actions are necessary due to security imperatives, public order or criminal investigation and punishment. They may brand their opponents as foreign agents.

Promoters of human rights have developed various ways of responding to repression and human rights violations. Human rights NGOs gather reliable public information.<sup>5</sup> NGOs and states alike can publicly criticize repressive governments. Such public criticism can be called "shaming," a technique that serves to attract attention to actions perceived as wrongful. Shaming seeks to increase the costs for offenders and thus acts as a deterrence mechanism. In the international political arena, it needs an audience to function; therefore, by definition, it is public. In the field of international human rights protection, shaming is an attempt to label behavior by a state as wrongful, targeting its reputation as a law-abiding actor. In academic studies, the definition of shaming is relatively broad and includes the dissemination of all negative information about state behavior.<sup>6</sup> A general statement on the importance of human rights is not shaming. However, labeling the detention of an individual as arbitrary constitutes shaming, as is condemning the treatment of an individual or a group, or condemning a particular law that violates human rights norms. Despite the frequent use of shaming, its effectiveness is heatedly debated by diplomats, politicians and activists.

### Effectiveness Matters

Foreign policy needs to deliberate between competing priorities and grapple with different, complex and uncertain predictions of the outcome of a specific course of action. In addition, diplomacy has an institutionalized interest in smooth working conditions.<sup>7</sup> Against this background, there is a high incentive not to resort to measures of unclear effectiveness that could undermine previous achievements. Foreign policy responses to repression and human rights violations are no exception.

4 Belgium v Spain (Second Phase) ICJ Rep 1970, p. 3, in paragraph 33, <http://www.icj-cij.org/docket/files/50/5387.pdf>. Accessed August 17, 2015.

5 Keck and Sikkink 1998; Roth 2004.

6 E.g., Davis, Murdie and Steinmetz 2012.

7 Klein 1996.

The debate on whether to use shaming is often framed in terms of the effectiveness of that shaming. So sharply divided are the views on the effectiveness of shaming, that the debate features proponents and opponents.<sup>8</sup> On one side of the spectrum stand the "vocalists," who believe shaming is effective. In an address to the European Parliament, Germany's former human rights commissioner, the liberal democrat Markus Löning, stated:

*I cannot understand that human rights policies should only take place behind closed doors ... It is my experience that leaders of countries, especially of authoritarian countries, don't like ... being addressed in public for their human rights offenses. So that is something we must absolutely do ... We must address these issues in a decent way, but we must address them very clearly publicly ... and we can make a real difference for so many people in the world.<sup>9</sup>*

On the other side of the spectrum stand individuals who doubt the effectiveness of shaming. Prior to Germany's 2013 parliamentary elections, the leading social-democratic candidate Peer Steinbrück triggered a debate about whether to publicly criticize Russia's human rights performance. Steinbrück warned that criticism should be voiced "in bilateral talks rather than on the market square," for public criticism could harm continued access to the regime and thus risk concrete progress.<sup>10</sup>

Likewise, officials of the European External Action Service said they preferred to talk behind closed doors in order to build up trust and confidence with a foreign government. Reportedly, the officials presented this approach as contrasting with making "loud statements" or breaking off communication altogether.<sup>11</sup> Catherine Ashton, former European Union high representative for foreign affairs and security policy, also preferred a "closed doors" method, believing it to be more effective. Pressed for her approach to human rights in the EU parliamentary confirmation hearing, Ashton suggested that she would get things done by using "quiet diplomacy":

8 "Ashton urged to speak up on human rights," June 21, 2010, <http://www.politico.eu/article/ashton-urged-to-speak-up-on-human-rights/>. Accessed August 17, 2015.

9 Löning, address to the European Parliament's Human Rights Committee, June 25, 2013.

10 Interview with German weekly newspaper *Die ZEIT*. "Was sozial gerecht ist, ist auch ökonomisch sinnvoll," March 16, 2013, <http://www.zeit.de/politik/deutschland/2013-03/peer-steinbrueck-interview-spd-wahlkampf>. Accessed August 17, 2015.

11 "Turning Up the Volume on Human Rights in Europe", July 8, 2013, [http://www.nytimes.com/2013/07/09/world/europe/09iht-letter09.html?\\_r=0](http://www.nytimes.com/2013/07/09/world/europe/09iht-letter09.html?_r=0). Accessed August 17, 2015.

*There are many occasions when talking to people without the full glare of publicity can be more effective; where giving others the credit for the ideas that are generated can be more effective; allowing the space, in political terms, for the conclusions to be reached ... Sometimes ... being heard loudly across the international stage does not get you the effect that you want. My interest is in outcomes. My interest is in making sure that, at the end, we have actually achieved what we want to achieve ... Across the world, there are different approaches to human rights issues that can be more effective in particular countries ... I want to differentiate the most effective approach for different countries.<sup>12</sup>*

For its part, the European Parliament assumes that publicity can be effective. In its annual human rights report, the parliament recommended placing an "emphasis on public diplomacy" to retain the public credibility of the EU's human rights policy and to support human rights defenders.<sup>13</sup>

Given that policymakers couch the use of publicity or shaming as a matter of effectiveness, one question is particularly pressing: What do we know about the effectiveness of shaming on the international level?

### Structure of the Study

This review and discussion paper seeks to present contemporary academic findings on human rights shaming, relate them to experiences in liberal political foundations and formulate open questions as well as courses of action regarding shaming.

First, it will present academic research on the effectiveness of shaming, including the mechanisms of human rights change, the success factors of shaming, its risks and the coordination of current practices. Research on the topic so far has focused on civil and political rights; as a result, this study will take a similar focus. Second, the paper will relate some of these insights to experiences culled from the work of practitioners in the field, with the help of a one-time online survey that was distributed by the Friedrich Naumann Foundation through its

country offices to staff members and NGO partners, as well as follow-up interviews. Finally, the paper will reflect on a possible course of action for when and how to shame human rights violations.

The paper will address the following questions:

1. What are the academic findings on the mechanisms of human rights change, the success factors of human rights shaming, and its risks?
2. How do these findings inform research and policy questions that specifically concern Germany and the EU?
3. To what extent are findings on the effectiveness of shaming, its risks and the coordination of human rights actors reflected in the experiences of survey respondents?
4. In light of both academic findings and practitioners' experiences, what is a possible course of action for human rights shaming?

<sup>12</sup> Verbatim record of the European Parliament hearing on January 11, 2010, <http://www.europarl.europa.eu/ep-live/en/other-events/video?category=SPECIAL&event=20100111-1531-SPECIAL&eventCode=20100111-1531-SPECIAL&vodtype=Vod&format=wmv&byLeftMenu=researchotherevents>. Accessed August 17, 2015.

<sup>13</sup> "Report on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter," <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2015-0023&language=EN>. Accessed August 17, 2015.

## All But Cheap Talk: Academic Findings on the Effectiveness of Human Rights Shaming

### Perspectives on Shaming

#### *Logics of Human Rights Change*

Why do states resort to repression and violate human rights? It is not out of sheer irrationality. Academic studies corroborate the assumption that states use repression as a tactic to monopolize or hold on to power, once domestic actors threaten that monopoly through non-violent or violent means.<sup>14</sup> Shaming by domestic or international non-governmental or governmental actors responds to such repression.

In academic research, there are different hypotheses for why shaming can help to bring about change in state behavior. The first category of scholarship is concerned with how powerful a state is and thus how easily it can be coerced into compliance. It predicts that only material costs big enough to make a state "care" can bring about a change in behavior. A second category of scholarship scrutinizes the enforcement capacity of international institutions and the degree to which a state is embedded in these institutions – the more embedded, the more likely the state will comply. A third category of scholarship studies the strength of norms, or how the acceptance of norms shapes compliance; ultimately, states comply because of the impact of non-compliance on their reputation.

Whereas some scholars believe that only the direct consequences matter, others believe that engagement with human rights norms alters the identity as well as the preferences of a norm-violating state. Some scholars view only material costs as relevant, while others consider reputational costs as well. For yet others, ideas, normative entrapment and socialization are important factors. The two major perspectives on compliance have been termed "logic of consequences" (based on costs) and "logic of appropriateness" (based on ideas).<sup>15</sup>

Through these different lenses, shaming can be viewed either as an attempt to coerce compliance and to target the shamed government's reputation, or as

<sup>14</sup> Davenport 2007; Shellman 2006.

<sup>15</sup> Risse-Kappen, Ropp and Sikkink 1999.

the result of internalizing a norm and of a state's ambition to reach the social status of a peer.<sup>16</sup>

A model framework on human rights change, developed by a group of United States and German scholars, is useful in understanding the potential interplay of these perspectives. Thomas Risse, Steven Ropp and Kathryn Sikkink propose a "spiral model of human rights change," which predicts that human rights change occurs when domestic actors advocating for change ("pressure from below") join transnational networks.<sup>17</sup> These networks can lead to "pressure from above" by bringing the conduct of offender states onto the international agenda, thereby mobilizing states and international organizations to exert pressure. International actors can then lend crucial support to domestic human rights defenders, in the form of rhetorical support, funds and other assistance.

With pressure building up from both above and below, states will, according to the model framework, run out of options. Repressive governments deny human rights violations or intensify repression before engaging with the arguments of their critics and making tactical concessions. Meanwhile, they remain uninterested in real compliance. Sustained pressure, however, makes compliance more likely. Along the way, a process of identity transformation is set in motion: actors internalize norms. Ultimately, countries comply with human rights not to please or appease, but because the norms become a part of their normative DNA. Quiet diplomacy can be useful in negotiating limited tactical concessions during this process. At the same time, it is human rights shaming, more than anything else, that spurs into motion the spiral process of human rights change. But shaming by an international actor alone is not sufficient in producing change. International or transnational actors must cooperate closely with domestic actors to ensure that pressure is applied simultaneously from above and below.

The spiral model is by no means an automatic one-way process in which human rights practice always evolves for the better. Rather, the model examines possible pathways to compliance in order to identify the relevant mechanisms, and it examines when and for whom these mechanisms are relevant. The model suggests that multiple mechanisms can work to move compliance forward: dialogue, deliberation, capacity building, persuasion, shaming, incentives or coercion, including tough legal enforcement and strategic bargaining – that is, attaching a price tag to continued non-compliance. There is no hierarchy of these mechanisms.

<sup>16</sup> Lebovic and Voeten 2006, 868-69.

<sup>17</sup> Risse-Kappen, Ropp and Sikkink 1999; Risse, Ropp and Sikkink 2013.

In sum, shaming can have two functions. First, it can work as a megaphone to build up pressure from above and below, which triggers different mechanisms that are instrumental to human rights change. Second, shaming can itself be a mechanism of human rights change.

Mechanisms of human rights change
Dialogue – Deliberation – Capacity building – Persuasion – Shaming – Incentives – Coercion

*Drivers of Human Rights Change*

Shaming is one mechanism among many that can be instrumental to human rights change. Ultimately, whether these mechanisms work depends on numerous external factors. They include a state’s material and social vulnerability to shaming, the systemic differences of democratic and authoritarian regimes, and a state’s institutional capacity and constitutional makeup (states that lack effective administrative structures cannot enforce decisions).<sup>18</sup> Likewise, centralized structures may be more effective at enforcing decisions.<sup>19</sup> Combining these factors, Tanja Börzel and Thomas Risse developed a schema of groups of states:<sup>20</sup>

	Low	Degree of statehood	High
Degree of democracy ↑	<b>Unconsolidated democracies</b> Without strong state institutions and administrative capacity		<b>Consolidated democracies</b> With effective institutions and administrative capacity
	<b>Unconsolidated authoritarian regimes</b> Without strong state institutions and administrative capacity		<b>Consolidated authoritarian regimes</b> With strong but repressive state institutions

18 Risse, Ropp and Sikkink 2013, 16–18; Conrad and DeMeritt 2014, 18f; Hafner–Burton and Ron 2008.  
 19 Risse, Ropp and Sikkink 2013, 18.  
 20 Ibid., 69–75.

There is empirical evidence that consolidated democracies protect human rights best. A worrying trend, however, is the prevalence of physical integrity violations during phases of democratization (the so-called “murders in the middle” phenomenon).<sup>21</sup> That is, democratization does not necessarily lead to greater human rights protection, at least not in the short run. The chances of human rights criticism leading to success substantially differ based on the type of state and its developmental status. According to Risse et al., classical capacity building is most helpful to new democracies. In contrast, consolidated authoritarian regimes may be only coerced into making tactical concessions, rather than persuaded, depending on further conditions. For failing autocracies, socialization mechanisms offer little hope. In these cases, capacity building might even have negative effects by consolidating repression. Consolidated democracies, on the other hand, largely rely on domestic checks and balances, but here, too, multilateral oversight and shaming have a role to play in correcting norm-violating behavior.

A final condition for success is social vulnerability. The more target actors care about their social reputation within a certain community, the more they are vulnerable to external pressure and the practice of naming and shaming.<sup>22</sup>

**Evidence of the Effectiveness of Shaming**

*Economic Costs of Repression*

Independent of various perspectives on compliance, academic research has studied the effectiveness of shaming both as a driver of pressure and as a mechanism of human rights change. The research is both qualitative and quantitative.

First, there is evidence of a relationship between shaming and foreign direct investment (FDI). Statistical analysis has established that shaming by international NGOs reduces FDI flows into developing states. This is because of reputational consequences for multinational corporations, and because human rights violations make instability and violent conflict more likely.<sup>23</sup> Other studies point out that shaming by the erstwhile United Nations Commission on Human Rights (now replaced by the Human Rights Council) has consequences for aid flows.<sup>24</sup> In particular, a team of researchers established that multilateral aid

21 Peter Haschke 2011; De Mesquita, Bruce Bueno et al. 2005; Fein 1995.  
 22 Risse, Ropp and Sikkink 2013, 20.  
 23 Barry, Chad Clay and Flynn 2013.  
 24 Lebovic and Voeten 2009; Esaray and DeMeritt 2015.

decreased following such instances of shaming, while bilateral aid remained unaffected. The researchers concluded that punishment by aid donors for human rights violations is selective.<sup>25</sup> Close political ties between a donor country and a recipient country make aid less susceptible to change when shaming occurs. Sometimes, bilateral aid even makes up for a decrease in multilateral donors' aid flows that results from shaming.<sup>26</sup>

Finally, there is evidence that shaming by human rights organizations increases the likelihood of sanctions against repressive regimes. This is because transnational actors mobilize the international community by providing information or empowering citizens to demand action.<sup>27</sup>

Whether or not the actual or feared economic consequences of shaming ultimately lead to an improved human rights performance would appear to depend chiefly on a country's economic vulnerability. US researcher James Franklin analyzed the public condemnation by governmental and non-governmental actors of human rights violations in some 850 events in Latin America from 1981 to 1995. His statistical analysis reveals that governments indeed reduce repression in reaction to shaming. However, they only do so when they are economically vulnerable, notably when they are dependent on foreign aid and investment.<sup>28</sup> But Franklin's findings have not been tested on other regions and regime types.

### *Spiraling Towards Compliance*

The predictions of the spiral model have informed a large amount of research on the effectiveness of shaming, both country-based case studies and large cross-country quantitative studies. Case studies on torture in the US, on China and on the Arab Spring have demonstrated the relevance of the spiral model of human rights change.

Reviewing the Arab Spring uprisings in Tunisia and Morocco, Vera van Hüllen argues that the mobilization of transnational human rights networks "can help consolidate changes and avoid authoritarian backlashes."<sup>29</sup> Similarly, as one of this report's authors has written elsewhere, external incentives at least solicited "marginal advances towards compliance" by China. Nevertheless, the Chinese

25 Lebovic and Voeten 2009; Nielsen 2013; Esaray and DeMeritt 2015, 22f.

26 Nielsen 2013.

27 Murdie and Peksen 2013.

28 Franklin 2008, 199.

29 van Hüllen 2013.

party-state is growing more and more immune to public shaming by exploiting its international rise and launching powerful counter-discourses against external criticism.<sup>30</sup> The US, a consolidated democracy, experienced a profound backlash to its use of torture.<sup>31</sup> Using the compelling counter-narrative of anti-terrorism, the Bush administration managed to lessen domestic and international pressure for change.<sup>32</sup> Due to the hegemonic character, wealth and power of the US, the Bush administration was resistant to both internal and external pressure.<sup>33</sup>

A growing body of academic literature tests the spiral model with statistical methods. Most important for the purposes of this report is Amanda Murdie and David Davis's testing of shaming's effects in more than 400 cases of shaming.<sup>34</sup> Across cases, they find that targeted countries improve their human rights records following shaming. Murdie and Davis argue that the effectiveness of international shaming is contingent on two factors: (1) the number of local NGOs present in the targeted state, and (2) whether or not international third-party actors, such as states and intergovernmental organizations, "pick up" the initial criticism and pressure the offender state.

Just as predicted by the spiral model of human rights change, Murdie and Davis's research confirms that shaming is most effective when there are domestic actors and when these actors coordinate their criticism with international actors. A large presence of domestic NGOs alone is sufficient for human rights change, but teaming up within transnational networks can make shaming even more effective. In situations where domestic actors are repressed, the willingness of international actors to intervene becomes all the more important. Murdie and Davis also test economic vulnerability and democratic regime type as possible predictors of vulnerability to human rights shaming. The study finds that the observed effects of shaming apply to economically weak and strong states alike. Economic vulnerability is not a necessary condition of vulnerability to shaming, nor is democracy.<sup>35</sup>

### *The Challenges of Data*

So far, academic studies that test the effectiveness of shaming have focused mostly on civil and political rights, rather than economic and social rights. That

30 Gomez and Ramcharan 2014, 140; Kinzelbach 2013; van Hüllen 2013.

31 Sikkink 2013.

32 Ibid., 146.

33 Ibid., 162.

34 Murdie and Davis 2012.

35 Ibid., 14.

focus is mainly due to the availability of data. Research frequently operates with well-established datasets that are based on information from Amnesty International and the US State Department. These datasets concern areas such as physical integrity rights (freedom from torture, summary executions, enforced disappearances and imprisonment) and civil liberties (freedom of speech, association and assembly, movement and religion; participation in the selection of political leadership). There is no similar dataset for economic, social and cultural rights.

Besides, human rights activists purport that shaming works best when there is "relative clarity about violation, violator, and remedy." This clarity is "best achieved when misconduct can be portrayed as arbitrary or discriminatory rather than a matter of purely distributive justice."<sup>36</sup> When it comes to many civil and political rights, such as the right not to be tortured, both the violator and the remedy are often clear; when it comes to economic, social and cultural rights, however, identifying the violator and remedy is more complicated. For that reason, shaming may be more effective when it concerns civil and political rights.<sup>37</sup>

However, research that focuses on economic, social and cultural rights clearly confirms the effectiveness of shaming. Murdie and Dursun Peksen, for instance, assess the success of international NGOs that shame governments for violating women's rights. The authors find that shaming activities are most instrumental in bolstering respect for women's socioeconomic rights. Indeed, according to their research, shaming does not seem to be as successful when applied to civil and political rights. Governments usually make concessions on the latter rights more easily, as they are unlikely to "threaten the regime in power."<sup>38</sup>

Indeed, research on other issues seems to confirm the effectiveness of shaming. A cross-country study by US researcher Jacqueline DeMeritt finds that human rights NGOs and the UN Human Rights Commission – but not the media – can reduce the likelihood of governmental killing.<sup>39</sup> She reasons that shaming pushes perpetrators to disobey their superiors, for whom they anticipate legal or economic punishment.<sup>40</sup>

36 Roth 2004.

37 Ibid., 14.

38 Murdie and Peksen 2015.

39 DeMeritt 2012.

40 Ibid.

## Unintended Consequences and Risks

### *Crackdown, Hijacking, Substitution*

Shaming is not without its risks. A dynamic body of literature focuses on shaming's unintentional and partially unforeseeable negative consequences or side effects.

An immediate, potential negative consequence of shaming is the exacerbation of the human rights situation in the targeted state. The enhancement of pressure from below, backed by pressure from above, may make the regime crack down on protesters and dissidents before their protests can gain momentum. Such an escalation of repression appears to be particularly likely during elections or amid protests related to territorial disputes or independence movements.<sup>41</sup>

Another potential negative consequence is the "hijacking" of the international mechanism of naming and shaming by perpetrators for their own purposes.<sup>42</sup> Hijacking means that countries might abuse the system of shaming by pointing to the human rights record of foreign countries, without working on the improvement of their own record. It is a popular strategy among countries shamed for their human rights violations to "play back the ball," arguing that human rights violations happen frequently throughout the world, or that there are offenders worse than themselves.

Finally, governments that have been pressured into greater compliance with some human rights norms, such as the rights to vote and to assemble, may increase violent pressure on other rights, such as freedom of expression, or on dissidents to reverse the effects of initial concessions. This allows governments to foster their international reputation by pointing to improvement in one area. A quantitative study by US scholar Emilie Hafner-Burton finds that increased attention in the reports of Amnesty International, in international news and in statements by the UN Human Rights Commission has on average a positive impact on freedoms associated with "soft" political rights, but leads to a significant increase in torture and disappearances in the subsequent year.<sup>43</sup> Shaming "is not at all cheap talk," but human rights violations can persist, or even increase, irrespective of shaming.<sup>44</sup> While the study's data may be circular, they raise important considerations of the potential risks of shaming.

41 Hafner-Burton 2008, 692.

42 Ibid., 692.

43 Ibid., 700f.

44 Ibid., 691.

### *No Accident*

The research cited above makes clear that the negative consequences of shaming are not accidental byproducts. Rather, they may occur because of the strategic considerations and choices of targeted states. For instance, Amnesty International reported arrests after a 2004 visit by then US Secretary of State Colin Powell in Abou Shouk, at the time the largest internally displaced persons camp in North Darfur. The individuals arrested had faced intimidation and been warned against speaking out during the visit, but they reported abuse in the camp to Powell's delegation.<sup>45</sup> Events took a comparable turn after the visit of then French Foreign Minister Michel Barnier.<sup>46</sup>

A similar argumentative backlash may occur when a targeted government constructs powerful counter-frames aimed at impugning local human rights activists, the human rights regime in general or governments that have shamed human rights violations. These counter-frames may have serious negative impacts on human rights defenders. Consider, for instance, the global campaign that unfolded in support of Nigerian woman Amina Lawal, who had been sentenced by a Sharia court to death by stoning for the crimes of adultery and conceiving a child out of wedlock. The campaign triggered a cascade of negative consequences, including security concerns for local women's rights activists, who were accused of acting as the pawns of Western governments and of exposing the country to criticism in the international arena.<sup>47</sup>

Relatedly, researchers have stressed the risk of using UN resolutions to address sexual violence in conflict. If worded imprudently, such resolutions can help to perpetuate the "female victim of war" role and thereby reinforce traditional modes of dominance in conflict zones.<sup>48</sup> Yet another example is the 2014 Ugandan anti-gay law, which was strongly criticized by international human rights groups as well as by some governments. Promoters of the law managed to depict homosexuality as an "un-African" behavior imported by Western colonialists, despite evidence to the contrary.<sup>49</sup>

45 Amnesty International, "Niger: Abolish the death penalty in Niger," August 14, 2004, Index number: AFR 43/001/2004, <http://www.amnesty.org/en/documents/AFR43/001/2004/en/>. Accessed August 17, 2015.

46 Ibid.

47 Terman 2013.

48 Heathcote 2012.

49 David Smith, "Why Africa is the most homophobic continent," *The Guardian*, January 23, 2014, <http://www.theguardian.com/world/2014/feb/23/africa-homophobia-uganda-anti-gay-law>. Accessed August 17, 2015.

### *Unfavorable Side Effects*

Public criticism of a country's human rights record may also have side effects – that is, effects on areas other than human rights performance.

One possible byproduct of shaming is impact on economic ties and trade relationships. When Swedish Foreign Affairs Minister Margot Wallström publicly denounced the flogging of Raif Badawi, a prominent liberal Saudi blogger, as a "cruel attempt to silence modern forms of expression," the Saudi government lobbied behind the scenes to call off a speech that Wallström was scheduled to make before the Arab League. This prompted Sweden to cancel a bilateral arms trade treaty worth \$160 million yearly.

When it comes to the side effects of shaming Chinese human rights performance, researchers at the University of Göttingen identified a "Dalai Lama effect on international trade": exports to China decline following a country's public reception of the Tibetan religious leader.<sup>50</sup> The effect depends on the rank of the dignitaries who meet with the Dalai Lama. Trade deterioration that follows meetings with heads of state or heads of government is greater than deterioration that follows meetings with mid- or low-level politicians and dignitaries. The effect is limited to certain types of goods and disappears within two years. The authors conclude that China is willing to risk, but only temporarily, the costs of limited economic ties in order to maintain a "reputation for toughness."<sup>51</sup>

### **Summary**

Shaming can work as a megaphone to build up pressure from "above" and "below," and can be one of many mechanisms of human rights change. There is robust academic evidence that shaming can have a positive impact on the human rights situation in targeted states. Both qualitative and quantitative research points out that the success of shaming hinges on the health of the domestic opposition, but that shaming by international actors is also an important remedy against deadlock when the space for domestic opposition shrinks. When domestic actors coordinate with international actors, shaming is most effective. Shaming works for economically weak and strong states alike, suggesting that most states care about their reputation rather than only about the immediate economic effects.

50 Fuchs and Klann 2010.

51 Ibid., 7.

Research that examines specific cases of human rights shaming, such as in specific countries or in response to specific human rights violations, can complement the aforementioned findings with nuanced observations on the effectiveness of shaming. The research reviewed in this study suggests that the effectiveness of shaming is highly specific to context and content.

While some factors of successful shaming and human rights change may be unique to a case, it is possible to identify some general factors of success. They include the economic and "social" vulnerability of a government, as well as regime type and the strength of institutions. Among other mechanisms – such as dialogue, deliberation, capacity building, persuasion, incentives and coercion – shaming can be an adequate mechanism for fostering behavioral change, but it must not always be the most effective.

Finally, shaming carries risks. Shaming can backfire when shamed states develop effective counter-frames that challenge the legitimacy of criticism – for example, by pointing to neocolonial interference. Governments may strategically make concessions with respect to one human rights concern only to clamp down on other rights. Shaming may also have detrimental economic side effects, though there is no academic evidence of such effects being long-term.

ADVANTAGES of shaming with regards to human rights situation in shamed country	RISKS of shaming with regards to human rights situation in shamed country	SIDE EFFECTS of shaming (i.e., effects on areas other than human rights)
<ul style="list-style-type: none"> <li>• Shamed governments bear the costs for damage to their international reputation (Risse, Ropp, Sikkink 2013).</li> <li>• Shaming may cause rhetorical entrapment when targeted regimes respond (Risse, Sikkink 1999; Risse, Ropp, Sikkink 2013; Wachman 2001).</li> <li>• Shaming is the most appropriate advocacy action of NGOs, given their unique information-gathering capacities (Keck, Sikkink 1998; Davis, Murdie, Steinmetz 2012; Roth 2014).</li> <li>• Shaming is especially effective when combined with local NGO presence and/or multi-source shaming on the international level (Murdie, Davis 2011).</li> <li>• Shaming provides emotional and psychological support to victims of human rights abuses and their families, as well as local human rights defenders in targeted states (Kinzelbach, Wolf 2015).</li> </ul>	<ul style="list-style-type: none"> <li>• Shaming may be followed by increasing the repression of other human rights, e.g., physical integrity rights can impact empowerment rights, and vice versa (Hafner-Burton 2008; Conrad, DeMeritt 2014).</li> <li>• Repressive regimes pose counter-frames that argue against external involvement in human rights affairs (Risse, Ropp, Sikkink 2013). Regimes can also discredit and harass local human rights activists (Terman 2013), or make human rights vulnerable to restrictions through negotiation and argumentation (Katzenstein 2013).</li> <li>• Upon being shamed, states can strategically "ramp up" human rights violations to incite disagreement and debate about the effectiveness of shaming (Wachman 2001).</li> <li>• Shaming may provide an opportunity for local violent actors to free-ride on the publicity that is given them (Hafner-Burton 2008).</li> </ul>	<ul style="list-style-type: none"> <li>• Shaming may put stress on diplomatic ties between shaming country and shamed country.</li> <li>• Shaming may affect aid payments only for non-allied countries and multilateral aid payments (Lebovic, Voeten 2009; Nielsen 2013; Esaray, DeMeritt 2015 [UN shaming]).</li> <li>• Dalai Lama effect: Receiving guests who are perceived as dissidents or enemies of the state in criticized countries will likely have a negative impact on economic relations with that country, although findings from the existing study are unlikely to travel beyond the case of China. Moreover, the effects are not as universal as expected, and they quickly fade. (Fuchs, Klann 2010)</li> </ul>

## Red Lines, Lone Voices: Coordination on Human Rights Shaming in Germany and the European Union

### Shaming by Governments as Opposed to NGOs

Research on the effectiveness of shaming mostly focuses on shaming by human rights NGOs or international organizations. Shaming, however, can be a strategy of governments as well. To date, there is little academic research on the practice and effectiveness of shaming by governments. However, there are important lessons to be drawn for states. In particular, the research finds that shaming is most effective when domestic actors coordinate and cooperate with international actors. This is because international actors can "activate" state actors into joining the shaming or even employing other instruments of human rights diplomacy. International actors have bargaining power vis à vis repressive governments and can negotiate concessions on human rights change.

In addition, the findings suggest that coordination and synchronization of shaming are crucial for its effectiveness. In 1999, researcher Toby King observed that human rights promotion in European Union foreign policy is plagued with deficiencies.<sup>52</sup> In King's view, the "outsourcing" of human rights issues to the European level makes it easy for member states to point to the EU and argue that human rights promotion is not their job. In the meantime, EU efforts to name and shame human rights violations elsewhere can be easily undermined by member countries stepping out of line, thereby vetoing a European consensus.

### Human Rights Shaming in Germany and the European Union (2014)

Given that there is no research on shaming events and coordination, we briefly review the shaming events of 2014. Therefore, for Germany we searched individual websites of the Federal Government, its ministries (notably the Federal Foreign Office) and the federal parliament (Bundestag), as well as common search engines (for search terms, see the Annex). For the EU, we identified shaming events from the 2014 EU Annual Report on Human Rights and Democracy in the World.<sup>53</sup> We selected several states of different regime types. Paki-

<sup>52</sup> King 1999.

<sup>53</sup> EU Annual Report on Human Rights and Democracy in the World in 2014, 10152/15, June 22, 2015, [http://eeas.europa.eu/human\\_rights/docs/2013\\_hr\\_report\\_en.pdf](http://eeas.europa.eu/human_rights/docs/2013_hr_report_en.pdf). Accessed August 17, 2015.

stan serves as an example of an "unconsolidated democracy." China, Azerbaijan and Belarus are examples of "consolidated authoritarian regimes."<sup>54</sup> South Sudan and Syria are examples of "unconsolidated authoritarian regimes."<sup>55</sup> We searched for keywords that appear in shaming events of the EU annual report in relation to France and the United Kingdom.<sup>56</sup> All detailed results are presented in the Annex.

### Germany

In Germany, shaming comes mostly from the federal commissioner for human rights policy and humanitarian aid (more simply known as the human rights commissioner), who is associated with the Foreign Office but is not part of the ministry's formal hierarchy. No prior approval is needed for the statements. For the most part, other government actors do not pick up on the commissioner's statements, although there sometimes appears to be a coordinated escalation strategy. For example, a statement by the commissioner on the detention of Chinese economist Ilham Tohti was backed up by a statement from Chancellor Angela Merkel.<sup>57</sup> In contrast, we found no instances of shaming by the foreign minister, although there had been sporadic shaming in earlier years.<sup>58</sup>

<sup>54</sup> Referring to the Polity IV Project, Pakistan is a democracy (trend value in 2014: 7). China (trend value: -8), Azerbaijan (trend value: -7) and Belarus (trend value: -7) are autocracies. See: "Polity IV Individual Country Regime Trends, 1946-2013," <http://www.systemicpeace.org/polity/polity4.htm>. Accessed August 17, 2015.

<sup>55</sup> According to the Fund for Peace's "Fragile State Index," none of these countries are stable or sustainable. China, Azerbaijan and Belarus rank as a "Warning" area; Pakistan and Syria rank as "High Alert"; South Sudan ranks as "Very High Alert." See: <http://fsi.fundforpeace.org/>. Accessed August 17, 2015.

<sup>56</sup> For data from France, websites of the government and prime minister, the president, the National Assembly, the Senate and the Ministry of Foreign Affairs were searched. For data from the UK, the central website of government announcements, and press releases of all ministerial departments and UK embassies were included.

<sup>57</sup> Compare "Menschenrechtsbeauftragter Strässer zur Anklageerhebung gegen Ilham Tohti in China," July 31, 2014, [http://www.auswaertiges-amt.de/DE/Infoservice/Presse/Meldungen/2014/140731-MRHBB\\_Ilham\\_Tohti.html](http://www.auswaertiges-amt.de/DE/Infoservice/Presse/Meldungen/2014/140731-MRHBB_Ilham_Tohti.html), and "Merkel für breitere Zusammenarbeit mit China," October 4, 2014, <http://www.bundesregierung.de/Content/DE/Pressemitteilungen/BPA/2014/10/2014-10-04-podcast.html>. Accessed August 17, 2015.

<sup>58</sup> For instance, the German embassy in Moscow published a critique of the "Russian foreign agent law, which constrains the rights of foreign NGOs. Similarly, the German embassy in Jakarta criticized the execution of the death penalty in Indonesia. "Menschenrechtsbeauftragter kritisiert neues NGO-Gesetz in Russland," May 21, 2015, [http://www.germania.diplo.de/Vertretung/russland/de/\\_\\_\\_pr/mosk/straesser-ngos.html?archive=3485768](http://www.germania.diplo.de/Vertretung/russland/de/___pr/mosk/straesser-ngos.html?archive=3485768). Accessed August 17, 2015.

Most of the shaming events condemn state behavior on a case-by-case basis and mention the relevant international norms that the perpetrator state has violated. None of the statements mention a follow-up. The statements on Turkey insinuate that Turkey's human rights performance may have consequences for the progress of accession to the EU, with one statement mentioning a "red line." Criticism of Uganda's anti-homosexuality law similarly referred to a "red line."

A notable exception to this trend – shaming of individual cases by the human rights commissioner alone – is the response to the case of Mariam Yahya Ibrahim, an 8-months-pregnant Sudanese woman sentenced to death for apostasy from Islam. Not only did the human rights commissioner issue a statement on her behalf in May 2014, but so did Gerd Müller, the German federal minister for economic cooperation and development. His undersecretary, Friedrich Kitschelt, echoed the call and tied the resumption of bilateral aid (cut in the 1990s) to "serious efforts" by the Sudanese authorities to improve the human rights situation.

Furthermore, according to statements made by the human rights commissioner, the German embassy teamed up with the embassies of the Netherlands, the UK and the United States in calling upon the Sudanese government to strictly abide by its international human rights commitments, in particular the freedom of religion and the right to life.<sup>59</sup> Possibly in reaction to that criticism, the Sudanese government acknowledged that the sentence could be flawed.<sup>60</sup> On June 23, 2014, a Sudanese appeal court reversed the sentence and ordered Ibrahim's release. Ibrahim, who is married to an American citizen, was able to leave Sudan for the US via Rome in late July 2014.

### *EU and Member States*

For the EU, the 2014 annual human rights report lists 17 shaming events of the six selected countries. Seven of those shaming events relate to individual cases. Most statements were issued by delegations of the EU Commissions to individual countries or to international organizations. In one incident, EU High Representative Catherine Ashton made a shaming statement; in another, the president of the European Economic and Social Committee did so.

59 "Menschenrechtsbeauftragter Strässer zum Fall der zum Tode verurteilten Sudanerin Miriam Yahya Ibrahim," May 27, 2014, <http://www.auswaertiges-amt.de/DE/Infoservice/Presse/Meldungen/2014/140527-Str%C3%A4sser-Sudanerin.html>. Accessed August 17, 2015.

60 Ibid.

In all but one of the events, there is overlap between EU shaming and at least one of the following countries – Germany, France and the UK. All three countries shame together in four instances, two of which relate to prominent individual cases.

The first such case was the shaming of the conviction of Asia Bibi, a Pakistani Christian condemned to death for the crime of blasphemy. Human rights organizations and Christian churches had called for the reversal of Bibi's sentence. The EU was the first actor to make a statement: Ashton's spokesperson called the death penalty "a cruel and inhumane punishment" and expressed hope that the conviction would be overturned.<sup>61</sup> Meanwhile, in Germany, the president of the Bundestag criticized the conviction in a meeting with Pakistani Prime Minister Muhammad Nawaz Sharif. In the UK, a group of 50 members of Parliament criticized the conviction in a public letter. In France, the minister for external commerce and tourism issued a statement. The overlap between the actions of the EU, France, Germany and the UK is in line with the EU's common policy of opposing the death penalty, for which the EU has developed common guidelines.<sup>62</sup>

The second case of overlapping shaming occurred upon the arrest of Leyla Yunus, an Azeri human rights defender, in what was allegedly a mock trial with fabricated charges. The German commissioner for human rights and the UK Foreign Office issued statements on August 1, 2014. The French Ministry of Foreign Affairs followed suit on August 2. The EU delegation to the Council of Europe issued a statement on August 8. The statements varied subtly in their main points: the French statement called for Yunus's release, the German statement called the arrest a "signal of intimidation," and the British statement demanded respect for fair trial rights. The EU statement, in turn, said that the arrest seemed to be "part of a wider picture of mounting restrictions targeting civil society in Azerbaijan." None of the statements alluded to the possible consequences, were Azerbaijan not to release Yunus. The EU statement vaguely pointed to the positive effects of improving the human rights situation in Azerbaijan, stating that the "full potential" of the country's relationship with the EU could not be

61 "Death Penalty in Pakistan and the case of Asia Bibi," October 22, 2014, [http://europa.eu/rapid/press-release\\_SPEECH-14-716\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-716_en.htm). Accessed August 17, 2015.

62 "EU Guidelines on Death Penalty," April 12, 2013, [http://eeas.europa.eu/human\\_rights/guidelines/death\\_penalty/docs/guidelines\\_death\\_penalty\\_st08416\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/death_penalty/docs/guidelines_death_penalty_st08416_en.pdf). Accessed August 17, 2015.

achieved "unless Azerbaijan fully respects its international commitments including those deriving from its membership of the Council of Europe."<sup>63</sup>

While the data constitute merely a small sample, they raise the question of to what extent shaming by the EU and member states is consistent. EU member states regularly coordinate on human rights issues in the EU's Human Rights Working Group (COHOM). Nevertheless, with the exception of joint shaming in response to prominent individual cases, shaming practice appears to be uncoordinated and the selection erratic, and member states may still "outsource" shaming to the EU.

63 "EU Statement on the arrest of Leyla Yunus in Azerbaijan," August 6, 2014, [http://eeas.europa.eu/delegations/council\\_europe/press\\_corner/all\\_news/news/2014/20140806\\_2\\_en.htm](http://eeas.europa.eu/delegations/council_europe/press_corner/all_news/news/2014/20140806_2_en.htm). Accessed August 17, 2015.

## Shy Shaming: Views on Human Rights Shaming by Practitioners

### Survey Purpose and Approach

Academic research suggests that shaming is most effective when coordinated, by governmental or non-governmental actors. We sought to find out how these findings, as well as research on other success factors, are reflected in the experiences of practitioners in the field. To do so, we collected assessments on the effectiveness of shaming with the help of a one-time online survey, kindly distributed by the Friedrich Naumann Foundation through its country offices. The survey was completed by 32 respondents, who answered in a personal capacity and on an anonymous basis, reflecting their individual experiences as staff members from 21 FNF bureaus and from at least five NGOs. Furthermore, we conducted interviews with select respondents.

### Effectiveness of Shaming

Respondents reported a moderately positive perception of shaming's effect on the human rights performance of a given country. On a scale of 1 (strong positive effect) to 7 (strong negative effect), respondents rated the effect of their host organizations' criticism as well as of criticism by local human rights organizations as an average of 3. The responses stressed that the effect is highly specific to the country situation: it depends on the vitality of the domestic NGO scene, the government's sensitivity to outside criticism, the government's ability to question the legitimacy of domestic NGOs or the government's critique of foreign influence and neocolonial interference as a way of shielding itself from shaming. In general, the perceptions and assumptions of survey respondents broadly overlapped with the findings of the literature review presented above.

Respondents indicated that shaming by international NGOs moderately increases the effect of domestic criticism. However, some respondents pointed out the differences in government sensitivity to international action, and they cautioned that international criticism can backfire if a government challenges an NGO or state by referencing the colonial past or ulterior motives. One respondent stated that domestic criticism may be more effective when applied to socially sensitive issues, such as LGBTI rights.

Respondents reported expecting the effect of domestic criticism to be higher when an individual European Union member state or an international NGO echoes that criticism. More important, however, is shaming by multiple EU governments, particularly governments of the bigger EU member states, which respondents reported having a greater effect.

#### Key points of survey respondents' perception of shaming effectiveness:

Perceived effect of office's shaming on host country's human rights performance

- Shaming can create a press echo and a change in public discourse.
- Shaming can lead to legal steps.
- Shaming can gradually change reactions to freedom-of-information requests.
- Shaming can empower local activists.
- Shaming can encourage feedback from politicians.

Evaluation of overall effectiveness of public criticism by local human rights organizations at improving host country's human rights performance

- Some governments care about their international reputation more than their reputation among local NGOs.
- Other governments care more about domestic voices, crediting them with greater legitimacy.
- International criticism can be easily dismissed in contexts with colonial history.
- More-technical formats can help when dealing with politicized topics.
- When civil society is weak and government irresponsible to local voices, international criticism is helpful. When the NGO scene is big, such criticism is not as important.
- Different organizations should have different roles, and there should be both public and private criticism.
- NGOs have no means other than public criticism, for they lack access to the government.

Variation in effectiveness of local criticism when echoed by international human rights organizations

- International criticism works, as governments care about their image. Some countries are extremely sensitive about their reputation; others less so.
- International criticism is picked up by the local media more quickly than domestic criticism.
- International criticism gives local actors extra credibility.
- International human rights organizations have better access to the "great powers," e.g., the EU and the US.
- Note of caution: too much foreign shaming may be seen as cultural imperialism or foreign intervention, and it is key to preserve the independence of locals.
- Note of caution: too much engagement by international NGOs might call into question the legitimacy of local NGOs.
- Criticism related to certain issues, particularly LGBTI rights, may be perceived as "value colonialism" and should therefore be voiced by local actors.

Variation in effectiveness of local criticism when echoed by individual EU member states

- Effect is gauged to be higher when the EU country is bigger.
- EU association agreements can help to back up criticism by an EU country.
- Governments care about their reputation because they want to be part of a peer group of other powers.
- Governments can get accustomed to criticism and become "bored" by it.

Variation in effectiveness of local criticism when echoed by multiple EU member states

- Criticism by multiple countries can have greater economic repercussions and is therefore more effective than criticism by a single country.
- Effect is gauged to be lower when criticism is voiced by a country with colonial history.
- Effect can depend on the type of human rights violation.
- Criticism by multiple governments will receive greater attention in the media.

Respondents recalled numerous examples of human rights criticism by local and international NGOs, such as calls for better protection of women against sexual violence in India, criticism of torture in Moroccan prisons, criticism of NGO laws in Egypt, criticism of ineffective investigations into murders in Mexico and assignment of blame to the Zimbabwean government for the disappearance of a journalist.

They named considerably fewer examples of public criticism by an EU member state. The EU examples predominantly pertain to the death penalty. Respondents recalled only a handful of examples of public, coordinated criticism by several EU states. In the case of Pakistan, the EU conveyed that lifting the moratorium on the death penalty would threaten Pakistan's enhanced preferences under the Generalized Scheme of Preferences on export tariffs. One respondent mentioned a concerted action by several EU states on human rights in Zimbabwe, together with the United States.

### Follow-Up Interviews

A small number of follow-up interviews were conducted with consenting participants who had a particularly high or low perception of the effectiveness of shaming, who anticipated negative side effects of shaming as "very likely," or whose open-ended responses provided opportunity for follow-up. From these interviews emerged four trends that tie in neatly with the open-ended responses of the survey.

#### *Primacy of Local Actors in Shaming*

Most interviewees agreed that shaming by local actors should have primacy over shaming by international actors. This is because of the strategies of perpetrating states or parts of the public to discredit shaming actors for being engaged in interference as neocolonialism, attempts at regime change or illegitimate interference. Examples include Zimbabwe, Egypt and Pakistan. The primacy of local actors in shaming is particularly important in matters related to religion and culture. Those who stressed the importance of international actors pointed to the shrinking space for domestic opposition and to quality differences in research. An interviewee from Egypt stated that domestic NGOs have very limited leeway to voice criticism on certain issues, such as fair trial rights and freedom of arbitrary detention, so that international actors must fill that void. According to an interviewee working in Myanmar, domestic NGOs in the country have less thorough standards of research than do international NGOs, and this makes it easier for the Myanmar government to doubt their credibility.

#### *Potential and Limits of "Unpolitical" Measures*

Most interviewees were of the opinion that less politicized and more-technical formats can help to advance human rights. This is particularly the case for human rights issues in which the central government is willing to cooperate but struggles to control local actors or circumstances, or for issues that are infrastructural to human rights, such as cadaster development.

#### *Lack of EU Coordination*

Interviewees deplored, to varying degrees, the lack of coordination and consistency among EU states. While it may be helpful to divide labor in certain country contexts like Pakistan and Zimbabwe, where criticism by the United Kingdom can be rebutted more easily for historic reasons, the general perception is that several member states and the EU should shame together. An interviewee working in Egypt was most vocal in expressing frustration with the state of affairs. The interviewee stated that Germany is naming human rights violations "with precision" and that its ambassador was sometimes "rather undiplomatic." Meanwhile, the interviewee hinted at the at-times complete absence of value-based policies and attitudes among other EU member states.

#### *Need to "Beef Up" Shaming*

All interviewees perceived criticism of a powerful member state of the EU as potentially more effective than that of EU representatives. While participants had different viewpoints on whether shaming in and of itself can foster human rights change, all agreed that it might be necessary to "beef up" shaming with incentivizing or sanctioning measures. Three interviewees urged governments not to let go of "cheap opportunities" such as planned visits of EU heads of state or existing sanctions, the lifting of which can be easily tied to more-exigent conditions. One interviewee stressed the importance of travel warnings in countries dependent on tourism, suggesting that human rights negotiations could be linked to the formulation of travel warnings.

## The Way to Shame: Towards a More Consistent Practice

Public human rights criticism remains hotly contested. When it comes to common endeavors by European governmental actors, current shaming concerns mostly individual cases that gain prominence only after domestic or international NGOs campaigned in response, or the press reported on them. Beyond that, however, coordination appears largely absent and the selection erratic. What is the best way towards a more consistent practice?<sup>64</sup>

### Dogmatism of Effectiveness

A potential way to overcome current inconsistencies is to let the effectiveness of shaming determine whether or not to shame. This is not counterintuitive, given that human rights diplomacy, including shaming, should seek to produce results, and it aims to improve human rights performance on the ground. Indeed, there is robust evidence that shaming can contribute to human rights change. Besides, such an approach makes clear that shaming can be an appropriate tool but is not always the most effective tool for fostering human rights change. Research that looks at the effects of shaming in respect to specific types of human rights violations, as well as specific country contexts, also demonstrates that the success factors of shaming are highly context-sensitive. This finding is echoed by the practitioners who responded to our survey.

But an approach that uses effectiveness as the yardstick has important shortcomings. First, it presupposes that the factors of effectiveness are obvious. However, even country-specific strategizing may not produce clear predictions of the effectiveness of shaming. Repressive regimes want to be unpredictable. Second, the dogmatism of effectiveness is inclined to ignore the politics of why human rights violations are publicly criticized in some instances and not in others. Third, the dogmatism of effectiveness runs the risk of hesitation, delay and ultimately even passivity. The current state of affairs demonstrates that pointing to poor effectiveness can serve as an excuse for inaction. Doubts about effectiveness may stall plans to shame from the very beginning. Furthermore, there are cases in which there is consensus to shame but no consensus to move on to other, potentially more costly measures if shaming fails to produce any meaningful results.

<sup>64</sup> The challenges arising from balancing principles and resources also arise in other areas, including humanitarian assistance. In formulating the following approaches, we were inspired by Binder, Koddenbrock and Horváth, 113.

Finally, it should not be forgotten that states affirm their normative identity through the positions they take on what are ultimately moral questions of "right" and "wrong" behavior. In a time of "shrinking spaces" for NGOs and of increasingly blunt rejection of human rights,<sup>65</sup> the simple act of keeping human rights on the international agenda can be an achievement. Besides, there is evidence that shaming also empowers individuals, irrespective of whether it brings about changes in a human rights situation.

### Dogmatism of Shaming

According to the dogmatism of shaming, any human rights violation deserves public attention and criticism. In contrast to the dogmatism of effectiveness, this approach claims that there is "right" and "wrong" behavior. The dogmatism of shaming is the only approach that offers clear guidance on when to shame, and it can help to assert the normative identity of the shaming actor. Another asset is that it is best suited for rebutting allegations of bias or double standards.

Yet the approach has enormous downsides. Most importantly, it ignores that the resources of human rights diplomacy are limited. A dogmatism of shaming can invest fewer resources in strategizing about the vulnerability and potential counter-discourses of the targeted state, as well as the alliances that need to be built, and it therefore runs the risk of becoming meaningless. The jack of all trades is also the master of none.

In contrast to the dogmatism of effectiveness, the dogmatism of shaming ignores the fact that there are instances in which shaming is either unnecessary or unhelpful. Practitioners indicated in our survey, for example, that the Moroccan government reacted constructively to non-public criticism of torture in prisons and its immigration policy. Shaming may produce negative consequences that outweigh the positive effects of shaming. Finally, shaming can also have side effects, such as short-term economic costs. A readiness to bear these costs requires a certain degree of political consensus, which may not always be possible. A dogmatism of shaming ignores such nuances.

### Principled Pragmatism

Principled pragmatism balances considerations of effectiveness with a principled stance that human rights should be a matter of constant international

<sup>65</sup> Dennison and Dworkin 2011.

concern. This approach attempts to maximize effectiveness, acknowledging the specificity of country contexts. It refrains from shaming in situations where it expects, upon thorough strategizing, shaming to be counter-productive. It does not content itself with pointing to high costs and then refraining from human rights criticism. Rather, it reflects on mitigation strategies.

Meanwhile, it believes that expressing human rights concerns in the international arena is crucial to the vitality of the human rights regime, even if such work does not produce meaningful short-term results vis à vis increasingly blunt authoritarian states. In contrast to the dogmatism of effectiveness, principled pragmatism sometimes shames just to keep the human rights discourse alive and on the international agenda.

But even principled pragmatism does not provide clear rules for when to shame. Therefore, more so than the other approaches, it needs guidance. Both academic research and the experiences of practitioners in the field provide lessons on making shaming more effective.

### Lessons From Academic Research and Practitioners' Experiences

- Listen to local demand – local advocates and experts, as well as victims of human rights violations and their families.
- Support the development of local capacity, in particular NGO capacity.
- Be sensible to local realities, customs, traditions, religious practices and historical contingencies.
- Be prepared to defend prioritization at the country or issue level if you have a strategy for one that is better than the other.
- In selecting priorities, consider the topic's transformative power. For example, Europe's focus on the death penalty is important in its own right, but a death penalty moratorium is not known to facilitate democratization. In comparison, public protest against restrictive NGO legislation or demonstration bans has higher transformative potential.
- Coordinate strategically on multiple levels of government and civil society with local and international actors.
- Reflect on a division of labor. The state is not always the most effective actor, even though it has the capacity to sanction.<sup>66</sup> That said, and as a matter of course, shaming should not be relegated to NGOs; state shaming is necessary to make a difference.
- Consider negative consequences and side effects, including substitution effects and an immediate risk of increased repression. In particular, be wary of situations in which research and practitioners' experiences have shown that shaming can have negative consequences, such as during elections or armed conflict and in socially sensitive matters. Develop preemption and mitigation strategies.
- Consider that other mechanisms may not be risk-free either. For instance, capacity building can consolidate repression in situations where there is no political will for compliance.

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66 Franklin 2008.

- Preempt allegations of double standards and bias by addressing human rights among democratic allies.
- View shaming as one mechanism in the toolbox of human rights diplomacy. It can be used as a threat, and if it fails to work, it can be complemented by other measures, including incentivizing and sanctioning measures.

Ultimately, while all of the above still require further research and need to be specified in respect of country context, they boil down to one imperative: *strategic, coordinated action*. Effective shaming requires clear strategizing about the vulnerability and potential counter-discourses of the targeted state, as well as the alliances that need to be built. It also necessitates closely coordinating with local actors and, where possible, synchronizing the actions of international actors more so than what seems to be the case today.<sup>67</sup>

The European Union has great potential for such coordination and synchronization, but it should not seek to centralize human rights criticism. Because EU actors in Brussels are not perceived as being as powerful as the member states on issues of foreign policy, they should encourage and support member states to shame in a coordinated manner. Brussels can and should also act alongside actors in European capitals; it should not replace shaming by member states. Without a concerted effort across all European capitals, perpetrating states can easily dismiss human rights criticism as a concern of a Brussels apparatus out of touch with the member states, and opponents of more-consistent shaming can point to the responsibility of the EU to justify their own inaction.<sup>68</sup>

67 Wouters et al. 2014, 13, 17, 98.

68 King 1999.

## About the organisations

The European Liberal Forum (ELF) is the foundation of the European Liberal Democrats, the ALDE Party. A core aspect of our work consists in issuing publications on Liberalism and European public policy issues. We also provide a space for the discussion of European politics, and offer training for liberal-minded citizens. Our aim is to promote active citizenship in all of this.

Our foundation is made up of a number of European think tanks, political foundations and institutes. The diversity of our membership provides us with a wealth of knowledge and is a constant source of innovation. In turn, we provide our members with the opportunity to cooperate on European projects under the ELF umbrella.

We work throughout Europe as well as in the EU Neighbourhood countries. The youthful and dynamic nature of ELF allows us to be at the forefront in promoting active citizenship, getting the citizen involved with European issues and building an open, Liberal Europe.

The **Friedrich Naumann Foundation for Freedom** is the foundation for liberal politics in the Federal Republic of Germany. It aims to promote the goal of making the principle of freedom valid for the dignity of all people and in all areas of society, both in Germany and abroad. With the safeguarding and the development of its statutory projects (civic education and dialogue, sponsorship of the talented, research and political consultation, archive-work), the Friedrich Naumann Foundation wants to contribute to shaping the future.

In Germany the Foundation offers diverse forums, mostly for young and talented people, to exchange of information and experience in present-day contexts. Its main focus is to promote a greater understanding of politics and to inspire citizens to take part in political processes.

Abroad, the support of human rights, rule of law and democracy in more than 60 countries form the core of the work of the regional offices in Europe, Africa, Asia, and Central America; various forms of international dialogue and transatlantic dialogue programme are used to promote these three values around the world. The foundation supports local, regional, and national initiatives to advance the rights of minorities, the democratic control of security forces and for strengthening international human rights coalitions.

Furthermore, we assist the development of democratic and constitutional structures by supporting liberal parties and groups. A strong network of associations of democratic parties, of human rights organisations and of academic establishments forms the basis of the foundation's activity abroad. The foundation's central idea, both at home and abroad, is the realisation of freedom and responsibility.

The **Global Public Policy Institute (GPPi)** is an independent non-profit think tank based in Berlin. Our mission is to improve global governance through research, policy advice and debate.

*Reflect.* GPPi analyzes global affairs with aspirations of policy relevance and academic excellence. We collaborate with leading universities and research institutions, while basing our research questions on the issues that practitioners in global politics face.

*Advise.* GPPi offers policy advice for clients from the public sector. We translate the findings generated in our research into practical input to inform organizational change and learning. In this work, we tap into our clients' deep understanding of the day-to-day practice of diplomacy, development cooperation or humanitarian action.

*Engage.* We use the insights of our research and policy advice to foster public debate on key issues in global politics. Through debate and dialogue we aim to support and assemble social and political entrepreneurs, build strategic communities and nurture global leadership.

## Annex

### Glossary

**Advocacy:** Acts aiming to raise awareness of a cause or to promote a specific course of action for a given problem. Advocacy aims to influence behavior in a non-hierarchical relationship, such as between government and non-governmental organizations, or between competing branches of government. Among other tools, advocacy can avail itself of → **shaming**.

**Contestation:** The act of challenging the validity of a norm, rather than engaging in a conversation or unilateral claim about how that norm applies to oneself or how it applies to a specific act.

**Human rights data:** Any information that serves to make an assessment on a → **human rights violation**. Human rights data can reveal the occurrence of specific events (events-based data), assign a numerical scale to such events (standards-based data, e.g., rating countries on a scale from 1 to 3) and come in the form of surveys or of socioeconomic and administrative statistics.<sup>69</sup>

**Human rights diplomacy:** A form of → **human rights policy** that uses diplomatic means, including persuasion, → **shaming**, strategic bargaining and sanctioning.

**Human rights foreign policy:** Any adopted course of action that aims to defend international human rights principles and to deter, mitigate or bring to an end a → **human rights violation** in another state. Human rights foreign policy may include, but is not restricted to, → **public shaming**. Foreign policy can include actors beyond diplomats and parliamentarians.

**Human rights violation:** An unlawful infringement of a norm of international or regional human rights law. Use of the term "violation" does not presume that there has been a formal decision by a legal or quasi-legal mechanism of the lawfulness of a given act. Rather, the term denotes that a given actor has made a claim on the lawfulness of a specific act after a good-faith assessment.

**Pressure from above:** Action by international non-governmental or governmental actors that pushes for a certain type of conduct or provides authoritative

<sup>69</sup> Landman and Carvalho 2010, 34–40.

information on a specific event in reaction to a → **human rights violation**. → **Shaming** by such actors constitutes pressure from above.

Pressure from below: Action by domestic non-governmental actors that pushes for a certain type of conduct or provides authoritative information on a specific event in reaction to a → **human rights violation**.

Risk: The possibility of a course of action deviating from the course foreseen, thus harming a goal or its related outcomes. Risks typically incur costs.

Shaming: The attempt to label behavior by a state as wrongful, targeting its reputation as a law-abiding actor. Shaming by definition is public. If there is a shared understanding that a certain behavior is wrongful, shaming can consist merely of making → **public** a certain behavior, rather than explicitly branding an actor as having acted wrongfully.

Strategic bargaining: The process of agreeing on the terms of a transaction (i.e., negotiation) with a view to pursuing a political goal, including one of → **human rights policy**. Strategic bargaining makes use of bargaining chips.

Unintended negative consequence: An undesired effect of → shaming, be it on the general human rights performance of a country, on individual activists or on other issues (everything but human rights).

Quiet diplomacy: A form of → **human rights diplomacy** that confines itself to non-public means. Quiet diplomacy does not exclude using the threat of public shaming.

## Model Perspectives on Shaming

	Realist model of human rights change	Spiral model of human rights change
Role of human rights	Human rights are primarily domestic rhetoric and/or power-enhancing tools in foreign relations.	Human rights can be fundamental norms that structure how governments relate to each other and to their populace.
The human rights situation will improve if...	... there are material costs attached to non-compliance.	... there are material costs attached to non-improvement and/or; ... states will be caught in rhetorical self-entrapment and/or; ... states fear for their international reputation and/or; ... local and international actors put pressure from above and below on a targeted state and thus; ... a process of socialization occurs.
Underlying logic of why shaming may or may not be relevant	What are the consequences of behavior? State interests always trump norms.	Is the behavior appropriate given a state's identity? There is no necessary tension between interests and human rights norms, if human rights determine appropriate behavior for a modern state.
Strongest argument(s)	When push comes to shove, human rights are not a high priority for governments.	Different modes of social interaction exist: coercion and incentive manipulation exist, but persuasion, discourse and capacity building are highly important mechanisms that lead to human rights improvement.
Weakest argument(s)	Human rights are just cheap talk.	States move from a descriptive status of human rights to true rule-consistent behavior more slowly than expected, or may even move backwards.

## Shaming Events in Germany (2014)

Search Terms		
<p>"Menschenrechte" (human rights), "Menschenrechtsverletzungen" (human rights violations), "Folter" (torture), "Haft" (imprisonment), "Todesstrafe" (death penalty), "Meinungsfreiheit" (freedom of opinion), "Versammlungsfreiheit" (freedom of assembly), "Religionsfreiheit" (freedom of religion), "Pressefreiheit" (freedom of press), "unabhängige Justiz/Unabhängigkeit der Justiz" (independent/independence of the judiciary), "faïres Gerichtsverfahren" (fair trial)</p>		
	Number of shaming events	Event details
Federal Government	3	<ul style="list-style-type: none"> <li>January 17, 2014: Calls upon the Ukrainian parliament to reverse its decision on the "foreign agents" law and its restrictions on journalism. Restrictions against journalists are a "renunciation of European values," and the laws against NGOs will have "consequences for the cooperation with the EU."<sup>70</sup></li> <li>May 14, 2014: Calls for the immediate release of a Chinese human rights activist who was arrested for commemorating the Tiananmen protests.<sup>71</sup></li> <li>October 4, 2014: Chancellor Angela Merkel criticizes the Chinese government for its conviction of regime critic Ilham Tohti.<sup>72</sup></li> </ul>
Federal Foreign Office	1	<ul style="list-style-type: none"> <li>June 4, 2014: Foreign Minister Frank-Walter Steinmeier criticizes the death penalty against Mariam Yahya Ibrahim.<sup>73</sup></li> </ul>
Federal Commissioner for Human Rights Policy and Humanitarian Aid	20	<ul style="list-style-type: none"> <li>February 13, 2014: Calls for release of Iranian opposition leader Mehdi Karroubi from house arrest.<sup>74</sup></li> <li>February 18, 2014: Says that North Korea commits "unprecedented" crimes against its people.<sup>75</sup></li> <li>March 21, 2014: Calls the barring of Twitter in Turkey the "transgression of a limit that for an EU candidate should be a red line."<sup>76</sup></li> <li>April 29, 2014: Calls for release of Belarusian prisoner Ales Beljzki and "all other political prisoners."<sup>77</sup></li> <li>May 27, 2014: Calls for reversal of death sentence for Mariam Yahya Ibrahim.<sup>78</sup></li> <li>July 31, 2014: Criticizes prosecution of Ilham Tohti.<sup>79</sup></li> <li>August 27, 2014: Calls the imprisonment of three human rights activists in Vietnam "completely disproportional and grotesque."<sup>80</sup></li> <li>October 2, 2014: Calls for release of all prisoners held for their religious beliefs or political opinions, including the Iranian Sufi order Nematollahi-Gonabadi.<sup>81</sup></li> <li>October 25, 2014: Criticizes the execution of Iranian woman Reyhaneh Jabbari and says that the death penalty has "no place in the 21<sup>st</sup> century."<sup>82</sup></li> <li>November 20, 2014: Calls the arrest of Syrian opposition member Louay Hussein "arbitrary."<sup>83</sup></li> <li>December 1, 2014: States that dissenters in Russia, among them the NGO Memorial, are increasingly put under pressure, restraining democratic decision-making.<sup>84</sup></li> <li>December 12, 2014: Criticizes the prohibition of the Bibi Ngota Award ceremony in Cameroon.<sup>85</sup></li> <li>December 15, 2014: Calls crackdown on critical journalists in Turkey "politically motivated" and says that the government does not live up to the expectations of an EU candidate.<sup>86</sup></li> <li>Seven further cases: Calls for reversal of death penalty or criticism of executions.<sup>87</sup></li> </ul>

	Number of shaming events	Event details
Federal Ministry for Economic Affairs and Energy	2	<ul style="list-style-type: none"> <li>February 27, 2014: Federal Minister Gerd Müller states that Uganda has "crossed a red line" by signing a law that harshly criminalizes homosexuality, and he calls upon Uganda to reverse the decision.<sup>88</sup></li> <li>June 5, 2014: Müller calls for reversal of the death penalty against Mariam Yahya Ibrahim. Undersecretary Friedrich Kitschelt echoes the call during talks in Sudan and states that economic cooperation can be resumed only when the central government makes "serious efforts" to improve the human rights situation.<sup>89</sup></li> </ul>
Federal Ministry for Economic Cooperation and Development	1	<ul style="list-style-type: none"> <li>November 11, 2014: In relation to the case of Pakistani national Asia Bibi, the president of the Bundestag says that the blasphemy laws in Pakistan are regularly misused for discrimination and threats as well as for religious or other motives in more than 1,000 cases.<sup>90</sup></li> </ul>

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## Overlap of Shaming Between EU, Germany, France, UK (2014)

		Case	Actor			
Target country			European Union	Germany	France	United Kingdom
Unconsolidated democracy	Pakistan	Death penalty against Asia Bibi for blasphemy	Shaming by Catherine Ashton, EU high representative <sup>91</sup>	Shaming by Norbert Lammert, president of German Bundestag <sup>92</sup>	Shaming by Matthias Fekl, minister for external commerce and tourism <sup>93</sup>	Shaming by 50 MPs <sup>94</sup>
Consolidated authoritarian regime	China	Death of Chinese human rights defender Cao Shunli, who was on her way to the Universal Periodic Review meeting in Geneva when she was arrested and put in detention	Shaming by Ashton <sup>95</sup>	Shaming by Christoph Strässer, human rights commissioner <sup>96</sup>	No shaming	Shaming by the Foreign and Commonwealth Office <sup>97</sup>
		Uighur professor Ilham Tohti charged with life sentence for alleged "separatism"	Shaming by EU External Action spokesperson <sup>98</sup>	Shaming by Strässer <sup>99</sup> and Angela Merkel, chancellor of Germany <sup>100</sup>	No shaming	Shaming by the Foreign and Commonwealth Office <sup>101</sup>
	Azerbaijan	Human rights defender Leyla Yunus arrested and charged with serious crimes, including high treason	Shaming by Ashton <sup>102</sup>	Shaming by Strässer <sup>103</sup>	Shaming by the Ministry of Foreign Affairs <sup>104</sup>	Shaming by the Foreign and Commonwealth Office <sup>105</sup>
		Arrest of human rights defender Rasul Jafarov	Shaming by spokespersons of EU high representative and of European commissioner for enlargement and European neighbourhood policy <sup>106</sup>	No shaming	No shaming	No shaming
		Sentencing of civil society activist Hasan Huseynli	Shaming by Ashton's spokesperson <sup>107</sup>	No shaming	No shaming	Shaming by David Lidington, minister for Europe <sup>108</sup>
		Arrest of investigative journalist Khadija Ismayilova	Shaming by EU External Action spokesperson <sup>109</sup>	No shaming	Shaming by the Ministry of Foreign Affairs <sup>110</sup>	No shaming
		N/A	European Parliament adopts resolution on the persecution of human rights defenders in Azerbaijan on September 18, 2014 <sup>111</sup>	No shaming <sup>112</sup>	No shaming	No shaming

		Case	Actor			
Target country			European Union	Germany	France	United Kingdom
	Belarus	N/A	Shaming by EU Delegation to the UN in Geneva <sup>113</sup>	Shaming by Strässer <sup>114</sup> and the Bundestag <sup>125</sup>	No shaming	Shaming by Lidington <sup>116</sup>
		N/A	EU extends and updates restrictive measures against Belarus <sup>117</sup>	No shaming	Shaming by the Sénat <sup>118</sup>	No shaming

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Friedrich Naumann  
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