



# A RITUAL DANCE WITH THE DRAGON?

Dutch government's  
response to crackdowns on  
human rights defenders  
in China

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June 2016

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# GLOSSARY

Amnesty	- Amnesty International
Amnesty Netherlands	- Amnesty International the Netherlands
CASS	- Chinese Academy of Social Sciences
CCP	- Chinese Communist Party
CGCP	- China Guiding Cases Project
COASI	- European Union Asia-Oceania Working Party
COHOM	- European Union Working Party on Human Rights
COM	- European Commission
CCRP	- Coreper Comité des Représentants Permanents
CPPCC	- Chinese People's Political Consultative Conference
DEVCO	- European Union Directorate General for Development and Cooperation
EC	- European Council
EEAS	- European External Action Service
EP	- European Parliament
EU	- European Union
EUDEL	- EU delegation
EU Guidelines	- EU Guidelines for Human Rights Defenders
EUSR	- European Union Special Representative for Human Rights
FCO	- Foreign and Commonwealth Office
HoMs	- Heads of Missions
HRA	- Human Rights Ambassador
HRC	- United Nations Human Rights Council
HRDs	- human rights defenders
HR/VP	- High Representative of the EU for Foreign Affairs and Security Policy and Vice-President of the European Commission
IDCPC	- International Department of the Central Committee of the Communist Party of China
ISHR	- International Service for Human Rights
LGBT	- Lesbian, gay, bisexual, transgender
NGOs	- Non-governmental organizations
NHRI	- National Human Rights Institution
PRC	- People's Republic of China
UN	- United Nations
UNGA	- United Nations General Assembly
UN CAT	- United Nations Committee Against Torture
UPR	- United Nations Universal Periodic Review

# INTRODUCTION

**Since President Xi Jinping came to power in March 2013, the human rights situation in China has deteriorated substantially. The Chinese government has ratcheted up its censorship of the Internet, clamped down on civil society and increased its ideological controls over the media and academia. Several large-scale crackdowns on human rights defenders (HRDs) have taken place, the most recent of which started in July 2015; at least 248 lawyers and activists have been targeted in an unprecedented nationwide campaign. Family members were also subject to police surveillance, harassment and restrictions on their freedom of movement.**

New legislation has been enacted aimed at bolstering government power under the guise of national security and at the expense of human rights. The new National Security Law passed in July 2015 defines “national security” in such broad and vague terms that the authorities are essentially given a blank cheque to punish and monitor anyone who voices a different opinion, such as human rights activists. It has already been used to charge and convict human rights lawyers and activists for “inciting subversion of state power” or “subverting state power”, which could carry a prison sentence of up to fifteen years. The police are allowed to hold people suspected of such crimes up to six months outside the formal detention system, with suspects denied access to legal counsel and families. This form of detention is called “residential surveillance in a designated location”.

In December 2015, an Anti-Terrorism Law was passed with virtually no safeguards to prevent those who peacefully practise their religion or simply criticize government policies from being prosecuted on broad charges related to “terrorism” or “extremism”. In April 2016, a new law governing foreign NGOs and their domestic partners has been adopted which will have severe consequences for freedom of expression, peaceful assembly and association. These international rights are already sharply curtailed under existing laws and policies. Later this year, the authorities may also pass a Cyber Security Law. The most recent public draft also contained vague and imprecise terms relating to national security and “maintaining social order” that could be used to restrict freedom of expression even further and might further hamper access to information.

In such a hostile environment, it has become extremely difficult for Chinese HRDs to continue their legitimate work for human rights in the country.

Supporting HRDs is a priority in the foreign policy of the Dutch government. The EU Guidelines on Human Rights Defenders and the Dutch Action Plan for Human Rights Defenders are the key policy documents guiding the steps that the Dutch government is taking in this area. With respect to China, the government expects more impact from joint efforts for HRDs in the context of the European Union (EU) than from bilateral actions. Moreover, active engagement on and with China at the level of the United Nations (UN) is considered an important channel to improve the human rights situation, including the position of HRDs, in China.

The Chinese government is usually reluctant to accept criticism on the Chinese human rights situation from other governments or international organizations. It argues that criticism constitutes an act of interference in its internal affairs and therefore in its sovereignty. Although the universality of human rights is enshrined in China’s constitution, it often argues that each nation has its own concept of human rights, grounded in its political, economic and social

system and its historical, religious and cultural background. As such, human rights norms must fit “national conditions”. The concept of the universality of human rights is considered a complicating factor for the country’s internal core interests in “peaceful development”, such as securing economic growth, preserving the existing political system, social stability, and defending its territorial integrity. These should be seen as a prerequisite for the enjoyment of human rights. HRDs have been portrayed as people who can be considered criminals and/or opponents of the state, trespassing proper Chinese values and national legislation. The protection of HRDs by Western countries is labelled an excuse to interfere in the domestic affairs of developing countries.

This attitude is definitely challenging for the Dutch government and the international community at large. At the same time, HRDs are seen as change agents playing a crucial role in improving human rights and the rule of law in a country. The Dutch government states in its human rights policy that HRDs are “key driving forces behind change and progress in their countries” that deserve abiding support by the Netherlands.

Amnesty International Netherlands looked at the efforts made by the Dutch government in support of Chinese HRDs since the end of 2013. First, the bilateral policies and practices were assessed, followed by an attempt to obtain and provide insight into the specific agenda and steps taken by the Netherlands in the context of the EU. Due to a lack of transparency in public information, only the relevant policy objectives of the Netherlands in the EU could be presented, not the actual implementation thereof. As the Dutch government gives much weight to the EU when it comes to supporting human rights (defenders), the overall joint EU efforts for Chinese HRDs were subsequently assessed. To complement the picture, Amnesty Netherlands looked at the Dutch and EU agenda on (Chinese) HRDs at the multilateral level of the UN.

Special attention has been paid to whether the continuing deterioration of the position of HRDs in China has led to any changes in the strategies to support them. Based on public information and information shared with the organization by government officials in both Brussels and The Hague, Amnesty Netherlands has concluded that this has not been the case. The same approach and instruments have been used, despite the unprecedented crackdown on HRDs.

Amnesty International was able to produce a rough sketch of the support Chinese HRDs currently need and request. This initial assessment already indicates that more and different efforts are needed. Based on this initial assessment, and keeping the serious developments for HRDs in mind, Amnesty Netherlands points out some strengths and weaknesses of the current policies and practices applied by the Dutch government and the EU, bilaterally in their relations with China, and in the multilateral context of the UN. Recommendations are made to the Dutch government for additional efforts at all three levels.

Amnesty Netherlands hopes this document will contribute to in-depth discussions on which type of support is actually useful and effective for HRDs and how this could best be provided in a situation where the space for HRDs and civil society participation at large has become close to zero.

## **Methodology**

This Report focuses first on the bilateral efforts of the Dutch government for Chinese HRDs. In order to provide insight into the relevant policy commitments of the Dutch government, Amnesty Netherlands summarized the national policies related to China, human rights and HRDs. To research the implementation of these policies, Amnesty Netherlands looked at available public information, including press releases and statements from the Dutch government, government reports sent to the Dutch Parliament on the bilateral human rights dialogues with China, high level visits to China, the reports on general debates between the Parliament and Minister of Foreign Affairs on China and on human rights, and the Annual Human Rights Report

2014.<sup>1</sup> Newspaper articles reporting on high level visits have also been taken into consideration. Meetings with the China desk at the Ministry of Foreign Affairs and correspondence with the Dutch Embassy in Beijing provided good insight in the efforts made by the Dutch government regarding human rights in China, including for individual cases.

As the Dutch government has a clear preference for implementing its human rights (defenders) policy in relation to China in cooperation with or via the EU, Amnesty Netherlands intended to also look at the efforts made by the Netherlands within the context of the EU. The relevant policy objectives in this regard have been summarized in the document, but it was not possible to assess the actual implementation due to a lack of transparency about the efforts made by individual member states within the EU. Therefore Amnesty Netherlands looked at the overall efforts made by the EU as a whole in support of Chinese HRDs. The relevant EU policies have been briefly noted, followed by an analysis of the implementation, based on public information, including EU press releases, news items, statements and the Annual Report on Human Rights and Democracy in the World in 2014. Newspaper articles reporting on high level visits have also been taken into consideration. In order to gain better insight into the practical implementation of the policies, Amnesty Netherlands interviewed EU officials from the European Commission, European External Action Service (China Division, Human Rights and Democracy Directorate, staff EU Special Representative on Human Rights), the European Parliament (Subcommittee on Human Rights and the Delegation to the People's Republic of China) and the Permanent Representations of Germany and the Netherlands.

The first draft of this document has been sent to the Ministry of Foreign Affairs, the Dutch Embassy in Beijing and the Permanent Representation of the Netherlands in Brussels to get their response. The information used based on the conversations in Brussels has been shared with those Amnesty Netherlands met with. The suggested changes have been incorporated in the final document.

The main focus of this assessment is on the years 2014 and 2015, but the starting point is December 2013. The bilateral human rights dialogue between the Netherlands and China was resumed at that time, after a hiatus of almost five years. By the end of 2013, the repressive agenda of the new President Xi Jinping regarding government critics, including HRDs, had already become very clear.

The description of the human rights situation in China is based on reports, press releases, public statements and urgent actions by Amnesty International, sometimes supplemented by information from news websites. Developments occurring up to the end of April 2016 have been included.

In order to assess which type of support from foreign governments and their embassies in Beijing Chinese HRDs would consider effective and useful, Amnesty Netherlands distributed a survey amongst a group of Chinese HRDs. The distribution of the survey coincided more or less with the intensified crackdown on human rights lawyers and activists in 2015. As such, it was difficult and dangerous to actively reach out to HRDs in China and conduct follow-up. Amnesty therefore contacted HRDs who have been outside of China for a short or longer period of time. Based on regular contact with HRDs within and outside of China, and the surveys completed by at least ten Chinese HRDs, Amnesty Netherlands was able to obtain a rough idea of the support they currently need and request.

# SITUATION OF CHINESE HUMAN RIGHTS DEFENDERS

**Since President Xi Jinping came to power in March 2013, the human rights situation in China has deteriorated substantially. Several large-scale crackdowns on HRDs have taken place. The Chinese government carried out two high-profile campaigns in 2014: over sixty activists were detained in the run up to the 25<sup>th</sup> anniversary of the 1989 Tiananmen Square massacre, and over hundred who showed support for the pro-democracy protests in Hong Kong. The latest nationwide crackdown on human rights lawyers and activists started in July 2015.**

The latest campaign began in the early hours of 9 July, when human rights lawyer Wang Yu went missing after sending a text message to friends saying that her Internet and electricity had been cut off and that people were trying to break into her home. In the weeks that followed, hundreds of lawyers and activists across the country were interrogated or detained by state security forces, and many offices and homes were raided. As of 18 March 2016, eighteen people have been formally arrested, fifteen of whom have been charged with “inciting subversion of state power” or “subverting state power”.<sup>2</sup> At least twelve of them, including prominent human rights lawyers Wang Yu, Zhou Shifeng, Sui Muqing, Li Heping and Wang Quanzhang, had previously been kept under “residential surveillance in a designated location” on suspicion of involvement in state security crimes. This form of detention allows the police to hold individuals suspected of such crimes for up to six months outside the formal detention system, with suspects denied access to legal counsel and their families. Family members were also subjected to police surveillance, harassment and restrictions on their freedom of movement.

An article published on 12 July in *The People’s Daily*, an official newspaper of the Chinese Communist Party, presented the government’s narrative of the operation, stating that the Ministry of Public Security had launched an operation to destroy a “major criminal gang” that was using the Fengrui Law firm in Beijing to draw attention to “sensitive cases”. The article also claimed to expose the “severe harm” that a group of “rights defence” lawyers had done to society by disturbing social order. Despite these government claims, the wide scope of the actions and the ongoing restrictions on human rights lawyers and activists point to a much broader crackdown on the legal profession and dissent.

In July 2015, the Chinese government enacted a National Security Law, which gives broad powers to the police and brings nearly every aspect of Chinese life under the purview of “national security”. It has already been used to charge and convict human rights lawyers and activists for “inciting subversion of state power” or “subverting state power”, which could carry a prison sentence of up to fifteen years. The new Foreign NGO Management Law, governing Foreign NGOs and their domestic partners, was adopted on 28 April 2016. It will have severe consequences for the freedom of expression and peaceful assembly and association, which are already sharply curtailed under existing laws and policies. The registration process is overly complicated and restrictive. Foreign organizations seeking registration would need approval from a sponsor organization sanctioned by the government. The authorities, particularly the police, will have virtually unchecked powers to target NGOs, restrict their activities, and ultimately stifle civil society. It presents a very real threat to the legitimate work of independent NGOs. In December of last year, an Anti-Terrorism Law was passed with virtually no safeguards to prevent those who peacefully practise their religion or simply criticize government policies

## TORTURE OF HUMAN RIGHTS LAWYERS



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**Tang Jitian**, a former prosecutor and lawyer in Beijing, told Amnesty he was tortured by local security officials in March 2014, when he and three other lawyers investigated alleged torture at a secret detention facility – known as a “black jail” – in Jiansanjiang, north-eastern China.

*“I was strapped to an iron chair, slapped in the face, kicked on my legs and hit so hard over the head with a plastic bottle filled with water that I passed out,”* he said.

Tang Jitian was later hooded, his arms handcuffed behind his back and suspended off the ground by his wrists as police beat him.

**Yu Wensheng**, a lawyer from Beijing, was arrested on 13 October 2014 and detained for ninety-nine days by police. He told Amnesty he was questioned approximately 200 times, with ten public security officials assigned to interrogate him in three shifts every day. His wrists were shackled behind his back with the handcuffs deliberately set far too tight.

*“My hands were swollen and I felt so much pain that I didn’t want to live. The police officers repeatedly yanked the handcuffs and I would scream,”* he said.\*

\* Amnesty International, *China: Torture and forced confessions rampant amid systematic trampling of lawyers’ rights*, 12 November 2015, <https://www.amnesty.org/en/latest/news/2015/11/china-torture-forced-confession/>.

from being prosecuted on broad charges related to “terrorism” or “extremism”. Later this year the authorities may also pass a Cyber Security Law. The most recent public draft also contained vague and imprecise terms relating to national security and “maintaining social order” that could be used to restrict the freedom of expression even further.

In China, lawyers are increasingly finding that their attempts to assist clients in seeking redress for human rights violations are being labelled as “disruptive” and “harmful” to the system and public stability. These lawyers face threats, harassment, disbarment, and even arbitrary detention, torture and other ill-treatment. Whether they are harassed as they try to defend their clients or face reprisals for their general work, lawyers recount beatings at the hands of officials and unidentified individuals, as well as threats and frequent interference with their law practices, including denials of licences to practise and closures of their law firms.

In December 2015, the UN Committee Against Torture (UN CAT) expressed its concerns about the arrest of lawyers and HRDs and the fact that they continue to be charged with broadly defined offences as a form of intimidation. Deep concern was expressed about the detention and interrogation of the more than 200 lawyers and activists since July 2015. It underlined that the abuse of and restrictions on lawyers may deter them from raising reports of torture in defence of their clients for fear of retribution. It emphasized that China should ensure the thorough investigation of all human rights violations committed against lawyers.

The Chinese government’s hostility towards HRDs was clearly shown in November 2015 when China rejected a UN resolution that recognized the role of HRDs and the need for their protection.<sup>3</sup>

**Actions against and restrictions on HRDs and organizations include, among others:**

- Threats, including against family and friends, and harassment through surveillance, phone tapping, restrictions on travel, attacks and raids on offices or homes, confiscations of equipment and files, blocking access to the Internet and other communication facilities, and freezing assets.
- Smear campaigns and defamatory tactics to delegitimize the work of defenders. State-controlled media often collude in spreading slanderous accusations and attacks on their personal integrity, including broadcasting on state television of purported “confessions” in which detained HRDs acknowledge their “crimes”.
- Threats, harassment, disbarment, and even arbitrary detention, torture and other ill-treatment of human rights lawyers who take on “sensitive cases”.
- Resorting to criminal detention on suspicion of offences falling under the category of “endangering state security” and “enforced disappearance”.
- Arbitrary detentions, forms of “administrative detention”, “residential surveillance in a designated location”, prolonged pre-trial detention or other forms of deprivation of their freedom of movement, including house arrests.
- Criminalization of assemblies in public spaces. Legislators passed an amendment to the Criminal Law meant to punish those who “organize” or “fund” public gatherings (Criminal Law, Article 290). HRDs are categorically denied permission to hold public rallies, and many face reprisals for participating in or organizing peaceful protests.
- Registration restrictions and the banning or closure of NGOs.
- Blocking HRDs from travelling to UN human rights activities and retaliating against them for associating with the international human rights community.

<sup>3</sup> UN General Assembly Resolution, Recognizing the role of human rights defenders and the need for their protection, 18 November 2015, UN doc. A/C.3/70/L.46/Rev.1. China was one of 14 UN member states that voted against the resolution after it failed to block it politically.



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**Family members and legal representatives of detained lawyers gather after an attempt to seek answers at a detention centre on January 8, 2016.**

## 2.

# NEEDS OF CHINESE HUMAN RIGHTS DEFENDERS

**Based on regular contact with HRDs in and outside China and surveys of at least ten Chinese HRDs, Amnesty was able to obtain a rough idea of the support they currently need and request. As reaching out to HRDs in China is presently very difficult and unsafe, Amnesty urges the European Union (EU) delegation, EU member states and like-minded countries to find creative ways to ensure that a thorough and safe assessment of needs takes place. The massive crackdown on HRDs since July 2015 is unprecedented, and as far as Amnesty is aware, few visible changes in EU or bilateral strategies have been made to support Chinese HRDs recently.**

Below is a brief list of the types of assistance HRDs feel they need to support their work:

- Direct contact with and invitations to meet with staff of EU delegations and embassies at locations which the HRDs and the diplomats agree are secure are a welcome form of support.
- Regular contact with foreign (high-level) officials, both in China and once the HRD has left China, is highly appreciated. Due to insufficient communication of the steps undertaken by the EU or individual member states, some HRDs are left wondering about the EU's or EU member states' continued involvement in Chinese human rights issues.
- Capacity building and financial assistance have been mentioned as important forms of practical support.
- Both diplomatic and economic pressure from foreign governments is seen as necessary and effective. Human rights and economic diplomacy should be integrated in a single approach. One respondent called upon the EU to place human rights above economic interests.
- Raising questions about individual cases with the authorities is considered to be relevant, not only verbally, but also in official correspondence between governments.
- Requests have been made not only for public expressions of support for HRDs but also for public criticism of human rights violations and calls to hold perpetrators to account.
- The combination of public and private diplomacy is considered more valuable and effective than purely silent, "behind closed doors" diplomacy. The cases of the prominent HRDs Ni Yulan (page 17) and Chen Guangcheng were given as examples of effective public diplomacy. The concept of silent diplomacy is not clearly understood. Some HRDs who understood the concept expressed little confidence in this approach and could not give examples that demonstrate the effectiveness of silent diplomacy. Some HRDs are encouraged by public statements, even if there is no clear impact. It is considered important that public diplomacy efforts are picked up by the media, including international media. Civil society can, as such, monitor what is happening, and it could lead to more pressure on the Chinese authorities.

- Transparency about the topics and outcomes of bilateral dialogues are highly desirable. Since the Chinese government usually does not react to actions from the HRDs themselves, this is a way for HRDs to learn about the government's reaction when it is confronted with certain topics.
- Regular contact with EU missions would be appreciated. Most of them had never been in touch with the EU delegation or an embassy. One person who had been in touch with EU representatives, also prior to and after dialogues and high-level visits, found these meetings very useful and stressed that in this way the "EU at least gets information about the human rights situation and political prisoners in China". Some mentioned to have the idea that the embassies of the US and Canada and the EU delegation are most active in the field of human rights, followed by the embassies of Germany and France.
- Trial monitoring, raising individual cases with the authorities, financial support, and visiting HRDs under house arrest or in prison and keeping contact with their families and lawyers were stressed as forms of support that are or would be highly appreciated.
- A more flexible approach towards the requirements for funding Chinese NGOs is deemed necessary. Only providing funding to registered NGOs severely limits the funding options for human rights NGOs in China, since it is very difficult for them to formally register as an NGO.
- It is important for Chinese HRDs that any funding they receive is not made public on, for example, the website of the embassy providing the funding.
- The EU Guidelines for Human Rights Defenders and the types of support HRDs could request from the EU (see page 18) were not well known. One person had heard of possible visits to HRDs under house arrest and in prison. Another indicated that the tight control on information might be the reason why most HRDs are not aware of the guidelines and possible forms of support. All of them expressed an interest in knowing more about the EU Guidelines and receiving some sort of training.
- (Quickly) issue long-term multiple-entry Schengen visas to HRDs at risk and their family members.

# THE DUTCH POLICIES ON CHINA, HUMAN RIGHTS AND HUMAN RIGHTS DEFENDERS

**“Human rights are the cornerstone of human dignity, freedom and development, and form the basis for open and free societies all over the world. There can be no democracy or rule of law if these rights are not promoted and protected. The Netherlands has a rich tradition of defending human rights, both at home and abroad. Doing so is a moral and legal obligation, besides which respect for human rights leads to a more stable and prosperous world, which also benefits the Netherlands”.**

Dutch Ministry of Foreign Affairs,  
human rights policy *Justice and Respect for All* (2013), page 3

In the foreign policy of the Netherlands on China, *Investing in Values and Business* (2013), the human rights agenda adopted is as follows. To address the human rights situation in China, a constructive critical dialogue with different actors within the Chinese government is considered necessary. All members of the Dutch government are to address human rights in the appropriate manner and within their competence in their contact with their Chinese counterparts. Discussions with NGOs, semi-government institutions, centres of expertise and companies in China and the Netherlands are part of the policy. Meetings of the Human Rights Ambassador contribute to the agenda as well.<sup>4</sup>

The Netherlands acts at three levels: (1) through dialogue to exchange experiences and expertise, (2) by drawing attention to established problems in China and the Netherlands, including individual cases, and (3) cooperating to improve respect for human rights.<sup>5</sup> Mutual respect is the basis for the bilateral human rights consultations.

The Dutch human rights policy *Justice and Respect for All* (2013)<sup>6</sup> underlines human rights as the cornerstone of the foreign policy of the Netherlands. The thematic human rights priorities are HRDs, equal rights for lesbians, gays, bisexuals and transgender people, and women’s rights. In addition, the government specified, amongst other things, that it will focus on speaking out against the most serious forms of human rights violations, protect freedom of expression, including Internet freedom, and freedom of religion and belief, and corporate social responsibility, combating child labour, and respect for labour standards.

4 Since the year 2000, the Netherlands has had a Human Rights Ambassador at the Ministry of Foreign Affairs. This high-ranking official has, amongst others, the responsibility to give the Dutch human rights agenda a higher profile and to work towards mainstreaming and strengthening human rights in all aspects of foreign policy.

5 Rijksoverheid, *Het Nederlandse China-beleid: Investeren in Waarden en Zaken*, 4 November 2013, <https://www.rijksoverheid.nl/documenten/rapporten/2013/11/04/het-nederlandse-china-beleid-investeren-in-waarden-en-zaken>.

6 Rijksoverheid, *Human rights policy – Justice and respect for all*, 1 August 2013, <https://www.government.nl/documents/policy-notes/2013/06/14/justice-and-respect-for-all>.

Also set out in this document, the promotion and protection of human rights abroad has explicitly been formulated as a concern of the entire government as human rights are also relevant to trade relations and to economic and international energy policies. During trade missions, human rights are part of the agenda. Stronger trade relations are considered an opportunity to discuss the human rights situation as contact with the trading partner becomes more extensive. Although the policy assumes an increasingly important role in the world as played by the EU, bilateral efforts are still seen as valuable: where a voice at a national level can strengthen the common (EU) message, the Netherlands intends to act bilaterally. Added value is also expected when, for example, a member state has established good contacts in a country, or when there is a division of labour agreed at the EU level.<sup>7</sup>

Regarding HRDs, the human rights policy stresses capacity building, innovation, and safety as key concerns. Capacity building is promoted via the Human Rights Fund and through embassies. On 10 December, the International Day of Human Rights, embassies are expected to organize activities that spotlight (the work of) HRDs. Another concrete initiative is the temporary reception of HRDs in Shelter Cities in the Netherlands.<sup>8</sup> These facilities provide them with rest and respite. The annual Human Rights Tulip Award is granted each year by the Dutch Ministry of Foreign Affairs to a human rights defender or organization. The laureate receives a prize of € 100,000 to further develop a human rights project.<sup>9</sup>

The human rights policy underlines visibility as a way of giving HRDs more protection. Overall, embassies are expected to promote human rights openly. At the same time, the policy acknowledges that in some cases more can be achieved through silent diplomacy.

For additional measures in support of HRDs, the Dutch policy refers to the *EU Guidelines on Human Rights Defenders* (2008)<sup>10</sup> (the EU Guidelines) and the Dutch *Action Plan for Human Rights Defenders* (2012):<sup>11</sup>

The EU Guidelines call for Heads of Missions (of EU delegations and embassies of member states) to report on and discuss the situation of HRDs, in particular those under threat or attack. The effectiveness of EU action needs to be reported and particular attention should be paid to the specific risks faced by women HRDs.

7 Rijksoverheid, *Beantwoording Kamervragen over beleidsnota 'Wat de wereld verdient: Een nieuwe agenda voor hulp, handel en investeringen'*, 16 May 2013, <http://www.rijksoverheid.nl/onderwerpen/internationaal-ondernemen/documenten-en-publicaties/kamerstukken/2013/05/16/beantwoording-kamervragen-over-beleidsnota-wat-de-wereld-verdiend-een-nieuwe-agenda-voor-hulp-handel-en-investeringen.html>.

8 For further information on the Shelter City Initiative, see: <http://en.justiceandpeace.nl/human-rights-defenders-and-security/shelter-city-initiative>.

9 For further information on the Human Rights Tulip, see: <http://www.humanrightstulip.nl/about-the-award>.

10 The EU adopted several human rights guidelines at the ministerial level, which are pragmatic instruments of EU Human Rights policy and practical tools to help EU missions in the field to better advance the EU's human rights policy. The guidelines are not legally binding, yet send a strong political signal that the issues included are priorities for the EU. There are at present eleven guidelines, including the *EU Guidelines on Human Rights Defenders*, 2008, [http://eeas.europa.eu/human\\_rights/guidelines/defenders/docs/16332-re02\\_08\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf).

11 Rijksoverheid, *Action Plan for Human Rights Defenders*, 15 June 2012, <https://www.government.nl/documents/reports/2012/06/15/action-plan-for-human-rights-defenders>.



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# DUTCH HUMAN RIGHTS PRIZE FOR NI YULAN

**In 2011, the Human Rights Tulip was awarded to the Chinese HRD Ni Yulan.**

Ni Yulan is a housing rights activist and former lawyer who campaigned against forced evictions and other housing rights violations in China. On 10 April 2011, she was sentenced to two years and eight months for “picking quarrels and making trouble” and “fraud”, after already having been detained for a year. Her husband Dong Jiqin also received a prison sentence for “picking quarrels and making trouble”. After serving two years and six months, Ni Yulan was released on 5 October 2013.<sup>1</sup> Ni Yulan was detained for peacefully defending human rights in China on two prior occasions, and has been in a wheelchair since 2002 after her kneecaps and feet were broken by the police during detention.<sup>2</sup>

At the time Ni Yulan was awarded the Human Rights Tulip, she was still in detention. The award was therefore presented to her family. The prize of € 100,000 was largely spent on grants to HRDs and their family members who were in acute financial distress because of their activism and imprisonment. Some of the money was also spent on legal assistance to HRDs by specialized lawyers. No personal prize of € 10,000 was awarded to Ni Yulan.<sup>3</sup>

In 2012, Members of Parliament asked the Minister of Foreign Affairs whether he would be prepared to protest against the imprisonment of Ni Yulan and formally demand her release, bilaterally as well as in association with the EU.<sup>4</sup> The Minister answered that the public statement of the EU regarding her detention also expressed the Dutch concerns and that he communicated his disappointment with the verdict to the Chinese authorities in a suitable manner.

The statement to which the Minister referred was made by the EU delegation to China on 16 April 2012. It expressed deep concern about the sentences handed down to Ni Yulan and her husband and the poor health of Ni Yulan. The EU delegation asked for her immediate release.<sup>5</sup> The Minister stated that there had been no official EU request for Ni Yulan’s release after the above-mentioned statement. The Minister was also asked about the necessity of an investigation into the trial of Ni Yulan and whether he would be willing to bring this up with the Chinese authorities. He responded that he did not want to interfere with the Chinese judicial process. He did not explicitly answer the question whether or not the Netherlands had a moral obligation to be actively involved in Ni Yulan’s trial after presenting her with the Human Rights Tulip Award.

## *Update of her situation:*

In March 2016, Ni Yulan was awarded The Secretary of State’s International Women of Courage Award, which is given to female advocates of human rights.<sup>6</sup> When she was invited to receive the award, the authorities prevented her from travelling to the US. In April 2016, she was placed under house arrest. A group of foreign diplomats, including diplomats of the EU Delegation and the embassies of Germany, Canada, France and Switzerland were prevented to visit her.<sup>7</sup>

- 1 Amnesty International, *China: Further Information: Housing Rights Activist Ni Yulan Released*, 8 October 2013, <https://www.amnesty.org/en/documents/asa17/034/2013/en/>.
- 2 Amnesty International, *China: Jail sentence for disabled housing activist 'unacceptable'*, 12 April 2012, <https://www.amnesty.org/en/latest/news/2012/04/china-jail-sentence-disabled-housing-activist-unacceptable/>.
- 3 Netherlands Embassy and Consulates, China, *Human Rights Tulip – Ms Ni Yulan*, 6 February 2015, <http://china.nlembassy.org/news/2015/02/human-rights-tulip--ms-ni-yulan.html>.
- 4 Tweede Kamer der Staten-Generaal, *Aanhangsel Handelingen II 2011/12*, 2466; *Aanhangsel Handelingen II 2011/12*, 2467.
- 5 Delegation of the European Union to China, *EU Delegation statement on the sentencing of Ni Yulan*, 16 April 2012, [http://eeas.europa.eu/delegations/china/press\\_corner/all\\_news/news/2012/20120416\\_en.htm](http://eeas.europa.eu/delegations/china/press_corner/all_news/news/2012/20120416_en.htm).
- 6 Office of the Spokesperson Washington DC, *Secretary Kerry Honors 14 Women of Courage*, 28 March 2016, <http://www.state.gov/r/pa/prs/ps/2016/03/255216.htm>.
- 7 The Guardian, *Chinese rights lawyer Ni Yulan placed under house arrest*, 25 April 2016, <http://www.theguardian.com/world/2016/apr/25/chinese-rights-lawyer-ni-yulan-under-house-arrest>.

**Other measures the EU delegations and embassies are recommended to take include:**

- Preparing local strategies for the implementation of the guidelines, with particular attention to women HRDs.
- Organizing at least once a year a meeting of HRDs and diplomats to discuss topics such as the local human rights situation, EU policy in this field, and the application of local strategy for implementing the guidelines.
- Coordinating closely and sharing information on HRDs, including those at risk.
- Maintaining suitable contacts with HRDs, including receiving them in missions and visiting their workplaces; consideration could be given to appointing specific liaison officers, where necessary, on a burden-sharing basis.
- Providing, as appropriate, visible recognition of HRDs and their work through appropriate use of the media – including the Internet and new information and communication technologies – as well as publicity and visits or invitations for purposes such as presenting prizes.
- Where appropriate, visiting HRDs in custody or under house arrest and attending their trials as observers.

**Moreover, in the EU Guidelines, the EU commits to:**

- Putting relevant international norms and standards, like the UN Declaration on Human Rights Defenders<sup>12</sup>, on the agenda with third countries.
- High-level visits to HRDs as a way of calling attention to the importance of the work of HRDs.
- Expressing support for HRDs and their work and raising individual cases during political dialogues, whenever necessary.
- Involving HRDs in the preparation, follow-up, and assessment of the dialogue.
- At the UN level: encouraging countries to bring their legislation and practices in line with the UN Declaration on Human Rights Defenders during the Universal Periodic Review (UPR).
- Promoting the strengthening of existing, and the creation of new, regional mechanisms for the protection of HRDs.
- Supporting the Special Procedures of the UN Human Rights Council in various ways, including the Special Rapporteur on HRDs.

**Practical support for HRDs and NGOs that promote and protect HRDs' activities may include but are not necessarily limited to development cooperation programmes of the EU and member states. Examples of support mentioned in the EU Guidelines are:**

- Capacity building, public awareness campaigns, and facilitating cooperation among NGOs, HRDs and national human rights institutions.
- Ensuring that HRDs in third countries are informed of the availability of and can access (financial) resources from abroad and that human rights education programmes promote the UN Declaration on Human Rights Defenders.
- Taking steps to provide swift assistance and protection to HRDs in danger, such as, where appropriate, issuing emergency visas and facilitating temporary shelter in EU member states.

The Dutch *Action Plan for Human Rights Defenders* uses the EU Guidelines as a basis. It specifically stresses the importance of raising individual cases, whenever suitable, and meeting HRDs during high-level visits. Meetings of the Human Rights Ambassador with HRDs are presented as a way to heighten their visibility and provide protection if needed.

Where appropriate, the Netherlands will make bilateral demarches and statements on the situation of HRDs or a particular individual case to draw attention to their work and offer support. The key role of embassies in the implementation of the policy is emphasized, including raising individual situations and attending trials of HRDs.<sup>13</sup>

12 UN General Assembly Resolution 53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 8 March 1999, UN. Doc. A/RES/53/144.

13 Rijksoverheid, *Action Plan for Human Rights Defenders*, 15 June 2012, <https://www.government.nl/documents/reports/2012/06/15/action-plan-for-human-rights-defenders>.

# BILATERAL POLICY IMPLEMENTATION (END 2013), 2014 AND 2015

## 4.1

### Bilateral Human Rights Dialogues

Human rights developments and the position of HRDs in China are the primary topic of discussion during the bilateral human rights dialogues. The Dutch delegation is headed by the Human Rights Ambassador. China postponed these dialogues for years, but they were resumed in late 2013. It is time-consuming to agree on a date and agenda, and these are often set at a very late stage before the meeting.

During the dialogue in 2013, the Dutch government addressed the position of HRDs and raised concerns about HRDs who were arrested and sentenced for expressing critical views online. In the next round of the dialogue in 2015, the position of HRDs and lawyers in particular was highlighted. Concerns have been raised about the many arrests of human rights lawyers that took place in the summer of 2015 and about the arrests and convictions of people who expressed their opinions. A list of 10 individual cases was submitted to the Chinese delegation. The names of the people involved in these cases have not been made public. The only names made public were Dutch human rights prize winner Ni Yulan and the five women's rights activists who were arrested on the night before International Women's Day 2015.<sup>14</sup>

The way the position of HRDs was discussed during the various dialogues seems to be quite similar. There is no indication that the severity of the crackdown in 2015 and its implications for the development of the rule of law have been treated as a matter of great urgency during the last dialogue.

The human rights concerns, and the individual cases raised, went without any discussion or serious response from the Chinese government. The confidentiality about the individual cases raised is not rewarded with a frank and open information exchange by the Chinese government. As a result, the Dutch and Chinese governments risk entering a shadow play of confidentiality and so-called 'silent diplomacy' – with Dutch Parliament and civil society in both countries unable to monitor if approaches lead to any positive effect for the Chinese HRDs involved. Amnesty wants to underline that this approach deviates from the human rights policy that aims to give more protection to HRDs by making them visible.

<sup>14</sup> For the course of events and names of these women, see: Amnesty International, *China: Release on bail of five women's rights activists an incomplete step*, 13 April 2015, <https://www.amnesty.nl/nieuwsportaal/pers/china-release-bail-five-women-s-rights-activists-incomplete-step>.

Amnesty Netherlands understood that HRDs are occasionally informed about discussions between the Dutch and Chinese governments about human rights issues in general, or their situation or working area in particular. However, the EU Guidelines stress the importance of the structural involvement of HRDs in the preparation, follow-up and assessment of dialogues. The Chinese HRDs who participated in the survey ask for transparency about topics and outcomes of bilateral dialogues because the Chinese government usually does not react if the HRDs themselves try to communicate with them on human rights issues. This would be one way of getting the government's reaction when it is confronted with certain topics.

### **Detailed description of the Netherlands-China Human Rights Dialogues in 2013 and 2015**

In late 2013, formal bilateral human rights consultations were held between the Netherlands and China in China. The consultations had been put on hold by the Chinese authorities since January 2009. No official reason was given for this, but the fact that the Dutch government awarded a human rights prize to the Chinese HRD Ni Yulan in 2012 could have played a role in the continued postponement. During the first visit of the current Dutch Prime Minister, Mark Rutte, to China in November 2013, President Xi Jinping announced that the bilateral human rights dialogue could be resumed.

The Dutch delegation was led by the former Dutch Human Rights Ambassador, Lionel Veer (HRA), and the Chinese delegation by the Deputy Director-General of International Organizations, Qian Bo. Both positions are based at the respective Ministries of Foreign Affairs. The HRA discussed developments in the area of the abolishment of re-education through labour, the one-child policy, and reform of the household registration system. Furthermore, the HRA conveyed Dutch concerns with regard to freedom of religion and expression, the position of HRDs, minorities in Tibet and Xinjiang Uighur Autonomous Region<sup>15</sup>, and the rule of law, illustrated by a number of prominent individual cases.

The HRA emphasized that political and civil rights and economic, social and cultural rights reinforce each other and are of equal importance. Based on a remark about finding the right balance between Internet security and freedom, concerns were raised about HRDs who were arrested and sentenced for expressing critical views online.

The HRA also met with the United Front Work Department of the Communist Party, the State Administration for Religious Affairs, the All-China Federation of Trade Unions, and the State Council Information Office. In addition to government officials, meetings were also organized with a number of HRDs, academics, artists, LGBT activists, NGOs and project partners in Beijing and Hong Kong. At the EU delegation, an event was organized with the aim of informing local HRDs about the human rights (defenders) policy of the EU and different member states. The HRA also visited Ni Yulan, the 2011 winner of the Dutch Human Rights Tulip Award.<sup>16</sup>

According to the Dutch government, a dialogue like this contributes to strengthening relations between the Netherlands and China. The two countries agreed to continue the dialogue and to look into concrete possibilities for cooperation. The HRA invited China to the Netherlands for the next round of consultations, which were held in The Hague in October 2015.

On 8 and 9 October 2015, bilateral consultations were held in the Netherlands between Dutch Human Rights Ambassador, Kees van Baar, the successor of Lionel Veer, and the Chinese Special Representative for Human Rights, Liu Hua. The Chinese delegation also consisted of representatives of the Ministry of State Security, the United Front Work Department of the Communist Party, the Supreme People's Court and the National People's Congress. The Netherlands was also represented by members of the Ministry of Security and Justice and the Ministry of the Interior and Kingdom Relations.

15 The official document on bilateral human rights dialogue talks of 'Xinjiang', instead of 'Xinjiang Uighur Autonomous Region'.

16 Letter to Dutch Parliament with report of the visit of the Human Rights Ambassador to China, 20 February 2014, <https://www.rijksoverheid.nl/documenten/kamerstukken/2014/02/20/kamerbrief-over-bezoek-mensenrechtenambassadeur-aan-china-in-december-2013>.

First, the latest developments in the field of human rights were discussed. As the party hosting the event, HRA Van Baar started the consultations by laying out the Dutch areas of concern, which included almost all the priorities specified in the human rights policy: freedom of expression and religion; HRDs and lawyers in particular; women's rights (including the issues of forced abortions and fetus identification); ethnic minorities, particularly the situation in Tibet and the Xinjiang Uighur Autonomous Region<sup>17</sup>; LGBT rights; and business and human rights (mining). Regarding HRDs in particular, the HRA expressed his concern about the many arrests of human rights lawyers that took place in the summer of 2015 and about the arrests and convictions of people who expressed their opinions. He emphasized the importance of independent media and free access to China. He also raised the issue of the five women's rights activists who were arrested on the night before International Women's Day. Reference was made to the previous UN UPR and to the recommendations made by the Netherlands and accepted by the Chinese government (see UN agenda, page 51-53). The Dutch government submitted a list of 10 individual cases that illustrated the different concerns that were discussed.

The Chinese delegation did not engage in a serious discussion about the concerns raised. Instead, it expressed serious doubts about the sources the Dutch government consulted. No information was provided about the individual cases on the list or those mentioned in the introductory statement. Other cases, including one in which a house church violated licence requirements, were presented to explain why the Chinese government acts in a certain way. Combatting extremism and terrorism was China's main argument in the discussion on new laws (national security, foreign NGOs). The "seven perils" that form part of "Document No. 9" should above all be considered as fodder for academic debate.

## THE 'SEVEN PERILS'

Document No. 9 is an internal Communist Party ideological paper, in which seven perils were listed that must be eradicated. According to the document, the following seven 'false ideological trends, positions, and activities' deserve attention\*:

- 1) 'Promoting Western Constitutional Democracy: An attempt to undermine the current leadership and the socialism with Chinese characteristics system of governance.'
- 2) 'Promoting "universal values" in an attempt to weaken the theoretical foundations of the Party's leadership.'
- 3) 'Promoting civil society in an attempt to dismantle the ruling party's social foundation.'
- 4) 'Promoting Neoliberalism, attempting to change China's Basic Economic System.'
- 5) 'Promoting the West's idea of journalism, challenging China's principle that the media and publishing system should be subject to Party discipline.'
- 6) 'Promoting historical nihilism, trying to undermine the history of the CCP and of New China.'
- 7) 'Questioning Reform and Opening and the socialist nature of socialism with Chinese characteristics.'

Journalist Gao Yu was found guilty of "disclosing state secrets", because she allegedly shared this Document No.9.

\* Translation of Document No. 9 derived from: Document 9: A ChinaFile Translation, 8 November 2013, <https://www.chinafile.com/document-9-chinafile-translation>.

Further discussions concentrated on strengthening the rule of law in China and in particular how to improve police service.

Apart from the formal consultations, at the request of the Chinese delegation, a visit was paid to a prison in Scheveningen. Finally, the Dutch government organized a “non-discrimination and diversity” programme in Amsterdam in cooperation with the municipality, the Anne Frank House, and the LGBT organization, COC Netherlands. Issues such as how to deal with conflicting freedoms were on the agenda.<sup>18</sup> At the end of the bilateral consultation, the Chinese delegation invited the HRA for a subsequent, more extensive consultation where, amongst other things, best practices regarding the rule of law and non-discrimination could be exchanged.<sup>19</sup>

## 4.2

### High-level visits

The high-level visits in 2014 and 2015 that Amnesty Netherlands researched include state visits to the Netherlands by the Chinese President and to China by the Dutch King and Queen, visits to China by the Dutch Prime Minister and the Dutch Minister of Foreign Affairs and trade missions led amongst others by the Minister of Foreign Trade and Development Cooperation. During the various high-level visits, human rights issues were always on the agenda, but it often remained unclear which specific topics had been discussed. Public information available about meetings of the Prime Minister give the impression that human rights have been addressed in a very general way, and that the bilateral human rights dialogue is considered to be the right forum for more substantial discussions. The Minister of Foreign Affairs has been the only Minister publicly reporting on the human rights agenda he addressed during his visit to China in 2015. He raised concerns about the draft foreign NGO law and the potential implications of this law for organizations with which the Netherlands cooperates. He emphasized that it is important for these organizations to be able to continue their work under the new legislation. Moreover, he raised a number of HRDs cases.

Other ministers seem to discuss human rights issues with their Chinese counterparts regularly, including during trade missions. However, this information has only been shared with Amnesty Netherlands and not been made public otherwise. A positive exception to this information gap has been public information about the speeches given by the Dutch King during his state visit to China in October 2015.

Combined with a major trade mission, the state visit, was the only high-level visit that took place after the severe crackdown on human rights lawyers and activists that began in July 2015. The serious deterioration of the position of HRDs does not seem to have been explicitly addressed during the state visit and trade mission.

Aside from the Minister of Foreign Affairs' visit, high-level visits have not been used to meet with Chinese HRDs and/or raise individual cases of HRDs as recommended in both the EU Guidelines and Dutch Action Plan on HRDs. Interestingly, German Chancellor Merkel did meet a group of Chinese HRDs during her visit to China in October 2015.<sup>20</sup>

18 COC Netherlands has been advocating the rights of lesbian women, gay men, bisexuals and transgenders (LGBTs) from 1946 on. COC aims to decriminalize sexual orientation and gender identity and fights for equal rights, emancipation and the social acceptance of LGBTs in the Netherlands and all over the world. COC is one of the few LGBT organizations that has a special consultative status with the United Nations.

19 Rijksoverheid, *Kamerbrief over mensenrechtenconsultaties met China en Staatsbezoek aan China*, 7 December 2015, [https://www.rijksoverheid.nl/documenten/kamerstukken/2015/12/07/kamerbrief-over-mensenrechtenconsultaties-met-china-en-staatsbezoek-aan-china?utm\\_source=twitterfeed&utm\\_medium=twitter](https://www.rijksoverheid.nl/documenten/kamerstukken/2015/12/07/kamerbrief-over-mensenrechtenconsultaties-met-china-en-staatsbezoek-aan-china?utm_source=twitterfeed&utm_medium=twitter).

20 Bloomberg News, *Merkel Meets Chinese Rights Activists in Beijing After Xi Talks*, 30 October 2015, <http://www.bloomberg.com/news/articles/2015-10-30/merkel-meets-chinese-rights-activist-in-beijing-after-xi-talks>.

## Description of the high-level visits in 2014 and 2015

### ➤ *The Chinese President's state visit to the Netherlands and other EU countries*

In March 2014, the Chinese President Xi Jinping paid a state visit to the Netherlands. In a Joint Statement published during the visit, China and the Netherlands reaffirmed their commitment to strengthening cooperation on political and economic issues, international developments and security, culture, and science.<sup>21</sup> The promotion and protection of human rights and strengthening the dialogue on human rights, amongst others, via regular bilateral consultations, were also some of the commitments described in this statement. The Dutch government's press release regarding the visit referred to the human rights dialogue in general terms. More specific information was provided about the companies that signed million-dollar contracts, the economic forum attended by the Chinese President, and the presentations on innovative technology in the areas of agriculture and food safety.

During the visit, President Xi discussed topics relating to international security, economics, and the bilateral relations between China and the Netherlands with the Dutch Prime Minister and the Ministers of Foreign Affairs, Foreign Trade and Development Cooperation, Economic Affairs, Education and Culture and Science. After this discussion, a number of agreements were signed regarding cooperation in the areas of dairy and energy and the foundation of a Chinese cultural centre in the Netherlands.<sup>22</sup> No public information was available on whether human rights and HRDs were topics of discussion. During a general debate in Dutch Parliament in April, Members of Parliament asked whether the Prime Minister had discussed human rights issues with the Chinese President. The then-Minister of Foreign Affairs, Frans Timmermans, replied that the Prime Minister explicitly and extensively addressed human rights during his first visit to China (November 2013) and that he, as Minister of Foreign Affairs, discussed human rights extensively with his Chinese counterpart during the state visit, both in the car and in the evening during the state dinner. He underlined that the atmosphere was relaxed while talking about "internal political affairs, like human rights and Taiwan", which he interpreted as a form of self-confidence.<sup>23</sup>

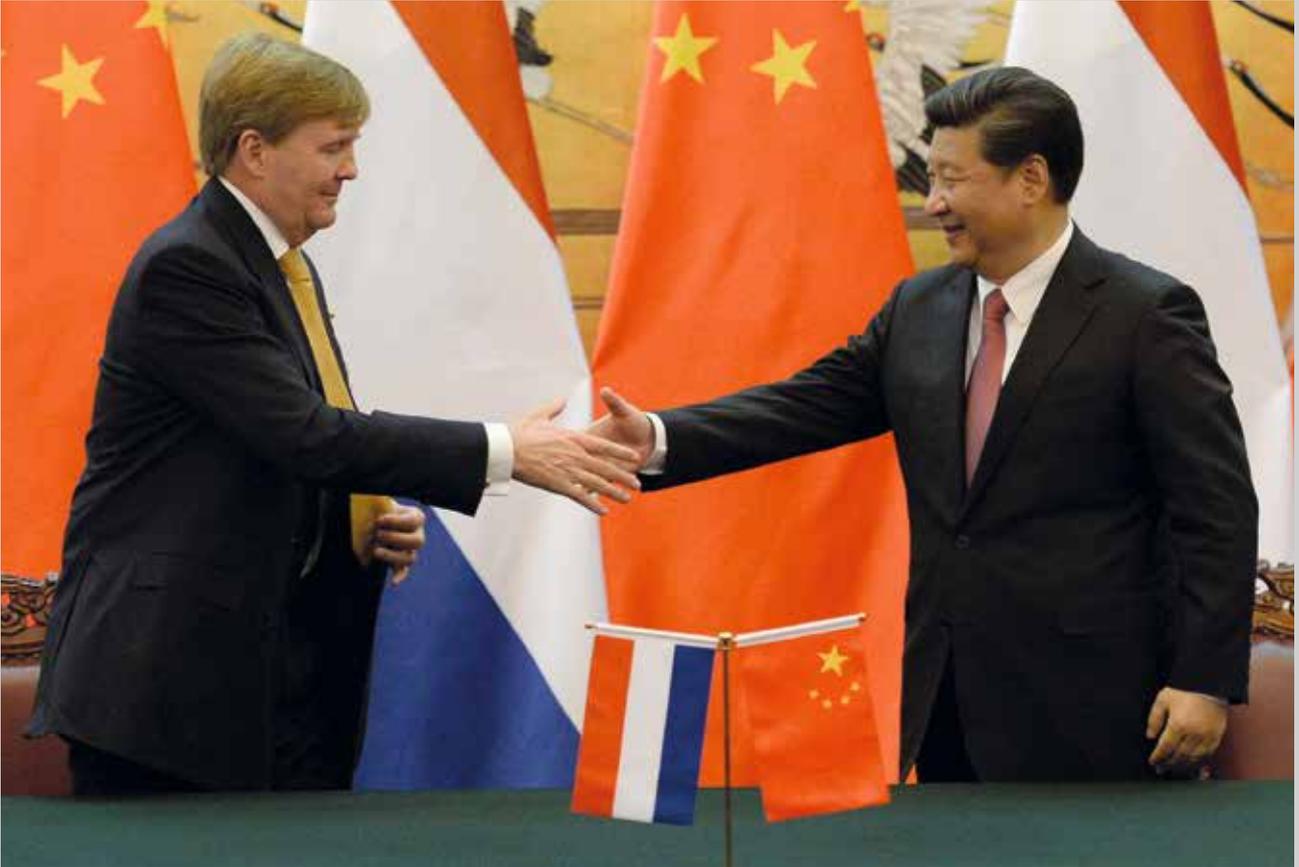
Apart from visiting the Netherlands, President Xi also went to France, Germany and Brussels, as the capital of the EU (see page 28-29, 40). The public information communicated by the various member state governments focused mainly on the new bilateral economic deals that had been signed during the visits. Only the German leaders made a public, albeit subtle, reference to the human rights situation in China. President Joachim Gauck praised the will of China to reform systems that would help bolster Beijing's economic plans but also warned that China must foster trust among its 1.3 billion citizens: "No state can exist without the trust of the people", Gauck said, quoting Confucius.<sup>24</sup> During a joint press conference, German Chancellor Merkel said: "Broad and free expression of opinion is of course a very important element to promote the creativity of a society, be it in research, culture or civil society".

21 Rijksoverheid, *Joint Statement from the People's Republic of China and the Kingdom of the Netherlands on the Establishment of an Open and Pragmatic Partnership for Comprehensive Cooperation*, 24 March 2014, <https://www.government.nl/documents/reports/2014/03/24/joint-statement-between-the-people-s-republic-of-china-and-the-kingdom-of-the-netherlands-on-the-establishment-of-an-open-and-p>.

22 Rijksoverheid, *Nieuwsbericht: Nederland en China versterken bilaterale relatie*, 24 March 2014, <https://www.rijksoverheid.nl/actueel/nieuws/2014/03/24/nederland-en-china-versterken-bilaterale-relatie>.

23 Rijksoverheid, *Verslag over Algemeen Overleg over China 'Hulp, handel en investeringen'*, 9 April 2014, <http://www.tweedekamer.nl/vergaderingen/commissievergaderingen/details?id=2013A05256>.

24 Deutsche Welle, *Gauck praises Xi Jinping on China's rise, encourages more reform*, 28 March 2014, <http://www.dw.com/en/gauck-praises-xi-jinping-on-chinas-rise-encourages-more-reform/a-17528114>.



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**Dutch King Willem-Alexander shakes hands with Chinese President Xi Jinping during his visit to China in October 2015.**

➤ *Dutch Minister of Foreign Affairs' visit to China*

In mid-June 2015, the Dutch Minister of Foreign Affairs, Bert Koenders, visited China and met with his counterpart Wang Yi, Chinese State Councillor Yang Jiechi, and Vice Minister of the International Bureau of the Chinese Communist Party (CCP) Chen Fengxiang. The letter that was sent to the Dutch Parliament afterwards mentions that the Ministers had a “long discussion” about human rights. Minister Koenders expressed his appreciation of the recent visit by a delegation of the Social Law Department of the National People’s Congress, which is doing research in the context of China’s law against domestic violence, a topic of concern in both countries. Regarding the bilateral human rights dialogue, Wang Yi said that China is open to continuing the dialogue in the coming months. Minister Koenders expressed his concerns about the draft foreign NGO law and the potential implications of this law for organizations with which the Netherlands cooperates. He emphasized that it is important for these organizations to be able to continue their work under the new legislation. The Dutch minister regarded the fact that China aims for more transparency in legislating procedures as positive. He expressed concern about the situation of a number of HRDs. In a general sense, he said that the good relationship between the Netherlands and China should make it possible to discuss issues on which both countries disagree. During conversations with Chinese State Councillor Yang Jiechi, Minister Koenders discussed many matters that had also been on the agenda with Minister Wang Yi. The letter does not specify which issues. During the meeting with Vice Minister Chen Fengxiang, strengthening the rule of law was one of the topics of discussion. From the Chinese side, the importance of the national anti-corruption campaign was underlined. The Dutch minister raised the importance of independent “watchdogs” and the media to detect corruption. Finally, he met with a number of HRDs to discuss the human rights situation in China.<sup>25</sup>

➤ *Dutch King's state visit to China*

In October 2015, the Dutch royal couple King Willem-Alexander and Queen Máxima visited China, accompanied by Minister of Foreign Affairs Koenders. The King mentioned human rights during the state dinner. In his speech to the China Executive Leadership Academy in Pudong, he discussed human-rights-related issues more extensively. In addition to asking how China plans to ensure balanced development in the long term, he explained that the Netherlands is doing this by making room for citizen participation, balancing interests when planning, and implementing policy and promoting respect for the rule of law and ethical governance. He mentioned that listening to people and building on their initiatives strengthens the foundations of all levels of government. In the context of urban development plans, the King pointed out that weighing all interests could help to balance development. This means taking into account economic opportunities; the impact on the environment and the local communities; the social, safety and heritage implications; and the long-term effects. He acknowledged that this can be considered a time-consuming approach but stressed that it reinforces stability and sustainability. Regarding respect for institutions that enforce the rule of law, he said that independent courts and inspectorates serve as guarantees that people are treated fairly and in accordance with the law, that human rights are respected and that public servants retain their integrity. Finally, the King emphasized that it is important for China and the Netherlands to continue their constructive dialogue on human rights. He stressed that views may differ on this subject but that friends should not have to avoid issues on which they do not always see eye-to-eye.<sup>26</sup>

25 Rijksoverheid, *Kamerbrief over het bezoek aan China op 18 en 19 juni jl.*, 27 August 2015, <https://www.rijksoverheid.nl/regering/inhoud/bewindspersonen/bert-koenders/documenten/kamerstukken/2015/08/27/kamerbrief-over-het-bezoek-aan-china-op-18-en-19-juni-jl>.

26 Royal House of the Netherlands, *Speech by His Majesty the King at the China Executive Leadership Academy, Pudong*, 28 October 2015, <http://www.royal-house.nl/documents/speeches/2015/10/28/speech-by-his-majesty-the-king-at-the-china-executive-leadership-academy-pudong>.

Minister of Foreign Affairs Koenders accompanied the King and Queen on the visit. He had a separate meeting with four critical media experts, discussing (limits to) freedom of the press and freedom of expression, both online and offline. They specifically discussed the recently implemented laws that make further restrictions on the freedom of expression possible.

► *Trade Missions*

In October 2014, the Minister of Foreign Trade and Development Cooperation, Lilianne Ploumen, led a trade mission to China. In the report to the Dutch Parliament, only issues related to corporate social responsibility and development cooperation were mentioned under the heading CSR/human rights.<sup>27</sup> There was also no mention in the media whether any human rights issues were discussed. However, in a response to a letter the Minister received from Amnesty Netherlands before her departure, Minister Ploumen expressed her concerns to Chinese authorities about the situation in Hong Kong and the treatment in mainland China of persons who sympathized with the demonstrators in Hong Kong. She underlined the importance of freedom of expression and preventing the escalation of violence.<sup>28</sup>

In March 2015, Dutch Prime Minister Rutte led a trade mission to China. Secretary of State for Infrastructure and Environment, Wilma Mansveld, was part of the delegation. The report to the Dutch Parliament on this mission stated that human rights were part of the agenda during the bilateral meeting with President Xi Jinping. During this conversation, Prime Minister Rutte emphasized the importance of the rule of law and mentioned the bilateral human rights consultations between the Netherlands and China. President Xi Jinping expressed that the many occasions human rights have been discussed bilaterally have contributed to mutual trust and understanding. He also stated that China is prepared to discuss this theme in the future, on the basis of equality and mutual respect.<sup>29</sup> One news item mentioned that Rutte would talk with Xi about human rights. According to the Prime Minister, human rights are always part of the agenda. "We are good friends, so you can discuss these types of topics."<sup>30</sup> The response to the letter Amnesty Netherlands sent to the Prime Minister stated that the nature of the visit was mainly economic, but also included bilateral political contacts. For the Dutch government, economy and human rights are not two separate paths but are interwoven. A general description was included of the priorities in human rights policy and the form (bilateral dialogue) and channels chosen (bilateral and EU) to implement these.<sup>31</sup> The response on the individual cases raised by Amnesty Netherlands is reported under the section "Actions for individual cases" below.

The Dutch King's state visit to China in October 2015 was combined with a large trade mission. State Secretary Martin van Rijn (health), and former State Secretary Sharon Dijksma (agriculture) also took part in the mission. With respect to human rights, State Secretary Van Rijn focused on women's issues such as violence against women and fetus identification. State Secretary Dijksma addressed the issues of food safety and the right to food and (drinking) water. This information has been conveyed to Amnesty Netherlands, but has otherwise not been made public.

27 Tweede Kamer, *Rapportage economische missies/werkbezoeken en inkomende bezoeken tweede tot en met vierde kwartaal 2014*, 19 December 2014,  
[http://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2014Z23808&did=2014D47944](http://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2014Z23808&did=2014D47944).

28 Letter from the director Asia Oceania of the Ministry of Foreign Affairs to Mr. Nazarski, director Amnesty International Netherlands regarding the Economic Mission to China, 28 November 2014.

29 Rijksoverheid, *Verslagen van de economische missies en werkbezoeken in de 1e helft van 2015*, 18 August 2015,  
<https://www.rijksoverheid.nl/regering/inhoud/bewindspersonen/lilianne-ploumen/documenten/rapporten/2015/08/18/verslagen-economische-missies-en-werkbezoeken>.

30 NU.nl, *Premier Rutte wil Nederlandse bedrijven in China helpen*, 25 March 2015,  
<http://www.nu.nl/ondernemen/4018361/premier-rutte-wil-nederlandse-bedrijven-in-china-helpen.html>.

31 Letter from the director of Asia and Oceania of the Ministry of Foreign Affairs to the director of Amnesty International Netherlands regarding the Dutch Prime Minister's trade mission to China, 20 March 2015.

Amnesty Netherlands looked at specific bilateral actions taken by the Dutch government for individual HRDs outside the context of the dialogues and high-level visits. No public statements have been made. All efforts related to public statements focused on supporting statements at the EU level.

The following information was provided to Amnesty Netherlands after a request to the Prime Minister to address the cases of Su Changlan, Ilham Tohti and Nurmemet Yasin during the trade mission in March 2015:

*“We discuss individual cases behind closed doors because we are convinced that this is more effective for the improvement of the situation of those concerned. The three specific individuals you mention in your letter have been raised during the EU-China human rights dialogue. Regarding the Uyghur Ilham Tohti, an EU statement has been published last year. The Human Rights Ambassador also intends to pay specific attention to women’s rights during the next round of bilateral consultation. The Dutch government shares your concerns about the arrests of the women Chinese human rights activists and welcomes the EU Declaration of 12 March on this. We will bring up your information and your concerns about specific individual cases – if appropriate – in our bilateral human rights consultation, other conversations with the Chinese authorities and will propose them for the dialogues between the EU and China, like the EU-China Human Rights Dialogue, this year.”<sup>32</sup>*

Amnesty Netherlands was informed by Dutch government officials of one example in which silent diplomacy had led to some results for a HRD. At the end of 2013, concerns about Liu Xia’s mental health increased. She publicly requested to be allowed an independent medical assessment, to read the letters she and her husband Liu Xiaobo had written each other, and to work and earn income. At the end of March 2014, Liu Xia was allowed to have medical examinations and treatments and her health condition improved.<sup>33</sup> Afterwards, the Dutch government informed Amnesty Netherlands that the international (silent) diplomatic pressure had helped get Liu Xia to hospital for an independent medical assessment.

Amnesty favours a strategic combination of both silent and public diplomacy and would be interested in more examples that support the Dutch government’s conviction that discussing individual cases behind closed doors is more effective than public diplomacy. The Chinese HRDs involved in the survey did not understand the concept of silent diplomacy. As this is currently the default approach of the Dutch government for individual cases, it seems crucial for this concept and its possible impact to be explained more clearly to Chinese HRDs.

Another action recommended in the EU Guidelines is attending trials of HRDs as observers. Although access to such court cases is generally not provided by the Chinese authorities, the Dutch embassy, as part of a group of like-minded countries and the EU Delegations, did try to gain this access. See pages 48 for a further description of these efforts, the groups of countries and a list of court cases that the diplomats tried to monitor in 2014 and 2015.

<sup>32</sup> Letter from the director Asia and Oceania of the Ministry of Foreign Affairs to the director of Amnesty International Netherlands regarding the Dutch Prime Minister’s trade mission to China, 20 March 2015.

<sup>33</sup> Amnesty International, *China: Further Information: Liu Xia Receives Medical Treatment: Liu Xia*, 25 March 2014, <https://www.amnesty.org/en/documents/asa17/017/2014/en/>.

# DEMONSTRATIONS DURING VISITS CHINESE PRESIDENT TO EUROPE

In the four EU countries visited by President Xi Jinping in March 2014, demonstrations had been organized to call the Chinese President's attention to human rights issues, in particular to the situation in Tibet, the position of HRDs, and the Falun Gong.

In the Netherlands, fences were raised by Chinese security personnel at the Royal Palace on the Dam Square so that President Xi was not confronted with the messages of Amnesty and the International Campaign for Tibet. The local government allowed this to happen.

In France, practitioners of Falun Gong had to resort to an appeal to the Paris Administrative Court to stage a peaceful protest in front of the Chinese embassy in Paris. Due to pressure from Chinese embassy, the Paris Police Department rejected the rally application one day before the event. The judge declared the ban illegal and a violation of freedom of expression and assembly. The protest went ahead and the police had to pay € 1,500 to the Falun Dafa Association.<sup>1</sup> Another demonstration in Paris by Reporters without Borders went ahead successfully.<sup>2</sup>

In Belgium, an Amnesty protest took place uninhibited, but according to Falun Gong groups, Chinese students covered Falun Gong posters, announcing a cultural dance event with Chinese flags.<sup>3</sup> In Germany, protests were held without reported disturbances.

In October 2015, President Xi visited the United Kingdom. During this visit, the British authorities did not bring up the human rights situation in China. Ahead of the visit, Xi Jinping's officials insisted that the purpose of the visit was not to "debate human rights".<sup>4</sup> During Xi's visit, Shao Jiang, a Chinese human rights activist living in the UK, was arrested for protesting peacefully against the Chinese president outside Mansion House. He was arrested and detained by the City of London Police and later by the Metropolitan Police for conspiracy to commit a Section 5 Public Order Act Offence, which prohibits acting together with another to cause "harassment, alarm or distress". Later that night, his home was searched and several of his electronic devices were seized.<sup>5</sup> Shao's lawyer, Lawrence Barker, stated: "While my client's initial arrest and detention for breach of the peace effectively prevented him from lawfully protesting further that day, it provided the police with no powers to stop him from doing so during the remainder of the Chinese president's visit."<sup>6</sup> Shao submitted a formal complaint to the Independent Police Complaints Commission (IPCC) regarding his arrest.

- 1 Epoch Times, *Chinese Embassy Attempts to Prevent Rally During Xi Jinping Visit in Paris*, 31 March 2014, <http://www.theepochtimes.com/n3/594284-chinese-embassy-attempts-to-prevent-rally-during-xi-jinping-visit-in-paris/>.
- 2 Reporters without Borders, *Protest Shows Xi Jinping Giving the Finger in Paris*, 27 March 2014, <http://en.rsf.org/chine-protest-shows-xi-jinping-giving-27-03-2014-46048.html>.
- 3 De Telegraaf, *Relletje rondom Belgisch bezoek Xi Jinping*, 30 March 2014, [http://www.telegraaf.nl/buitenland/22445974/\\_Relletje\\_rondom\\_Xi\\_Jinping\\_.html](http://www.telegraaf.nl/buitenland/22445974/_Relletje_rondom_Xi_Jinping_.html).
- 4 Daily Mail Online, *We're not here to talk about human rights, China tells Britain in warning to Labour leader Jeremy Corbyn*, 19 October 2015, <http://www.dailymail.co.uk/news/article-3277854/I-want-fish-chips-says-Chinese-president-Xi-Jinping-insists-state-visit-includes-trip-English-pub.html>.
- 5 Amnesty International, *Summary of IPCC Complaint re My Arrest during Xi Jinping's UK Visit*, 11 December 2015, <https://www.amnesty.org.uk/blogs/countdown-china/summary-ipcc-complaint-re-my-arrest-during-xi-jinpings-uk-visit>.
- 6 The Guardian, *Xi Jinping protester files complaint with police watchdog*, 8 December 2015, [http://www.theguardian.com/politics/2015/dec/08/xi-jinping-protester-files-complaint-police-watchdog-shao-jiang-unlawful-state-visit-chinese-president?CMP=share\\_btn\\_tw](http://www.theguardian.com/politics/2015/dec/08/xi-jinping-protester-files-complaint-police-watchdog-shao-jiang-unlawful-state-visit-chinese-president?CMP=share_btn_tw).



Protest for the release of human rights defenders Liu Xiaobo and Liu Xia during President Xi Jinping's state visit to the Netherlands, March 2014.

The main human rights priorities of the Dutch Embassy in Beijing are the position of HRDs, equal rights for women and LGBTs, and freedom of expression, both online and offline.<sup>34</sup> Tibet, business and human rights and torture are also high on the agenda.

In 2014, € 1,801,934 of the Human Rights Fund was spent on 28 different projects in China, including two projects for HRDs and two projects regarding the freedom of expression and critical research journalism. NGOs and other civil society groups such as the China Human Rights Lawyers Concern Group, Women in Prison and the Chinese Rainbow Media Awards have been and will continue to receive financial support from the Dutch Embassy.<sup>35</sup> Detailed information about the human rights projects supported by the Dutch government in 2015 is not yet available, but generally speaking, the embassy focused on projects related to:

- The improvement of the situation of HRDs, in particular lawyers, and capacity-building of civil society organizations in various ways.
- The creation of awareness on LGBTs.
- Women's rights, through the annual sponsorship of the China Women's Film Festival, for example.<sup>36</sup>
- Training of medics and law enforcement officials so they can better recognize signs of torture in victims.

Internet and social media are used to draw attention to issues such as arbitrary detentions.

Amnesty welcomes the (at times creative) efforts undertaken to provide practical support to HRDs, in particular lawyers, and their families and to strengthen the position of civil society organizations (through diplomatic efforts and capacity-building, amongst others). A flexible approach towards the requirements for funding Chinese NGOs is deemed important as it is very difficult to formally register as an independent NGO.

Each year on 10 December, International Human Rights Day, all Dutch embassies are expected to organize an event focusing on human rights and HRDs. In 2014 and 2015, the Dutch Embassy in Beijing showed human rights films, about the theme of censorship in relation to art and the safety of artists (Belarus) and about the introduction of laws prohibiting all activities that have no utility with absurd verdicts (Mali), respectively.<sup>37</sup> Invitations are distributed widely, including to HRDs. It is not clear how many of them attended and what kinds of discussions took place afterwards.

The surveys of Chinese HRDs showed their interest in regular contact with staff of EU delegations and embassies in locations in which the HRDs and the diplomats agree are secure. Most of them had never been in touch with EU missions. Moreover, the EU Guidelines and the types of support HRDs could request from the EU are not widely known among them. All the HRDs who participated in the survey expressed an interest in learning more about the EU Guidelines and in receiving training on the content of the Guidelines.

34 Rijksoverheid, *Mensenrechten in China*, 18 April 2014, <http://www.rijksoverheid.nl/documenten-en-publicaties/brochures/2014/04/18/mensenrechten-in-china.html>.

35 Rijksoverheid, *Verslag over Algemeen Overleg over China 'Hulp, handel en investeringen'*, 9 April 2014, <http://www.tweedekamer.nl/vergaderingen/commissievergaderingen/details?id=2013A05256>.

36 Netherlands Embassy and Consulates, China, *The China Women's Film Festival opens its curtains for the third year*, 17 September 2015, <http://china.nlembassy.org/news/2015/09/cwff-2015.html>.

37 In 2014, it presented the documentary "Dangerous Acts Starring the Unstable Elements of Belarus", which features the story of the Belarus Free Theatre, a group of imaginative and subversive actors who suffer grave censorship and often have to choose between fighting for their art and fighting for their own safety. In her opening statement, the head of the political department emphasized the importance of improving the protection of human rights, not only for individuals, but also for society as a whole. In 2015, the Dutch embassy featured "Timbuktu", a film about a city in Mali that is in the hands of ISIS combatants. New laws lead to the prohibition of all activities that have no "utility", such as playing football or listening to music, and absurd verdicts by an improvised tribunal. The films are part of the "Movies that Matter Embassy Tour". For more information, see [http://www.moviesmatter.nl/english\\_index/international/other\\_activities](http://www.moviesmatter.nl/english_index/international/other_activities).

In general, the frequency of meetings between the Dutch Embassy and HRDs remains unclear. The EU Guidelines recommend that a meeting between HRDs and diplomats must be held at least once a year to discuss topics such as the local human rights situation, EU policy in this field, and the application of the local strategy for implementing the guidelines. There are no indications that such meetings were held in the last two years. Since bringing together a broad group of HRDs can currently be quite dangerous for them, other ways need to be found to broadly assess the current needs of HRDs and work out a strategy to provide support.

Finally, another concrete initiative of the Netherlands in support of HRDs is the temporary housing of HRDs via the Shelter City Initiative in the Netherlands. The idea behind this is that this programme can offer them some rest and respite. HRDs from China so far have not opted for temporary shelter in the Netherlands. However, it is important that this facility has been created and that swift assistance in the form of an emergency visa will be provided in times of need. Amnesty noted that the Initiative uses selection criteria that could be highly problematic for Chinese HRDs who are at risk, including knowledge of English or French, assurance of a safe return after a relative short period of three months, and the willingness to speak in public. A flexible approach to the selection criteria for participation in such initiatives is important. There seems to be some flexibility with regard to speaking in public, but this is not communicated on the official site.<sup>38</sup>

38 Conditions for taking part in the Shelter City programme cannot be found on the official website of Shelter City (<http://www.sheltercity.nl/>), but on the website of Justice and Peace: [http://en.justiceandpeace.nl/userfiles/files/Shelter%20City%20\(EN\).pdf](http://en.justiceandpeace.nl/userfiles/files/Shelter%20City%20(EN).pdf).

# THE DUTCH AGENDA WITHIN THE EUROPEAN UNION

**The Dutch government has a clear preference for implementing its human rights policy in relation to China in cooperation with or via the EU, because it believes that this cooperation may lead to conveying a stronger message to the Chinese government. In the bilateral policies described in Chapter 3, the following objectives that are relevant for (Chinese) HRDs have been formulated with respect to the EU:**

- Better coordination within the EU in the area of human rights since communication in the name of twenty-eight member states is stronger than communication sent by a single member state.
- Achieving an informal division of human rights responsibilities within the EU in order to tackle the issues in a smarter and more efficient way.
- Joint, coherent EU actions and more innovative approaches to raising and promoting human rights, for example, in the context of the seventy different sector dialogues (on trade, environment, political analysis, etc.).
- Vigorous and unanimous promotion and thorough implementation of the EU human rights policy/strategy.
- Improving the effectiveness of human rights dialogues and widening the scope for NGO input in preparing EU dialogues.
- Special points of contact for HRDs within EU delegations and an annual meeting at the country level between EU/member state diplomats and HRDs.
- Playing an active role in the task force on HRDs (part of the EU's Working Party on Human Rights of the European Council) to contribute to the implementation of the EU Guidelines and the inclusion of HRDs in country strategies, the EU human rights dialogues and in the broader sense, EU human rights policy.
- Support statements by the High Representative of the EU for Foreign Affairs and Security Policy to increase the visibility of the HRDs' work.

It appeared to be impossible for Amnesty Netherlands to assess how the Dutch government implements these policy objectives within an EU context. The cooperation between member states and the EU manifests itself in particular during meetings of the Working Party on Human Rights (COHOM) and the Asia-Oceania Working Party (COASI). Both are part of the European Council and consist of representatives of each member state and representatives of the European External Action Service (EEAS) and the European Commission (COM). In COHOM, the human rights aspects of the EU-China relationship are discussed and strategic priorities are set, including for multilateral human rights forums, such as the UN General Assembly and the Human Rights Council. It focuses on long-term policies and planning, such as the EU Action Plan on Human Rights and Democracy and the implementation of various human rights guidelines. COASI is responsible for the EU's relations with Asia and Oceania, including China, twenty-six other countries, and six regional organizations, and the strategies and policies of the EU in the region. In their respective areas, the working parties handle preparations for discussions in the Political and Security Committee, Coreper (Comité des Représentants Permanents, EU ambassadors of each member state) and in the Council.

Both working parties are involved in preparations for the EU-China summits and human rights dialogues. High-level meetings with China and the key messages of public statements on the situation of Chinese HRDs and/or individual cases are discussed in COASI. However, no public reports of the Working Parties' meetings are available and, as such, positions and proposals of individual member states cannot be assessed unless a member state reports on it at the national level. Reports available at the national level in the Netherlands are very concise.

One of the objectives of the Dutch government in the context of the EU is the active participation in the task force on HRDs, which is part of COHOM, to contribute to the proper implementation of the EU Guidelines and integration of HRDs in, amongst other things, the EU country strategies. This is a "virtual" taskforce which communicates primarily via email due to time and budget constraints. The task force only meets occasionally at the margins of conferences and other meetings. Amnesty is concerned about this formula. It does not give the impression that the EU and member states consider the topics addressed by the task force as high priorities. The proper implementation of HRD policies and developing effective strategies for them, based amongst other things on the rather generally worded EU Action Plan on Human Rights and Democracy (see page 34-35), would require face-to-face meetings of this task forces on a regular basis.

The effectiveness of the task force cannot be assessed as there is no transparency about the steps taken and/or objectives achieved. It is also unclear whether or not (policies on) HRDs are well-integrated in the country strategies, because most of the (human rights) country strategies, including the strategy on China, are not public.<sup>39</sup> Information gathered during the meetings of Amnesty Netherlands in Brussels points to some of the issues the task force considers important to address in the near future: an adequate system of registering human rights defender cases, actions taken to ensure a systematic approach; involvement of senior staff at EU missions in human rights (defenders) work; and more burden-sharing between EU delegations and embassies. These issues reflect some of the policy priorities of the Netherlands, but it cannot be determined whether this is the result of effective Dutch lobbying efforts.

Due to the overall lack of transparency, Amnesty Netherlands is not able to describe, let alone evaluate, the implementation of the specific EU-related policy priorities of the Dutch government. As the Netherlands expects better results from joint EU efforts in the area of human rights, and undertakes actions for HRDs through the EU in particular, it is relevant to look at the overall implementation of EU policies related to China, human rights, and HRDs.

39 Together with a number of Member States, the Netherlands advocated for the publication of part of the EU country strategies. These reports would retain the cooperation with civil society and give more insight into how the EU can support NGOs and human rights defenders. In 2014, the efforts yielded results: EU Embassies are presently in the position to jointly decide to publish parts of the strategies. In 2014, this was done in 20 countries. Rijksoverheid, *Mensenrechtenrapportage 2014*, 5 June 2015, <https://www.rijksoverheid.nl/documenten/jaarverslagen/2015/06/05/mensenrechtenrapportage-2014>.

# EU POLICIES ON CHINA, HUMAN RIGHTS AND HUMAN RIGHTS DEFENDERS

**Before assessing the efforts made by the EU for Chinese HRDs, the EU policies related to China, human rights and HRDs will be briefly presented:**

The *EU-China 2020 Strategic Agenda for Cooperation (2013)* reflects the overall policy framework for EU-China relations and contains a series of key initiatives under the headings “Peace and Security”, “Prosperity”, “Sustainable Development”, and “People-to-People Exchanges”. Under the heading “Peace and Security”, it states: “Deepen exchanges on human rights at the bilateral and international level on the basis of equality and mutual respect. Strengthen the human rights dialogue with constructive discussions on jointly agreed key priority areas.”<sup>40</sup>

The *EU Strategic Framework on Human Rights and Democracy (2012)*<sup>41</sup> – along with the *Lisbon Treaty* (article 21, 2007)<sup>42</sup> – sets out how the EU intends to honour its treaty obligations to advance democracy, the rule of law, as well as the universality and indivisibility of human rights. It states that human rights are promoted in all areas of the EU’s external actions with all third countries, including strategic partners. The development of country human rights strategies and the effectiveness of human rights dialogues are part of the strategy. The objective is to raise the issue of human rights in all appropriate forms of bilateral political dialogue, including at the highest levels. HRDs are included as a policy priority: political and financial support for HRDs will be intensified, including efforts to fight all forms of reprisals. It is recognized that a vigorous and independent civil society is essential to the functioning of democracy and the implementation of human rights. Effective engagement with civil society through regular dialogues both within and outside of the EU is seen as key for a successful human rights policy. Concerns are expressed in the policy about the attempts in some countries to restrict the independence of civil society. As an important donor to civil society, the EU will continue supporting HRDs under the European Instrument for Democracy and Human Rights and make funding operations more flexible and more accessible.

The *EU Action Plan on Human Rights and Democracy* (revised in 2015)<sup>43</sup> formulates steps for the EU and member states in light of implementing the EU Strategic Framework. The actions are geographically neutral, but translated into country-specific actions through local Human Rights Country Strategies. With regard to supporting HRDs, the following actions have been formulated:

- Step up support to HRDs, including those working to promote economic, social and cultural rights, through a systematic and comprehensive approach by: raising cases of HRDs at risk during high-level visits, including sector-specific missions; continuing to support and cooperate with UN and regional mechanisms for the protection of HRDs; enhancing support for multilateral initiatives on HRDs and civil society space, including at the UN General Assembly and Human Rights Council and increasing burden-sharing and sharing of best practices among member states with regard to the protection of HRDs.
- Ensure more frequent outreach activities in rural areas and more systematic contact with women HRDs and marginalized groups.

40 *EU-China 2020 Strategic Agenda for Cooperation*, 23 November 2013, [http://eeas.europa.eu/china/docs/20131123\\_agenda\\_2020\\_\\_en.pdf](http://eeas.europa.eu/china/docs/20131123_agenda_2020__en.pdf).

41 Council of the European Union, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, 25 June 2012, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf).

42 <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-5-general-provisions-on-the-unions-external-action-and-specific-provisions/chapter-1-general-provisions-on-the-unions-external-action/101-article-21.html>

43 European Commission, *Action Plan on Human Rights and Democracy (2015-2019) “Keeping human rights at the heart of the EU agenda”*, 28 April 2015, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/joint\\_communication\\_on\\_human\\_rights\\_and\\_democracy\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/joint_communication_on_human_rights_and_democracy_en.pdf).

The EU Guidelines on HRDs is a key document for both bilateral and EU efforts in support of HRDs and has already been described in Chapter 3. In the EU Council conclusions on the 10<sup>th</sup> anniversary of EU Guidelines on Human Rights Defenders (2014), the commitments in the Guidelines are reaffirmed. Moreover, the need to raise further awareness among all relevant stakeholders about the purpose and operational utility of the EU Guidelines has been stressed.<sup>44</sup>

# IMPLEMENTATION OF EU POLICIES IN 2014 AND 2015

## 7.1

## EU-China human rights dialogues

Extensive discussions between the EU and China on human rights and HRDs are conducted during the annual EU China Human Rights Dialogue, which is held alternately in Brussels and Beijing. Similar to the bilateral human rights dialogue between the Netherlands and China, recent developments are a permanent item on the agenda, but there are also two extra agenda items, one proposed by each side on which both sides need to agree. In the report on the 2014 dialogue, HRDs were not mentioned as a separate agenda item, but individual cases had been raised, including those of Liu Xiaobo, Ilham Tohti, Gao Yu, Hada, Pu Zhiqiang, Xu Zhiyong, Tenzin Delek Rinpoche, and Gao Zhisheng. Women's rights was the extra agenda item proposed by the EU. It is not clear whether the position of women (rights) activists have been part of that discussion. In 2015, HRDs were once again not a separate agenda item, but the EU articulated its "concerns about the ongoing detention of a number of human rights lawyers and activists who were arrested in July and August 2015". Around 20 individual cases were raised to illustrate the EU's concerns about human rights, including those involved in the cases of Liu Xiaobo, Ilham Tohti, Hada, Pu Zhiqiang, Xu Zhiyong, Gao Zhisheng, Wang Yu and her son, Bao Zhuoxuan. In the context of the extra agenda item proposed by the EU – environmental protection and human rights – the importance of the role of civil society organizations, freedom of expression and unimpeded access to information had been underlined.

The severe crackdown on human rights lawyers and activists in 2015 did get attention and Wang Yu and her son were added to the list of individual cases that were raised and made public afterwards. However, the report of the dialogue does not give the impression that the crackdown and serious attack on the rule of law have been treated as a matter of great urgency during the dialogue. This is quite different from the tone of the report on the EUSR's visit to China (see page 39-40).

The overall effectiveness of the EU China Human Rights Dialogue is questioned by many parties, including academics,<sup>45</sup> member states, Members of Parliaments, NGOs and HRDs. During the meetings with EU officials, some of the problems with the dialogue have been shared with Amnesty Netherlands:

- For the extra agenda item, the idea is to invite experts to deepen the level of discussion. This is hindered by the fact that China is often extremely late in finalizing the date and agenda.
- The questions that both sides are supposed to send each other in advance reach the EU late, which complicates proper preparation.
- It is getting more difficult to raise individual cases. It has a negative impact on the atmosphere at the meeting. The EU has a short list of around twenty and a long list of around one hundred individual cases. The twenty cases are brought forward during the thematic discussions. The responses from the Chinese side are rare or unsatisfactory. For example, the response of the Chinese delegation to the house arrest of Liu Xia was that she was not under house arrest and no explanation was given when the EU said they tried to visit her but were not allowed to enter her home. China refuses to accept the full list and the EU has decided to send it subsequently via *note verbale* thus ensuring that the Chinese government has formally received it.

- The seminars that used to be organized in conjunction with the human rights dialogues have been abolished as the Chinese government was not willing to let civil society organizations and EU experts participate. Instead of the seminars, field visits are now organized during which meetings with civil society organizations and experts are held.

Despite the criticism and problems, EU officials stressed that the human rights dialogue is important, and is one of the instruments in the toolbox that provides a channel to extensively discuss human rights issues with the Chinese government. Improvements in the context of the death penalty were presented as a result of the continuous efforts of the EU to raise this issue with China during these dialogues and on other occasions. EU officials noted that benchmarks, objectives and formalities have been put in place to make the dialogue more effective. This information is not publicly available. More openness on the part of the Chinese delegation is considered key to improving the quality of the dialogue. The EU tries to encourage this by being open itself in answering questions raised by the Chinese delegation.

Looking at the EU guidelines on human rights dialogues, a “defining of the practical aims which the Union seeks to achieve by initiating a dialogue with the country concerned, as well as an assessment of the added value to be gained from such dialogue” will first be required, amongst other things. Moreover, the EU should “establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy.”<sup>46</sup> There is no public information available on any of these aspects of the dialogue.

Amnesty acknowledges the possibility the EU-China human rights dialogue creates for extensively discussing pressing human rights issues with the Chinese government and particularly welcomes the publication of the names in a number of individual cases that have been raised in this context. This is different from the bilateral dialogue between the Netherlands and China where cases are not made public. An assurance is necessary to show that the dialogue is indeed “one of the instruments” and not “the most preferred instrument” in the toolbox. During various high-level visits only a reference to these dialogues seems to have been the way to “address” human rights. The dialogue clearly has its limitations. A “constructive dialogue” as that aimed for in the EU-China 2020 Strategic Agenda would certainly require a different and more cooperative attitude on the part of the Chinese delegation otherwise the serious human rights concerns of the EU, including those relating to individual cases, will continue to go undressed.

Amnesty emphasizes the importance of also raising (concrete) human rights issues, including individual cases, at the highest political level, and in all areas of the EU’s external actions with China.

It is unclear whether Chinese HRDs are involved in the preparation, follow-up, and assessment of the dialogues on a structural basis as recommended in the EU Guidelines. As mentioned above under the bilateral dialogue, the Chinese HRDs who participated in the survey asked for transparency on topics and outcomes of bilateral dialogues since the Chinese government usually does not react to actions from the HRDs themselves. This would be a way to determine the government’s response when it is confronted with certain topics.

### **Detailed description of the two EU-China Human Rights Dialogues in 2014 and 2015**

On 8-9 December 2014, the EU and China held the 33rd round of the EU-China Dialogue on Human Rights in Brussels. The EU delegation was led by Gerhard Sabathil, Director for East Asia and the Pacific in the EEAS and the Chinese delegation by Li Junhua, Director-General for International Organizations and Conferences of the Ministry of Foreign Affairs. Regarding the permanent agenda item “recent developments”, views were exchanged on the situation in China with respect to the right to adequate housing and the reform of the *hukou* system, the rights of persons belonging to minorities, especially in Tibet and Xinjiang Uighur Autonomous Region<sup>47</sup>,

<sup>46</sup> *The EU Guidelines on Human Rights Dialogues with non-EU Countries*, 2001, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ar10115>.

<sup>47</sup> The official document on the EU-China dialogue refers to “Xinjiang” instead of “Xinjiang Uighur Autonomous Region”.

freedom of religion or belief, freedom of expression (offline and online), freedom of peaceful assembly and association, due process of law, arbitrary detention, and the death penalty. The EU raised individual cases, including those of Liu Xiaobo, Ilham Tohti, Gao Yu, Hada, Pu Zhiqiang, Xu Zhiyong, Tenzin Delek Rinpoche, and Gao Zhisheng. The two specific agenda items were: women's rights and technical cooperation. The human rights dialogue was followed by a three-hour seminar with civil society experts on domestic violence, facilitated by the Belgian women's association, Amazone. A visit was made to Molenbeek's communal service for assistance to victims and Brussels' main police station, where the delegations were briefed on how complaints of domestic violence are dealt with.<sup>48</sup>

On 30 November and 1 December 2015, the EU and China held the 34th round of the EU-China Dialogue on Human Rights in Beijing. The EU delegation was led by Ugo Astuto, Acting Managing Director for Asia and the Pacific in the EEAS, and the Chinese delegation, as in 2014, by Li Junhua. Under "recent developments", the EU raised concerns about pending legislation on national security issues (counterterrorism, cybersecurity and the administration of overseas non-governmental organizations), the right to adequate housing and the reform of the *hukou* system, the rights of persons belonging to minorities, especially in Tibet and Xinjiang Uighur Autonomous Region<sup>49</sup>, freedom of religion or belief, offline and online freedom of expression, freedom of peaceful assembly and association, due process of law, arbitrary detention, torture, and the death penalty. The EU also articulated its concerns about the ongoing detention of a number of human rights lawyers and activists who were arrested in July and August 2015. Around twenty individual cases were raised to illustrate the human rights concerns of the EU, including those of Liu Xiaobo, Ilham Tohti, Hada, Pu Zhiqiang, Xu Zhiyong, Gao Zhisheng, Wang Yu and her son, Bao Zhuoxuan. The EU acknowledged the announcement of the decision to release Gao Yu on medical parole. Recommendations made during China's recent review by the Committee Against Torture were also raised. The two specific agenda items during this dialogue were: firstly, social integration of migrant workers in China and refugees and asylum-seekers in Europe and, secondly, environmental protection and human rights, with a special emphasis on the role of civil society organizations, the importance of freedom of expression, and unimpeded access to information. The human rights dialogue was followed by a series of meetings with the State Administration for Religious Affairs, the Ministry of Civil Affairs and the State Administration for Ethnic Affairs and field visits to the Research Centre for Women's Human Rights at the China Women's University and the Beijing Zhicheng Legal Aid Centre for Rural Migrant Workers.<sup>50</sup>

## 7.2

### High-level visits

The high-level visits in 2014 and 2015 that Amnesty Netherlands researched include visits of the EU Special Representative for Human Rights, Presidents of the European Council and Commission, the EU High Representative for Foreign Affairs and Security Policy, the EU Commissioner for Trade and the President of the European Parliament.

Amnesty Netherlands noticed that during these high-level meetings, very different approaches were taken to raise human rights issues with the Chinese government. For example, public messaging involving the 17<sup>th</sup> EU-China Summit in June 2015, in which freedom of expression and association, including the situation of Tibetans and Uighurs, was stressed, contrasted sharply with the visit of President Xi to Brussels in March/April 2014. During that visit, the EU had not taken a clear stance on human rights, despite an EU statement condemning the death of human rights defender Cao Shunli just before the visit.<sup>51</sup>

48 European External Action Service, *Press Release 33rd EU-China Dialogue on Human Rights*, 9 December 2014, [http://eeas.europa.eu/statements-eeas/2014/141209\\_04\\_en.htm](http://eeas.europa.eu/statements-eeas/2014/141209_04_en.htm).

49 The official document on the EU-China dialogue refers to "Xinjiang" instead of "Xinjiang Uighur Autonomous Region".

50 European External Action Service, *Press Release 34th EU-China Dialogue on Human Rights*, 2 December 2015, [http://eeas.europa.eu/statements-eeas/2015/151202\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/151202_03_en.htm).

51 European External Action Service, *Statement by EU High Representative Catherine Ashton regarding the death of Chinese Human Rights defender, Ms Cao Shunli*, 21 March 2014, [http://eeas.europa.eu/statements/docs/2014/140315\\_02\\_en.pdf](http://eeas.europa.eu/statements/docs/2014/140315_02_en.pdf).

With his statements on mutual respect for one another's cultural values and traditions after his visit to China in March 2015, President Schulz did the opposite of what is expected based on the EU human rights policy, i.e. advancing the universality of human rights. Amnesty appreciated the public human rights message conveyed by Trade Commissioner Malmström during her visit in October 2015 on enhancing the rule of law, allowing lawyers to operate independently and freely, and making the Internet a vehicle for freedom of expression and free trade; a good way towards mainstreaming human rights in all areas of the external actions of the EU.

It was only within the context of the high-level visit of the EU Special Representative for Human Rights that it was made public that he met with HRDs and raised individual cases with the Chinese authorities. This did not seem to have been the case during the other high-level visits, despite a clear call in the EU Action Plan on Human Rights and Democracy to raise cases of HRDs at risk during high-level visits, including during sector-specific missions.

## **Description of the high-level visits in 2014 and 2015**

### ➤ *EU Special Representative for Human Rights*

The EU has had a Special Representative for Human Rights (EUSR), Mr Stavros Lambrinidis, since 2012, after the adoption of the EU Strategic Framework and Action Plan. His thematic priorities are the universality of human rights, the shrinking space for civil society, freedom of expression, LGBT rights, the death penalty, women's rights, and business and human rights. Geographically, the EUSR prioritizes its EU neighbours and EU strategic partners, including Brazil, China, Mexico, Russia, South Africa, and countries in transition, such as Myanmar.

Hosted by the Chinese Ministry for Foreign Affairs and his main interlocutor, Vice Minister for Foreign Affairs Li Baodong, the EUSR visited China for the second time in November 2015.<sup>52</sup> The EU's strong concerns about the recent arrests, detentions, and summons served on hundreds of human rights lawyers and activists were reiterated with reference to the rule of law, which provides that lawyers are able to practice freely without fear of persecution, and provides for checks and balances to prevent the miscarriage of justice. He also raised a number of individual cases. Another key topic on the agenda was the package of security laws (National Security Law, Antiterrorism Law, Cybersecurity Law, and Law on the Management of International NGOs). The EUSR urged China to amend provisions that could curtail the freedom of expression and association, freedom of religion and belief, and people-to-people contact, and to bring the draft legislation into line with international law and standards. Other topics discussed included women's rights, labour rights, the human rights of persons belonging to religious and ethnic minorities including Buddhists, Muslims, and Christians, combating torture and ill-treatment, and China's upcoming review in the UN's Committee Against Torture, death penalty reform, protecting freedom of expression, information, and association online and offline, progress on economic and social rights, and the protection of the rights of migrants and asylum-seekers in Europe.

In Beijing, the EUSR also held high-level meetings with the State Administration for Religious Affairs, the Ministries of Public Security and Civil Affairs, the National People's Congress Legislative Affairs Commission, the Supreme People's Court, the Central Party School of the CPC, the All-China Lawyers Association, the All-China Women's Federation, the All-China Federation of Trade Unions, and the Chinese Association for Human Rights Studies. In Guangdong, the EUSR met with the Vice Mayor of Shenzhen and visited the headquarters of Huawei and ZTE, where he discussed privacy, the freedom of expression, and labour conditions in China and in company

operations abroad. Throughout the visit, the EUSR had the opportunity to meet with a broad cross-section of civil society, including NGOs, academics, lawyers, journalists, and HRDs working on women's human rights, labour rights and freedom of religion and belief.<sup>53</sup> Beforehand, there were concerns that it would be more difficult this time to meet with HRDs due to the deteriorated situation. No information was included in the press release that reported on the visit that would indicate this was the case.

Apart from the visits to China, the EUSR met with Vice Foreign Minister Li Baodong in March 2014 in Brussels in order to discuss the arrangements for the EU-China human rights dialogue, as well as some human rights issues and cases. He also met with the Chinese delegation that came to Brussels for this dialogue. Formally, the EUSR is not involved in the EU-China human rights dialogues. His visits and meetings are considered complementary to this dialogue. His main added value is considered to be that he has access to a higher political level where decisions are made and where he can open doors and launch processes for other officials to make deliverables happen.

During interviews with officials in Brussels, Amnesty Netherlands was told that the EUSR refrains from making public statements as these formally fall within the responsibilities of the HR/VP. However, the EUSR does make public comments at times via social media, especially Twitter.<sup>54</sup>

➤ *Presidents of the European Council and Commission*

At the invitation of the President of the European Council, Herman van Rompuy, and the President of the European Commission, José Manuel Durão Barroso, Chinese President Xi Jinping visited the EU in Brussels from 31 March to 1 April 2014. The Presidents exchanged views on bilateral, regional, and international issues. In a joint statement, the two sides reaffirmed "the importance of the promotion and protection of human rights. Both sides agreed to deepen exchanges on human rights at the bilateral and international level on the basis of equality and mutual respect, and to strengthen their human rights dialogue with constructive discussions on jointly agreed key priority areas." With respect to the rule of law, they decided "based on the principle of equality and mutual respect, to continue to develop dialogue and cooperation on legal and administrative affairs".<sup>55</sup> Both EU Presidents also met with the Chinese Premier Li Keqiang in October 2014, in the margins of the Asia-Europe Meeting in Milan, Italy. Human rights were discussed but no information is available about the specific content of these discussions.<sup>56</sup>

On 29 June 2015, European Council President, Donald Tusk, and European Commission President, Jean-Claude Juncker, received Chinese Premier Li Keqiang for the 17<sup>th</sup> EU-China Summit in Brussels. During the press conference afterwards, the first of its kind, President Tusk said the following regarding human rights:

*"We also discussed how we could further improve cooperation on human rights at the bilateral and international level. I expressed our concerns on freedom of expression and association in China, including the situation of the persons belonging to minorities such as Tibetans and Uighurs. In that context, I have encouraged China to resume a meaningful dialogue with the Dalai Lama's representatives. Finally, I am glad we could agree that the next round of our human rights dialogue and the second visit of the EU Special Representative for Human Rights to China will both take place, separately, in November this year."<sup>57</sup>*

53 European External Action Service, *Press Release EU Special Representative for Human Rights visits China*, 6 November 2015, [http://eeas.europa.eu/statements-eeas/2015/151116\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/151116_03_en.htm).

54 See Lambrinidis' public Twitter account: <https://twitter.com/sjlambrinidis>.

55 European Commission, *Joint Statement: Deepening the EU-China Comprehensive Strategic Partnership for mutual benefit*, 31 March 2014, [http://europa.eu/rapid/press-release\\_STATEMENT-14-89\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-89_en.htm).

56 Council of the European Union, *EU Annual Report on Human Rights and Democracy in the world in 2014*, 22 June 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/06/22-fac-human-rights-report/>.

57 *Remarks by President Donald Tusk at the press conference of the EU-China Summit*, 29 June 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/06/29-tusk-remarks-eu-china-summit/>.



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**European Commission President Jean-Claude Juncker, Chinese Premier Li Keqiang and European Council President Donald Tusk ahead of the EU-China Summit in Brussels, June 29 2015.**

- *High Representative of the EU for Foreign Affairs and Security Policy and Vice-President of the European Commission (HR/VP)*

HR/VP Federica Mogherini paid her first official visit to China in early May 2015.<sup>58</sup> On the occasion of the 40<sup>th</sup> anniversary of EU-China relations, she met with Chinese Premier Li Keqiang. Preparations for the upcoming EU-China Summit were the focus of their discussions, including on possible areas for further EU-China cooperation (also regarding the COP21 Climate Change Conference). She also met with the minister in charge of the International Department of the Central Committee of the Party, Wang Jiarui, and the Chinese Minister for Foreign Affairs, Wang Yi. She also co-chaired the 5th EU-China Strategic Dialogue with State Councillor Yang Jiechi, the objective of which is to enhance coordination on strategic, political and security issues.<sup>59</sup> According to the joint press point with Yang Jiechi, the most important issues that had been discussed were investment cooperation, climate change, foreign policy and security issues (Ukraine, Iraq, Syria, Libya), and the Iranian nuclear programme. Human rights were announced as a theme for a constructive exchange in the evening, as well as fostering dialogue with and between different ethnic groups and enabling civil society activity.<sup>60</sup> Public information about what was discussed in the area of human rights was limited to the single statement “the HR/VP emphasized the importance of the bilateral Human Rights Dialogue”.<sup>61</sup>

- *European Commissioner for Trade*

On 7 October 2015, the EU Trade Commissioner, Cecilia Malmström, met with the Chinese Minister of Commerce, Gao Hucheng, in Brussels to discuss the progress in the negotiations for a bilateral investment deal. The EU Commissioner emphasized the importance of enhancing the rule of law and allowing lawyers to operate independently and freely. She also called upon her Chinese counterpart “to contribute to making the Internet a vehicle for freedom of expression and free trade”.<sup>62</sup>

- *President of the European Parliament*

President Martin Schulz of the European Parliament visited China for three days in March 2015. He met with President Xi, Chairman of the National People’s Congress Zhang Dejiang, State Councillor Yang Jienchi and Vice Chairman of the Chinese People’s Political Consultative Conference (CPPCC) and Head of the International Department of the Central Committee of the Communist Party of China (IDCPC) Wang Jiarui. Trade, economy, climate change, security issues, global challenges, human rights, and parliamentary relations were mentioned as items featuring prominently on the agenda. He also gave a speech at the Chinese Academy of Social Sciences (CASS). With his visit, President Schulz wanted to mark the milestone of the 40<sup>th</sup> anniversary of EU-China relations and discuss ways of furthering parliamentary cooperation.<sup>63</sup> During the press conference afterwards, he said, “I was asked to respect the Chinese view on values on the basis of the specific situation in the country and on the basis of the Chinese tradition and culture. I insisted that this is also my request to the other side, to respect our values on the basis of our experiences and the structure of our society.” In relation to the

58 European External Action Service, *Press Release HRVP Mogherini’s meeting with Premier of China Li Keqiang*, 6 May 2015, [http://eeas.europa.eu/statements-eeas/2015/150506\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150506_03_en.htm).

59 The EU-China 2020 Strategic Agenda is implemented through an annual Summit, which provides strategic guidance to the relationship. The three pillars directly underpinning the Summit are: 1) the annual High Level Strategic Dialogue aiming at enhancing coordination on strategic, political and security issues, 2) the annual High Level Economic and Trade Dialogue, forum for planning and guiding the development of EU-China economic and trade relations as well as taking strategic decisions on important trade, investment and economic issues, and 3) the bi-annual People-to-People Dialogue which is considered an essential vector of peace, while contributing to economic development. Moreover, the Strategic Agenda is implemented through regular meetings of counterparts and a broad range of sectoral dialogues.

60 European External Action Service, *Press Point High Representative/Vice-President Federica Mogherini – Joint press point with Yang Jiechi, Chinese State councillor, Beijing*, 5 May 2015, [http://eeas.europa.eu/statements-eeas/2015/150505\\_01\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150505_01_en.htm).

61 Federica Mogherini’s first visit to Asia as HR/VP, 8 May 2015, [http://eeas.europa.eu/top\\_stories/2015/060515\\_hrvp\\_mogherini\\_in\\_asia\\_en.htm](http://eeas.europa.eu/top_stories/2015/060515_hrvp_mogherini_in_asia_en.htm).

62 Commissioner Malmström met Chinese Minister of Commerce Gao Hucheng to take stock of investment talks, 7 October 2015, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1376>.

63 European Parliament, *Press Release President Schulz on official visit to China*, 15 March 2015, [http://www.europarl.europa.eu/the-president/en/press/press\\_release\\_speeches/press\\_release/press\\_release-2015/press\\_release-2015-march/html/president-schulz-on-official-visit-to-china;jsessionid=AA87BF2D9A770E439DD1499D3BE5DBD2](http://www.europarl.europa.eu/the-president/en/press/press_release_speeches/press_release/press_release-2015/press_release-2015-march/html/president-schulz-on-official-visit-to-china;jsessionid=AA87BF2D9A770E439DD1499D3BE5DBD2).

controversial item of “rights”, President Schulz stressed that the debate about guaranteeing individual rights needs to be deepened and that the human rights dialogue should continue, even if we agree that we have different approaches.<sup>64</sup>

During the EU-China Summit in June 2015, Chinese Premier Li Keqiang paid a visit to the European Parliament where he was welcomed by President Schulz. During that meeting, security, climate, trade, investments and the euro zone were on the agenda, according to a tweet by the EP President.<sup>65</sup>

## 7.3

### Actions for Individual Cases

#### Public statements

The EU regularly issues rather strong statements on the general position of HRDs in China as well as on individual cases of HRDs. The initiative for such a statement can be taken by the EU delegation in Beijing, the EEAS or a member state of the EU, but it is often the EEAS that takes the lead and member states are given the opportunity to comment on the draft text. Member states do not always agree on tone and substance, but no member states seem to block the publications of statements on China. After integrating the input from member states, the statements are sent up to the director’s level in the EEAS and then to the cabinet of the HR/VP where the text will be finalized.<sup>66</sup>

EU officials explained that statements are often used as a last resort when silent diplomacy has failed. Additionally, media attention for cases can also play a role in determining whether the EU will issue a statement. Once a statement has been issued, a follow-up statement will usually only be made when new information on a case becomes available, or there is a serious deterioration of the situation. It remains unclear if and in what way public statements are given a consistent follow-up in support of HRDs involved. Public statements are considered to be “good and important for the credibility of the EU”. They send an important message to HRDs and put pressure on the Chinese government. However, in the opinion of EU officials, they could also be counterproductive and cause a backlash against an HRD or his/her family if the text is seen as a condemnation from “the West”, for example. In this regard, EU officials gave an example from Azerbaijan, not from China.

During the meetings in Brussels, it was emphasized that public statements by member states issued in addition to an EU statement are strengthening the message. Germany regularly issues bilateral statements, which it considers to be a way to show consistency in the implementation of its human rights policy. In a way, statements coming from a particular member state can also be seen as being more clear because non-European governments do tend to wonder at times who exactly is the EU?

The actual impact of statements is hard to measure. However, one thing is certain, HRDs appreciate the statements and feel morally supported, which is of huge value in the harsh times they are currently facing. Moreover, Amnesty is aware of cases in which public international support has led to the release of HRDs or better treatment in prison. Some recent examples are the release of the five women’s rights activists who were arrested on the night before International

64 Press Conference by Martin Schulz, European Parliament President, on his official visit to China, 17 March 2015, <https://www.youtube.com/watch?v=i508GxcNoKY>.

65 European Parliament, *News item Chinese Premier visits the European Parliament*, 29 June 2015, [http://www.europarl.europa.eu/us/en/news\\_events/news/news\\_2015/news\\_july\\_2015/cj.html;jsessionid=7AD702DF3D0872985587BD3A2E7C223A](http://www.europarl.europa.eu/us/en/news_events/news/news_2015/news_july_2015/cj.html;jsessionid=7AD702DF3D0872985587BD3A2E7C223A).

66 When the HR/VP makes a statement “on behalf of the EU”, this implies consensus and approval by all 28 member states. EU officials consider these statements to be the strongest. A statement “by the High Representative” or “by the spokesperson of the High Representative” is considered less weighty, but the process is much faster. Under the present HR/VP Mogherini, all statements have been made by the spokesperson. Local statements by Heads of Mission (HoMs) in Beijing are also considered strong as these are often picked up by the local media and as such are very visible. It is difficult to judge whether the Chinese government considers one type of statement stronger than the other as it responds to all types of statements in the same way: it calls the EEAS to express its disapproval.



Uyghur professor Ilham Tohti at his trial in September 2014. He was convicted to a life prison sentence because he criticised the discrimination and suppression of Uyghur people in China in his articles.

Women's Day and the release of Gao Yu. The HRDs participating in the survey considered it important for public statements to be picked up by the media, including international media. This enables civil society to monitor what is happening, and it could lead to increased pressure on the Chinese authorities.

Below is a summary of the statements issued in 2014 – April 2016. Appendix 1 provides a complete overview of all the statements. Over the last two years, the EU issued several statements regarding the human rights situation in China.

- In 2014, two statements were made on behalf of all twenty-eight member states of the EU.<sup>67</sup> In these statements, released in February and May 2014, the HR/VP expressed the EU's concerns about the arrests and detentions of a large number of HRDs and lawyers. The HR/VP called on the Chinese authorities to abide by the Universal Declaration of Human Rights and to implement the pledges made before the Human Rights Council. In addition to these, the HR/VP and her spokesperson issued statements on the death of human rights defender Cao Shunli in March<sup>68</sup> and on the sentence handed down to Dr Xu Zhiyong and the trials of other HRDs in April.<sup>69</sup> In August and October 2014, the spokesperson expressed her concern about the demonstrations in Hong Kong.<sup>70</sup> In September 2014, the life sentence of Professor Ilham Tohti was condemned in a statement released by the spokesperson.<sup>71</sup> The EU delegation to China issued one statement in January in which it expressed its concern about the prison sentence handed down to Xu Zhiyong and the ongoing prosecutions of other HRDs.<sup>72</sup>
- In 2015, no statements were released on behalf of all the member states of the EU. The spokesperson issued eight statements on the human rights situation in China. The spokesperson condemned the arrest and detention of women's rights activists on International Women's Day in March.<sup>73</sup> The EU delegation to China also issued a statement regarding the detention of these women's rights activists in April, in which it expressed its relief at their release and its regret that the investigation of their cases had still not been withdrawn.<sup>74</sup> In April, July, and October, the spokesperson issued statements about the arrests and detention of HRDs and lawyers.<sup>75</sup> Special attention was paid to the imprisonment of journalist Gao Yu in the statement made in April.<sup>76</sup> In June, the spokesperson expressed continuing support for the introduction of universal suffrage for the Chief Executive election in Hong Kong.<sup>77</sup> Statements released in May and December 2015 contained concerns expressed about the conviction of human rights lawyer Pu Zhiqiang, in which the spokesperson called for his immediate release.<sup>78</sup> The statement also contained a condemnation of the fact that foreign journalists and diplomats were prevented from observing the trial.
- In January 2016, the spokesperson released a statement regarding the arrest of Peter Dahlin, an EU citizen and the founder of the human rights NGO, China Urgent Action Working Group. The spokesperson called his arrest part of a worrying trend that calls into question China's respect for the rule of law and expressed the expectation that his case would be resolved quickly.<sup>79</sup> The EU delegation to China also voiced its deep concern about the detention of Peter Dahlin and his broadcasted confession.<sup>80</sup>

67 Appendix 1, statements 2 and 5

68 Appendix 1, statement 3.

69 Appendix 1, statement 4.

70 Appendix 1, statements 6 and 9.

71 Appendix 1, statement 8.

72 Appendix 1, statement 1.

73 Appendix 1, statement 10.

74 Appendix 1, statement 11.

75 Appendix 1, statements 12, 15 and 16.

76 Appendix 1, statement 12.

77 Appendix 1, statement 14.

78 Appendix 1, statements 13 and 18.

79 Appendix 1, statement 19.

80 EUBusiness, *EU has 'deep concerns' about China's detention of Europeans*, 20 January 2016, <http://www.eubusiness.com/news-eu/china-law-rights.15wz>.

# PU ZHIQIANG - TRIAL OBSERVATION AND PUBLIC STATEMENTS

**Pu Zhiqiang was originally detained by police on 6 May 2014 after he attended a private seminar in Beijing that called for an investigation into the 1989 Tiananmen crackdown. He has represented individuals in many sensitive human rights cases, including the prominent artist Ai Weiwei and persons linked with the “New Citizens’ Movement”, a loose network of activists who aim to promote government transparency and expose corruption.**

On Tuesday, 22 December 2015, the Beijing No. 2 Intermediate People’s Court sentenced Pu Zhiqiang to three years in prison, suspended for three years, for “picking quarrels and provoking troubles” and “inciting ethnic hatred”. The conviction was primarily based on seven social media posts, in total approximately 600 characters, in which Pu criticized government officials and policies.

Amnesty stated that the conviction is a “gross injustice”. Pu Zhiqiang “is no criminal and the guilty verdict effectively shackles one of China’s bravest champions of human rights from practicing law”. Outside the court, the police detained at least twelve activists who had come to show their support for Pu Zhiqiang.

At Pu’s trial on 14 December 2015, unidentified individuals and police manhandled foreign journalists, diplomats, and his supporters outside the court. Approximately twenty of his supporters were taken away by police. At least four people are now criminally detained for taking part in the peaceful protest and have been denied access to lawyers. A further five supporters have not been heard from since, and it is feared they are also detained.<sup>1</sup>

**Lawyer for Chinese artist Ai Weiwei, Pu Zhiqiang, speaks to the media in Beijing on July 20, 2012**

According to media reports, diplomats from the EU delegation and embassies of Australia, Austria, Britain, Canada, France, Germany, the Netherlands, New Zealand, Sweden and the US were refused access to the trial having been told the courtroom was full.<sup>2</sup> Senior US diplomat Dan Biers read a statement of the US embassy expressing concerns about the vague charges of “inciting ethnic hatred” and “picking quarrels and provoking trouble” under which Pu was being tried. “Lawyers and civil society leaders such as Mr Pu should not be subject to continuing repression but should be allowed to contribute to the building of a prosperous and stable China”. While attempting to read the statement, he was violently bundled away.<sup>3</sup> Regarding the treatment of diplomat Biers, the US embassy also said it viewed “with great concern” incidents in which diplomats were not given appropriate protection and respect.<sup>4</sup>

An EU diplomat was also shoved and shouted down as he delivered a statement criticizing the process. The EU issued a statement in May 2015 calling on the Chinese authorities to guarantee Pu Zhiqiang’s “right to a fair trial and fully respect his defence rights, in line with China’s



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- 1 Amnesty International, *China: Guilty verdict against lawyer Pu Zhiqiang a gross injustice*, 22 December 2015, <https://www.amnesty.org/en/latest/news/2015/12/china-guilty-verdict-against-lawyer-pu-zhiqiang-a-gross-injustice/>.
- 2 The Guardian, *Scuffles outside Beijing court as human rights lawyer Pu Zhiqiang goes on trial*, 14 December 2015, <http://www.theguardian.com/world/2015/dec/14/violence-outside-beijing-court-as-human-rights-lawyer-pu-zhiqiang-goes-on-trial> ; Spiegel Online, *Pu Zhiqiang: China macht kurzen Prozess mit Bürgerrechtsanwalt*, 14 December 2015, <http://www.spiegel.de/politik/ausland/pu-zhiqiang-china-macht-kurzen-prozess-mit-buergerrechtsanwalt-a-1067651.html>.
- 3 Embassy of the United States to China, *Media Note: Trial of Pu Zhiqiang*, 14 December 2015, <http://beijing.usembassy-china.org.cn/trial-pu-zhiqiang.html>.
- 4 The Guardian, *Scuffles outside Beijing court as human rights lawyer Pu Zhiqiang goes on trial*, 14 December 2015, <http://www.theguardian.com/world/2015/dec/14/violence-outside-beijing-court-as-human-rights-lawyer-pu-zhiqiang-goes-on-trial>.

international human rights commitments and the reforms it has announced to promote and deepen the rule of law. Foreign embassies should be permitted to observe his trial and Pu Zhiqiang should also be given adequate medical treatment”.<sup>5</sup>

On 16 December, UK Foreign Office Minister Hugo Swire raised the incident with Chen Fengxiang, a senior Chinese official. In a statement issued after that meeting, the Foreign and Commonwealth Office (FCO) said, “We are extremely concerned by events surrounding the trial of Pu Zhiqiang on Monday. The physical mistreatment of British diplomats and journalists at the hands of Chinese security services was completely unacceptable.” The FCO also condemned Chinese authorities’ refusal to allow diplomats and reporters access to the purportedly open trial. “The fact that they were refused access [to the trial] raises serious questions about due process and judicial transparency”, the statement said. An FCO spokesperson said the incident was also being raised “at all levels” by British diplomats in China.<sup>6</sup>

On 22 December 2015, the day of the conviction, the EU stated that the sentence “appears inconsistent with China’s own constitutional guarantees of freedom of assembly, opinion and expression as well as with its international human rights obligations” and that the verdict sets “a dangerous legal precedent regarding freedom of expression online and offline. Foreign journalists and diplomats should not have been prevented from observing the trial. The EU calls for Mr Pu Zhiqiang’s immediate and unconditional release as well as for full rehabilitation and reinstatement of his rights”.<sup>7</sup>

The US issued a press release in which it welcomed reports that Pu Zhiqiang has been released from detention but stated that it is disturbed that Mr Pu “was convicted and given a three-year suspended sentence, following nineteen months of detention, on vague charges of ‘inciting ethnic hatred’ and ‘picking quarrels and provoking trouble’”. The US urged the Chinese authorities to vacate Mr Pu’s conviction immediately and unconditionally.<sup>8</sup>

The official response of the FCO to the conviction of Pu Zhiqiang says that the UK is: “...seriously concerned by Pu Zhiqiang’s conviction despite the suspension of his sentence. This case has again raised issues about due process and transparency of justice in China. It has also highlighted the situation faced by human rights lawyers in the country. We urge China to make sure freedom of expression and other civil and political rights are protected, in line with their constitution and international human rights commitments”.<sup>9</sup>

The UK decision to speak out on the incident has been presented in the media as a response to criticism that the UK government has been too timid in confronting China over human rights violations.

In response to the criticism from foreign countries, Hong Lei, a spokesperson for China’s Foreign Ministry said: “The relevant people outside the court should have cooperated with the relevant requirements from China’s public security agencies”. On the “serious questions” over the fairness of Pu Zhiqiang’s trial he stated: “This is even more wrong. Foreign governments have no right to interfere in China’s judicial sovereignty.”<sup>10</sup>

5 European External Action Service, *Statement by the Spokesperson on charges against Chinese Human Rights Lawyer Pu Zhiqiang*, 20 May 2015, [http://eeas.europa.eu/statements-eeas/2015/150520\\_02\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150520_02_en.htm).

6 The Guardian, *UK criticises ‘unacceptable’ treatment of diplomats at China trial of human rights lawyer*, 17 December 2015, <http://www.theguardian.com/world/2015/dec/17/uk-criticises-unacceptable-treatment-of-diplomats-at-china-trial-of-human-rights-lawyer>

7 European External Action Service, *Statement by the Spokesperson on charges against Chinese Human Rights Lawyer Pu Zhiqiang*, 20 May 2015, [http://eeas.europa.eu/statements-eeas/2015/150520\\_02\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150520_02_en.htm).

8 U.S. Department of State, *Press Statement on Trial of Pu Zhiqiang*, 22 December 2015, <http://www.state.gov/r/pa/prs/ps/2015/12/250836.htm>.

9 Foreign and Commonwealth Office, *Response to the conviction of Pu Zhiqiang in China*, 23 December 2015, <https://www.gov.uk/government/news/fco-response-to-conviction-of-pu-zhiqiang>.

10 Foreign and Commonwealth Office, *Response to the conviction of Pu Zhiqiang in China*, 23 December 2015, <https://www.gov.uk/government/news/fco-response-to-conviction-of-pu-zhiqiang>.

## Trial observation

Observing the trials of HRDs is a visible action in support of them. In China, the EU delegation and a group of member states and like-minded countries actively try to be present at such hearings. Apart from the EU delegation, the group includes Australia, Belgium, Canada, the Czech Republic, Denmark, Finland, Germany, Ireland, Japan, New Zealand, the Netherlands, Norway, Poland, Sweden, Switzerland, the United Kingdom, and the United States. Not all of the countries are present at all times. Delegations are formed. EU member states that want to observe a particular trial are notified by the EU delegation via a *note verbale*. This is only done when hearings are open to the public, not in cases of “legally justified” closed trials. Upon arrival, the diplomats present themselves at the court but so far have not been able to attend a trial. Often, the reason given for this refusal is that the courtroom is full. The diplomats wait outside until the hearing is over and try to get information about the case afterwards.

In the context of the case of human rights lawyer Pu Zhiqiang (see p. 46-47), an EU statement criticizing the process was made on-site, outside the court, and the US and UK also made bilateral statements. It seems to have been the first time that the EU raised the issue of access to the court for foreign diplomats in its public statements: before the trial it stressed that foreign diplomats should be permitted to observe the trial and afterwards it stated that foreign journalists and diplomats should not have been prevented from observing the trial.

Amnesty welcomes efforts by diplomats to visibly support HRDs by trying to observe their trials. The fact that foreign diplomats (and members of the press) are not allowed to enter the court and actually observe the trial should be assigned a much higher priority in public communications involving individual cases and in all contact with the Chinese authorities, including high-level visits. Amnesty encourages the issue of public statements and/or press releases with respect to each trial observation, including at the bilateral level. Chinese HRDs will as such be better informed about the steps the EU and individual member states are taking in support of HRDs and can better monitor what is happening. Media attention, especially international media attention, can lead to more pressure on the Chinese authorities and a better treatment of the HRD concerned. Finally, Amnesty would like to stress the importance of supporting the families and lawyers of the HRDs on trial.

Below is an overview of the trials the diplomats tried to observe in 2014 and 2015:

- On 17 September 2014, efforts were made to attend a trial in Urumqi against Professor Ilham Tohti, a moderate Uyghur who was sentenced to life imprisonment. Other court cases that the EU delegation, EU member states and like-minded countries tried to monitor in 2014 included the trial against Guo Feixiong and Sun Desheng on 28 November in Guangzhou and the trial against Shen Yongping on 12 December in Beijing.
- In 2015, efforts were made to be present at the following human rights trials: Fan Mugen in Shanghai (4 February and 14 April 2015); the verdict and appeal hearing of Gao Yu, a journalist who allegedly shared Document No. 9 in Beijing (17 April and 24 November); and Li Yan, who murdered her husband after suffering repeated, horrific abuse at his hands, in Sichuan (24 April). Efforts have also been made to attend the trials of human rights campaigners Tang Jingling, Wang Qingying, and Yuan Xinting in Guangzhou (19 June) and HRDs Liu Yuandong, Yang Maodong, and Sun Desheng in Guangzhou (27 November). Furthermore, EU delegates attempted to be present at the pre-trial hearing and trial in Beijing (8 and 14 December) of human rights lawyer Pu Zhiqiang, who was convicted on the basis of social media posts in which he criticized government officials and policies.

## Practical Support

Below is an overview of the EU funds that are in principle available for human rights projects and HRDs, including their families, in China. The emergency grants are used by Chinese HRDs, but it is too early to say whether the EU Human Rights Defenders Mechanism and Relocation Platform are used by and effective for Chinese HRDs. It is striking that the project focus under the Country Based Support Schemes is on economic, social and cultural rights, while a great deal of support is actually needed in the areas of civil and political rights. A thorough assessment of their needs, which is a key recommendation in this document, will provide more information on the type of capacity-building and financial support they would like to receive, as indicated in the initial needs assessment of Chinese HRDs Amnesty presented in Chapter 2. As mentioned under 4.4, there is an interest in regular contact with staff of EU delegations and embassies, and in finding out more about the EU Guidelines and receiving some sort of training. There are no indications that annual meetings to discuss topics such as the local human rights situation, EU policy in this field, and application of the local strategy for implementing the guidelines, as recommended in the EU Guidelines, have been held in 2014 and 2015.

### Emergency grants

Within the European Commission, the Directorate General for Development and Cooperation (DEVCO) has an emergency fund, from which grants of up to € 10,000 can be provided to HRDs at-risk or their family members. It is intended to finance practical forms of support such as medical check-ups, legal advice or temporary shelter. Usually, foreign NGOs apply for grants for HRDs, and they provide DEVCO or the EU delegation in the capital of the country where the human rights defender is based with a description of the situation and the kind of support the person or his or her family members need. DEVCO manages the fund, but during the validation procedure, the EU delegation and the Human Rights Strategy and Policy Implementation Division of the European External Action Service are involved. An operational and political green light is necessary before DEVCO can go ahead with providing support. So far, the fund has provided assistance to around twenty-five Chinese HRDs. DEVCO does not consult the EU delegation in Beijing. It cooperates with the EU delegation (EUDEL) in Hong Kong, since it is too dangerous to pass sensitive information about HRDs through the EUDEL in Beijing. China is the only country in which the EU delegation in the country is not involved in this process. The new Foreign NGO Management law will likely have a major impact on the realization of these grants.

### Country-Based Support Schemes

The EU delegation in Beijing has funds to support human-rights-related projects in China. These projects focus on economic, social, and cultural rights, not on civil and political rights. The aims of the approved projects under the heading “Governance, democracy, human rights and support for economic and institutional reforms” are:

- Poverty reduction by improving protection and service provision for Uyghur ethnic minority children in Xinjiang Uighur Autonomous Region at risk of exclusion and exploitation due to economic and social obstacles and rapid change.
- Empowerment of disabled children and youths aged sixteen to twenty-five to acquire equal human rights and opportunities and to contribute to eliminating the root cause of their poverty (Beijing Municipality, Anhui Province, Xinjiang Uyghur Autonomous Region, Sichuan Province);
- Promoting the participation of older people in rural development in order to reduce poverty and improve health.

- “Social cohesion and employment” includes a project on improving the life of people with disabilities in the Tibet Autonomous Region. The “multi-sector projects” refer to a project empowering Chinese NGOs and local communities in order to increase their impact on poverty reduction and sustainable development in China, and a project supporting the consolidation of a structured ongoing dialogue between European and Chinese civil societies. Also, support is provided to “the Chinese government for developing an open and equitable society based on the rule of law. The purpose is to promote participatory and inclusive approaches to selected legislative, judicial, and governmental processes”.<sup>81</sup>

## EU Human Rights Defenders Mechanism

In December 2015, the EU comprehensive Human Rights Defenders Mechanism was launched as an initiative that is set to become one of Europe’s key tools to assist HRDs at high risk worldwide, including remote areas. The mechanism relies on a budget of € 15 million in EU funds until 2018 and will provide human rights supporters at risk with short-term support (physical protection, legal and medical support, trial and prison monitoring, urgent advocacy and relocation); medium-term support (monitoring of their situation, early warning of risks, training on risk prevention and (digital) security and international, regional and national advocacy); and long-term support (support to national networks, advocacy, lobbying, and the development of strategies to counter restrictions and sanctions imposed on HRDs by states). The European Instrument for Democracy and Human Rights funds the project.<sup>82</sup> A consortium of twelve independent international NGOs will manage the mechanism.<sup>83</sup>

The EU Human Rights Defenders Relocation Platform has been placed under the mechanism. This is a global platform of national, regional and international organizations involved in programmes for the temporary relocation of HRDs at risk. Its activities include identifying HRDs in need of relocation, providing temporary shelter within the same country, hosting them in countries within and outside of the region, providing services or capacity-building opportunities to relocated HRDs, and contributing to the protection of HRDs on the ground.<sup>84</sup> Five million euros have been reserved for temporary relocations.

81 For a complete overview of the projects funded by the EU Delegation, see: [http://eeas.europa.eu/delegations/china/projects/list\\_of\\_projects/projects\\_en.htm](http://eeas.europa.eu/delegations/china/projects/list_of_projects/projects_en.htm).

82 Support to human rights and human rights defenders in situations where they are most at risk is the first objective of the EIDHR Regulation for 2014-2020. For the entire seven-year period, 20-25% of the EIDHR total budget (i.e. € 200 – 250 million) will be allocated to supporting human rights defenders.

83 European Commission, *Press release: EU launches innovative new mechanism to help human rights defenders*, 9 December 2015, [http://europa.eu/rapid/press-release\\_IP-15-6278\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6278_en.htm).

84 For more information, see: <https://hrdrelocation.eu/>.

# EFFORTS AT THE LEVEL OF THE UNITED NATIONS

**Within the international human rights system, China's posture is often influenced by its views on matters such as the paramount responsibility of the state to secure public order, maintaining political control by the Communist Party and social stability, and the permissibility of restricting individual liberties towards these ends.**

China expressed these views, for example, in voting against a draft resolution on HRDs at the Third Committee of the United Nations General Assembly (UNGA) in November 2015. The representative from China noted that HRDs should not be viewed as a group with special legal rights but that ensuring domestic peace and social stability should be seen as a prerequisite for the enjoyment of human rights. The representative stated that certain Western countries had used the protection of HRDs as an excuse to interfere in the domestic affairs of developing countries; the resolution only worsens the application of double standards.<sup>85</sup> Another example is a similar statement made by China in March 2016 when it voted against a Human Rights Council (HRC) resolution on Protecting HRDs addressing Economic, Social and Cultural Rights. The Chinese representative stated that the free exercise of rights can be restricted by provisions of law. No-one, including HRDs, should be able to escape these restrictions of law. He further noted that the resolution did not respect the development models of different countries.<sup>86</sup> In the same HRC session, the Chinese representative introduced six amendments to the resolution on the Promotion and Protection of Human Rights in the Context of Peaceful Protests and stated that it supported freedom of association and assembly, but it opposed concepts that had not been generally accepted. He noted that every country should be able to manage assemblies according to its own rules. The legal framework with regard to peaceful protest should safeguard basic order and the interaction between governments and the public should occur in a constructive manner in order to promote social stability.

## 8.1

### Agenda of the Netherlands

In its human rights policy, the Netherlands stresses the importance of working in the human rights forums of the UN and abides by the EU priorities at UN human rights forums. Membership in the HRC is seen as a vehicle for improving the Council's performance. Meetings to discuss urgent human rights situations in countries can be rapidly convened by the HRC. The Netherlands specified the following steps which are potentially relevant for (the position of) Chinese HRDs:

- Greater emphasis on the rule of law during the Universal Periodic Review (UPR), which subjects all UN member states to a human rights review once every four and a half years.
- Monitoring of compliance with recommendations arising from the UPR in EU and bilateral human rights dialogues.
- Giving space to NGOs within the UN, listening to them and using their input.
- Opposing attempts to undermine respect for the universality of human rights by the misuse of terms such as "cultural diversity" and "traditional values".

85 United Nations, *Concluding Intense Session, Third Committee Approves Final Draft Resolution on Human Rights Defenders, Sending Package of 62 Texts to General Assembly (Seventieth Session, 56th Meeting (AM), 25 November 2015*, <http://www.un.org/press/en/2015/gashc4161.doc.htm>.

86 Office of the United Nations High Commissioner for Human Rights, *Human Rights Council adopts six resolutions and closes its thirty-first regular session, Geneva, 24 March 2016*, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=18535&LangID=E>.

- Bringing to the attention of the UN and its member states, during sessions of the HRC, for example, problems experienced by HRDs who work with the UN.
- Maintaining the independence of the UN's special procedures, including the Special Rapporteur on the situation of HRDs.
- Ensuring that the rights of HRDs are paramount in UN resolutions and that as few provisions as possible are included that might interfere with their work.

In recent years, the Dutch government has specifically promoted HRC resolutions on or related to the position of HRDs and actively opposed attempts to diminish the strength of the resolutions. Furthermore, it expressed the importance of the UN Special Rapporteurs in its questions to China, as submitted in advance of the UPR. During the bilateral dialogue on 8 and 9 October 2015, the Dutch HRA made reference to the UPR and the recommendations made by the Netherlands regarding improving civil and political rights, prohibition of discrimination of any kind in labour and employment law, and allowing international and national NGOs to play an active role in protecting and advancing human rights, "specifically by expanding registration to all categories of NGOs and social organizations in China and by expanding their freedom to operate effectively".

The Netherlands' opposition to attempts to undermine respect for the universality of human rights became less clear from its statements on China. There is no public record of the Netherlands bringing to the attention of the UN and its member states specific problems experienced by HRDs who work with the UN. Support has been provided for the joint statement during the HRC session in September 2015 that calls upon the Secretary-General to appoint a focal point on the issue of reprisals against HRDs.

### **Detailed overview of the efforts made by the Netherlands**

#### ➤ *Universal Periodic Review*

The Dutch government participated in the UPR of China in October 2013. Together with seventeen other UN member states, the Netherlands submitted questions in advance of the review, including questions about the timetable for the ratification of the International Covenant on Civil and Political Rights, China's intentions regarding the thirteen outstanding visit requests of UN Special Rapporteurs, the protection of farmers' and owners' rights, and regulations in order to refrain from detaining people on the basis of their family ties with alleged offenders. Regarding freedom of expression, questions were raised about the stricter control over the Internet, in particular the new Supreme People's Court guideline which states "people will face defamation charges if online rumours they post are viewed by more than 5,000 Internet users or retweeted more than 500 times". Lastly, the Dutch government asked whether China is intending to set up a national human rights institution in accordance with the Paris Principles. The Chinese government does not seem to have responded to any of these questions.

During the interactive dialogue, the Netherlands encouraged China to continue improving civil and political rights and recommended a prohibition of discrimination of any kind in labour and employment law in line with international norms. The Chinese government accepted this recommendation and added that such a prohibition already exists. The Labour Law of China and the Law on the Promotion of Employment of China lay down prohibitions on discrimination against workers on the grounds of race, ethnicity, religious beliefs, and sex. The Netherlands' second recommendation was to allow international and national NGOs to play an active role in protecting and advancing human rights, "specifically by expanding registration to all categories of NGOs and social organizations in China and by expanding their freedom to operate effectively". China accepted this recommendation without further comment.

> *HRC Resolutions*

In 2014, the Netherlands successfully proposed a Resolution in the HRC, together with the Czech Republic, Botswana, Peru and Indonesia, about the participation of HRDs in public debate and decision-making.<sup>87</sup> The Netherlands also supported the extension of the mandate of the Special Rapporteur on the situation of HRDs.<sup>88</sup>

In August 2015, the UN Secretary-General published a report on reprisals against HRDs who cooperate with the UN, its representatives and mechanisms, which stated that reprisals continue and have become more varied and severe over time.<sup>89</sup> At the HRC session in September 2015, the representative from Ghana issued a joint statement on behalf of fifty-six states, including the Netherlands, that calls upon the Secretary-General to appoint a focal point on the issue of reprisals.<sup>90</sup>

In March 2016, the US Ambassador to the HRC made a joint statement in the HRC on behalf of twelve countries including the Netherlands.<sup>91</sup> He expressed his concern about the deteriorating human rights situation in China, and in particular on the arrests and detentions of rights activists. He also mentioned concerns about the increasing number of confessions aired on state media before a judicial process. In that same HRC session, the Netherlands played an active role in the debate on the adoption of an HRC resolution on Protecting Human Rights Defenders addressing Economic, Social and Cultural Rights. The Netherlands specifically made efforts to stop amendments, many of which were submitted by China, proposing to delete the term “human rights defenders”.<sup>92</sup> The resolution was adopted in its original form: none of the amendments were accepted.<sup>93</sup> Finally, the Netherlands actively supported a resolution on the Promotion and Protection of Human Rights in the Context of Peaceful Protests, also on behalf of the EU since the Netherlands is holding the *Presidency* of the Council of the EU from 1 January to 30 June 2016, and spoke out against amendments that would weaken the resolution.<sup>94</sup>

8.2

**Agenda of the European Union**

Within the context of the UN, the EU may intervene, participate in the general debate of the UNGA and present proposals as agreed by its member states, but is not allowed to vote on or co-sponsor draft resolutions. Since the UPR is a state-driven process, the EU cannot make statements in the UPR interactive dialogues.

87 Human Rights Council Resolution 27/L.24, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 23 September 2014, UN doc. A/HRC/27/L.24.

88 Rijksoverheid, *Mensenrechtenrapportage 2014*, 5 June 2015, <https://www.rijksoverheid.nl/documenten/jaarverslagen/2015/06/05/mensenrechtenrapportage-2014>.

89 Report of the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, 17 August 2015, UN doc. A/HRC/30/29.

90 *Joint Statement – HRC 30 General Debate (Item 5.)*, September 2015, [http://www.ishr.ch/sites/default/files/article/files/reprisals\\_joint\\_statement\\_sept\\_2015.pdf](http://www.ishr.ch/sites/default/files/article/files/reprisals_joint_statement_sept_2015.pdf).

91 Mission of the United States to the UN – Geneva, *Joint Statement – Human Rights Situation in China, delivered by U.S. Ambassador to the HRC Keith Harper*, 10 March 2016, <https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/#.VuGxb1x1cyM.twitter>.

92 Office of the United Nations High Commissioner for Human Rights, *Human Rights Council adopts six resolutions and closes its thirty-first regular session, Geneva*, 24 March 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=18535&LangID=E>.

93 Human Rights Council Resolution 31/L.28, Protecting Human Rights Defenders, whether Individuals, Groups or Organs of Society, Addressing Economic, Social and Cultural Rights, 21 March 2015, UN doc. A/HRC/31/L.28.

94 Office of the United Nations High Commissioner for Human Rights, *Human Rights Council adopts six resolutions and closes its thirty-first regular session, Geneva*, 24 March 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=18535&LangID=E>.

# ACCESS OF CHINESE CIVIL SOCIETY TO THE UNIVERSAL PERIODIC REVIEW

**Apart from the Netherlands, seven other UN member states – Ireland, Nigeria, Slovakia, Switzerland, Germany, Mexico and Tunisia – expressed their concern with regard to, or emphasized the importance of, the involvement of Chinese civil society in protecting and advancing human rights. The annex to Resolution 60/251 on the institution building of the UPR states that the UPR should ensure the participation of all relevant stakeholders and that States are encouraged to prepare the information in their national reports through a broad consultation process at the national level with all relevant stakeholders.<sup>1</sup>**

Even though the Chinese government accepted the recommendation regarding an active role for NGOs in protecting human rights, practice proves to be different. Several HRDs who attempted to participate in UN human rights instruments or tried to attend trainings on UN human rights mechanisms faced obstacles or reprisals. Some lawyers and activists were detained after attending UN human rights trainings. In some instances, the police visited their families while they were abroad, asking about their whereabouts and delivering warnings.<sup>2</sup>

An example of the reprisals by the Chinese authorities against activists who fight for participation in UN instruments is human rights defender, **Cao Shunli**. She campaigned for involvement of civil society in China's UPR.<sup>3</sup> As her efforts were repeatedly ignored by the Chinese authorities, in June 2013, she organized a protest with a group of middle-aged women, camping outside the Ministry of Foreign Affairs in Beijing for ninety days.

On 14 September 2013, Cao Shunli was detained at Beijing Capital International Airport, attempting to travel to Geneva to attend a human rights training programme. She was arrested for "picking quarrels and provoking trouble".<sup>4</sup> In February 2014, after being denied the necessary medical treatment while she was in detention, Cao Shunli was admitted to a Beijing hospital in critical condition.<sup>5</sup> On 14 March 2014, she died as a result of organ failure after six months in detention.<sup>6</sup> On 18 March 2014, a group of UN experts, including the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the UN Special Rapporteur on the right to freedoms of peaceful assembly and association, expressed their apprehension concerning the death of Cao Shunli.<sup>7</sup>

During the HRC's consideration of China's UPR in March 2014, the International Service for Human Rights (ISHR) proposed a moment of silence in Cao Shunli's memory. Chinese officials blocked this from happening by raising a point of order that NGOs could only make "general comments" according to Council rules.<sup>8</sup> After a vote on whether to postpone the decision on this point of order, the President decided to deny ISHR the opportunity to finish its statement and give the floor to the next NGO.<sup>9</sup>

Almost two years after the arrest of Cao Shunli, another human rights activist was prevented from going to Geneva. **Deng Chuanbin** was detained and interrogated on 30 May 2015. The purpose of his detention was stopping him from travelling to Geneva to attend a training organized by the ISHR.<sup>10</sup>



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**Chinese human rights defender Cao Shunli, who passed away on 14 March 2014 after repeatedly being denied medical treatment during five months in detention.**

- 1 Human Rights Council Resolution 5/1, Institution-building of the United Nations Human Rights Council, 18 June 2007, UN doc. A/HRC/5/1.
- 2 Chinese Human Rights Defenders, *Silencing the Messenger 2014 Annual Report on the Situation of Human Rights Defenders in China*, March 2015, [https://chrnet.com/wp-content/uploads/2015/03/Silencing-the-Messenger\\_CHRD-2014-Annual-Report-on-the-Situation-of-Human-Rights-Defenders-in-China2.pdf](https://chrnet.com/wp-content/uploads/2015/03/Silencing-the-Messenger_CHRD-2014-Annual-Report-on-the-Situation-of-Human-Rights-Defenders-in-China2.pdf).
- 3 The Guardian, *Chinese activist Cao Shunli dies after being denied medical help, says website*, 14 March 2014, <http://www.theguardian.com/world/2014/mar/14/china-activist-cao-shunli-dies-human-rights>.
- 4 Amnesty International, *An inspiring activist - remembering China's Cao Shunli*, 19 March 2014, <https://www.amnesty.org/en/latest/campaigns/2014/03/an-inspiring-activist-remembering-china-s-cao-shunli/>.
- 5 Amnesty International, *China: Further Information: Detained Chinese Activist in Critical Condition: Cao Shunli*, 21 February 2014, <https://www.amnesty.org/en/documents/asa17/008/2014/en/>.
- 6 Amnesty International, *China: Attempt to block tribute to rights activist at UN 'an insulting ploy'*, 20 March 2014, <https://www.amnesty.org/en/latest/news/2014/03/china-attempt-block-tribute-rights-activist-un-insulting-ploy/>.
- 7 Amnesty International, *China: Attempt to block tribute to rights activist at UN 'an insulting ploy'*, 20 March 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394>.
- 8 Human Rights in China, *China Deploys Procedural Challenges to Control Civil Society Voices at Human Rights Council Session*, 22 March 2014, <http://www.hrichina.org/en/press-work/statement/china-deploys-procedural-challenges-control-civil-society-voices-human-rights>.
- 9 UPR info, *China prevents moment of silence in memory of human rights defender*, 26 March 2014, <http://www.upr-info.org/en/news/china-prevents-moment-silence-memory-human-rights-defender>.
- 10 China Change, *Activist Interrogated and Prevented from Attending Human Rights Training in Geneva*, 11 June 2015, <http://chinachange.org/2015/06/11/activist-interrogated-and-prevented-from-attending-human-rights-training-in-geneva/>.

Regarding its policy towards the UN, the EU indicated the following priorities which are potentially relevant for (the position of) Chinese HRDs:<sup>95</sup>

- Resisting any attempts to call into question the universal application of human rights.
- Raising accepted recommendations of the UPR and recommendations of treaty monitoring bodies and UN Special Procedures in bilateral relations with all third countries.
- Paying close attention in the forthcoming UPR cycles to the degree of implementation of UPR commitments by third countries.
- Promoting improved access of HRDs to the UN and addressing the issue of reprisals against defenders engaging with the UN.
- Using reports and recommendations from the UN Special Rapporteurs and treaty bodies to identify situations where EU actions are called upon and, where appropriate, to make recommendations for action to the HRC.
- Encouraging states to accept requests for country visits by UN Special Procedures.
- Promoting the use of UN thematic mechanisms by local human rights communities and HRDs by, amongst other things, establishing contact between thematic mechanisms and HRDs.
- Supporting allocation of sufficient funds from the general budget to the Office of the High Commissioner for Human Rights.

Over the past two years, the EU raised these priorities in various public statements at the UN and in the EU China Human Rights Dialogue and during high-level visits. During the EU-China Dialogue in November 2015, the EU delegation raised the recommendations made during China's recent review by the UN CAT. The EUSR also raised China's UN CAT review during his visit to China in November 2015. In its public statements at the HRC and UNGA, the EU raised issues of individual Chinese HRDs.

However, there is no public record of the EU bringing up country visits by UN Special Procedures or the issue of reprisals against HRDs engaging with the UN in China.

### **Detailed overview of the efforts made by the EU in the UN context**

In this 10<sup>th</sup> anniversary year of the UN Human Rights Council, the EU reaffirmed its strong commitment to the UN bodies tasked with the promotion and protection of human rights. In its *Council Conclusions on EU priorities at UN Human Rights Fora in 2016*, the EU stated that it will actively continue to engage with the HRC and UNGA Third Committee<sup>96</sup> to promote and defend the universality, indivisibility, and interdependence of human rights. The EU will call on all states to offer their full cooperation with the HRC Special Procedures, including by ensuring mandate holders' unhindered access to and contact with individuals and civil society. The EU underlined the importance of the UPR and will continue to support the UN in taking steps to further abolish the death penalty and its work against torture and other cruel, inhumane and degrading treatment or punishment. Fifty years after the adoption of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights in 1966, the EU issued a renewed call for their universal ratification. It stated that it is willing to further uphold the freedoms of opinion and expression and of association and assembly as cornerstones of democracy and contributors to the peaceful resolution of conflict.

Valuing a strong partnership with civil society, the EU opposes the imposition of unjustified or disproportionate restrictions on the activities, registration, and access to funding of civil society organizations, including in the name of combatting terrorism. It also condemns all instances of

95 Council of the European Union, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, 25 June 2012, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf); *EU Guidelines on Human Rights Defenders*, 8 December 2008, [http://eeas.europa.eu/human\\_rights/guidelines/defenders/docs/16332-re02\\_08\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf).

96 The UN General Assembly allocates to the Third Committee agenda items relating to a range of social, humanitarian affairs and human rights issues. See: <http://www.un.org/en/ga/third/>.

harassment, intimidation, or persecution, including violent attacks and killings, of HRDs, journalists, or bloggers and deplores all acts of reprisal against individuals and civil society organizations for cooperating with the UN.<sup>97</sup>

More in particular with regard to China, EU officials told Amnesty Netherlands that the focus of the EU is coherence. EU public statements are integrated in the EU agenda put forward at the UN. The EU includes names of individual cases that are considered emblematic, which is quite exceptional in comparison with the approach towards other countries. It tries to engage China on women's rights (UN resolution initiated by Norway on women HRDs, 2013) and restrictive legislation (HRC resolution on civil space, 2014)<sup>98</sup> Moreover, a horizontal approach is applied: shortcomings are raised related to the institutional framework that needs to guarantee human rights (functioning of judiciary, establishment of national human rights institution), and issues are raised that are also discussed with like-minded states.

During the last two years, the EU made statements on China during all three sessions of the HRC and in the Third Committee of the UNGA session in October 2014.

In all these statements, the EU expressed its concern about the arrest, detention, and harassment of peaceful HRDs and human rights lawyers.<sup>99</sup> The EU representatives called for the release of those peacefully exercising their freedom of expression and association and specifically mentioned the names of Liu Xiaobo, Ilham Tohti, Gao Yu and Pu Zhiqiang several times in its statements. In the HRC session in March 2014, the EU drew attention to the death of human rights defender Cao Shunli.<sup>100</sup>

During the sessions of the HRC in June and September 2015, the EU conveyed its concern about the draft law on foreign NGOs and urged China to create an enabling environment for civil society activities.<sup>101</sup> Furthermore, the EU representatives expressed concern with regard to the human rights situation in Tibet and Xinjiang Uighur Autonomous Region<sup>102</sup> in all its statements made at the HRC and at the UNGA in October 2014. The EU urged Chinese authorities to foster dialogue with and between different ethnic groups in those regions.

97 *Council Conclusions on EU priorities at UN Human Rights Fora in 2016*, 15 February 2016,

<http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-un-human-rights-fora/>.

98 Human Rights Council Resolution 27/L.24, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 23 September 2014, UN doc. A/HRC/27/L.24.

99 Statement by EU representative in UN Human Rights Council: Human Rights situation that require the Council's attention, 21 September 2015, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20150921\\_hrc30\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20150921_hrc30_item_4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 24 June 2015, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20150624\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20150624_item_4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 17 March 2015, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20150318\\_hrc28\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20150318_hrc28_item_4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 16 September 2014, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/2014092016\\_hrc27-item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/2014092016_hrc27-item_4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 19 June 2014, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20140619\\_hrc26\\_item4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20140619_hrc26_item4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 18 March 2014, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20140318\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20140318_item_4.pdf);

EU Statement – United Nations 3rd Committee: Promotion and Protection of Human Rights, 30 October 2014,

<http://eu-un.europa.eu/eu-statement-united-nations-3rd-committee-promotion-and-protection-of-human-rights-3/>.

100 Council of the European Union, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, 25 June 2012,

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf).

101 Statement by EU representative in UN Human Rights Council: Human Rights situation that require the Council's attention, 21 September 2015, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20150921\\_hrc30\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20150921_hrc30_item_4.pdf);

Statement by EU representative UN Human Rights Council: Human Rights situation that require the Council's attention, 24 June 2015, [http://eeas.europa.eu/delegations/un\\_geneva/documents/eu\\_statments/human\\_right/20150624\\_item\\_4.pdf](http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20150624_item_4.pdf)

102 The EU statements talk of 'Xinjiang' in stead of 'Xinjiang Uighur Autonomous Region'.



# CONCLUSIONS

**This Report assesses the policies and practices of the Dutch government in support of Chinese HRDs since the end of 2013. Amnesty Netherlands researched efforts at bilateral, EU and UN level. The organization is extremely worried about the significant deterioration of the human rights situation in China, including the shrinking space for HRDs and civil society participation at large. Therefore, special attention has been paid to whether the severe crackdown on human rights lawyers and activists that started in July 2015 influenced the approach or instruments applied by the Dutch government.**

With respect to the bilateral efforts, the overall picture can be summarized as follows:

- Human rights concerns, including the position of HRDs and individual cases, have been discussed during the bilateral human rights dialogues. The names of the individual cases raised were kept confidential. The 2015 crackdown and enactment of legislation that will seriously limit the space for civil society, were part of the agenda but were not a top priority.
- During bilateral high-level visits, human rights issues have been discussed but the content has not been made public, except for the visits of the Dutch King and the Minister of Foreign Affairs. The position of HRDs and individual cases were only raised by the Minister of Foreign Affairs, but the names he brought forward were not made public. During high-level visits, no meetings with HRDs took place.
- At the level of the EU, the Dutch government supports public statements and is part of the group of diplomats that tries to observe trials against HRDs. No bilateral statements are made to strengthen EU statements or to make trial observations more visible. The role the Netherlands plays in drafting the statements, including the two rather brief statements on the crackdown in 2015, is invisible.
- Under the radar, practical support has been given by the Dutch Embassy to individual HRDs, particularly lawyers and their families. Not much is known about contacts the embassy currently has with HRDs. It seems that occasionally, HRDs receive feedback related to human rights issues and/or cases the Dutch government has discussed with the Chinese government.

Amnesty Netherlands welcomes the efforts of the Dutch government, but is at the same time critical about a number of aspects.

## **Lack of close and regular contacts**

Based on public documents and the contact with public officials and Chinese HRDs, Amnesty Netherlands believes that close and regular contact and communication with (a broad representation of) Chinese HRDs is lacking. This is based on the following observations:

- HRDs are not involved in the preparation, follow-up and assessment of the human rights dialogues on a structural basis.
- No meetings are held with HRDs during high-level visits.
- HRDs do not understand the concept and possible impact of silent diplomacy, whereas this is the standard approach of the Dutch government for raising individual cases with the Chinese government.
- The Netherlands has chosen silent diplomacy as the standard approach for individual cases whereas HRDs are clearly also calling for public support.
- Meetings were not held between HRDs and EU diplomats to discuss topics such as the local human rights situation, EU policy in this field, and the application of the local strategy for implementing the EU Guidelines. This may have been the case with a few individuals, but not with a broader representation of HRDs. In a situation where the space for HRD has declined nearly to zero, it will be difficult to organize regular consultations with HRDs under safe conditions, but they are crucial for developing and adjusting the instruments and strategies applied in support of HRDs.
- HRDs who participated in the survey specifically requested more direct contact and invitations to meet with EU diplomats at safe locations, regular contacts with high-level foreign officials and transparency about the topics and outcomes of dialogues with the Chinese government (as a way to determine the reaction of the Chinese government). All of them expressed an interest in learning more about the EU Guidelines and receiving some sort of training.
- These HRDs were also not familiar with the Shelter City Initiative, which provides temporary shelter for HRDs in the Netherlands. It is important to note that the Initiative uses selection criteria that are might be problematic for Chinese HRDs at risk, including the knowledge of English or French, the assurances of a safe return after a relative short period of three months and the willingness to speak in public.

## **Actions and impact are not visible**

Amnesty Netherlands concludes that the Dutch government is not transparent about the efforts made for (individual) Chinese HRDs and their respective results. There is a strong conviction that confidentiality about the individual cases raised with the Chinese government will be more effective, but civil society in both the Netherlands and China are left completely in the dark whether these silent diplomacy efforts have indeed led to any positive impact for the HRDs involved. Without jeopardizing the possible strength of this approach, there should be some sort of accountability mechanism to show the quality and quantity of the efforts made by the government for individual HRDs and the overall results. Even more so as this approach deviates from the human rights policy designed to provide more protection to HRDs by making them visible.

Amnesty favours a strategic combination of both silent and public diplomacy on a case-by-case basis, which requires close and regular contact and consultations with HRDs and their families and/or lawyers. Chinese HRDs generally stress that public diplomacy efforts would encourage them, give moral support and a form of protection. They consider it important for public diplomacy efforts to be reported by the (international) media. As such, civil society can monitor what is happening and it could lead to more engagement with the Chinese authorities. EU officials also said that bilateral statements would strengthen the joint EU message, or could, when made at an early stage, serve as a stepping-stone to an EU statement. Amnesty wonders whether all this has been taken into consideration when deciding not to make any bilateral public statements.

The efforts made by the Dutch government in the context of the EU are also not transparent. Amongst other things, there is no public reporting about what the Netherlands does to:

- Improve the effectiveness of the EU China Human Rights Dialogue, which is a policy objective.
- Initiate or strengthen EU statements.
- Influence the agenda of the EU-China Human Rights dialogues and various high-level visits.
- Raise and promote human rights in the context of the 70 different sector dialogues with China, which is also a clear policy objective.
- Influence the EU agenda and statements at the UN.

Since the Dutch government actually expects more results from collective EU actions compared to bilateral actions, it is important to show the efforts made in this context and the achieved results. As such, the assumption can be substantiated. Amnesty Netherlands believes, bilateral steps should be taken in parallel with EU actions so that both can strengthen each other, especially when well-coordinated in advance. The severity of the crackdown in 2015 and its implications for the development of the rule of law in China would have been much more marked if individual member states had supported the EU statement with (stronger) bilateral statements. The different approaches taken by the EU and the individual member states during President Xi's state visit to Europe seriously weakened the human rights agenda the EU and member states collectively stand for.

### **Adjusting support strategy**

The severe crackdown on and shrinking space for HRDs and civil society in China urgently requires a strong focus on assessing their current needs and requests. Although it is only a rough sketch, the points stressed by the HRDs who participated in the survey already provide an indication of additional and different efforts the EU and individual member states could take. For example, HRDs encourage a media strategy related to public diplomacy efforts to increase pressure on the Chinese government and facilitate the monitoring efforts of HRDs and civil society at large. Also contact and communication with HRDs who had to leave China about the steps taken in support of human rights and HRDs would be appreciated. Discussion is necessary to determine the type of action that should be taken with regard to HRDs being kept under 'residential surveillance', in prison, and under house arrest, and how to effectively combine human rights and economic diplomacy as suggested by a number of HRDs. Special attention should be paid to ways in which Chinese HRDs can safely learn about and work with UN systems, mechanisms and field presences.

# RECOMMENDATIONS

**Taking the critical situation of Chinese HRDs into consideration, there are still challenges that remain regarding the implementation of Dutch human rights (defenders) policies. Welcoming the efforts taken so far, Amnesty Netherlands would like to make the following recommendations to the Dutch government.**

## **At a bilateral level**

- Maintain and increase close and regular contact and consultations with Chinese HRDs (also with those who had to leave China) as means to:
  - Make thorough assessments of the current needs of Chinese HRDs in cooperation with the EU Delegation and embassies of like-minded states in Beijing.
  - Revise policies and practices in support of HRDs based on the needs assessment.
  - Identify “preventive” action such as the physical presence of diplomats.
  - Be strategic in using silent and public diplomacy based on a case-by-case approach. This might involve consultation with family members, colleagues and lawyers when an HRD is for example in prison, detained at an unknown location or under house arrest. Be transparent to the HRDs involved about the (results of the) efforts made.
  - Prepare, follow-up and assess bilateral and EU human rights dialogues with China and contributions to relevant UN systems and mechanisms.
  - Explain the Dutch, EU and UN policies and (practical) instruments in support of HRDs and make this information easily available on the website of the Dutch Embassy.
- Develop an accountability mechanism to show the quality and quantity of all the efforts made for individual HRDs and the results achieved. Be creative in providing some sort of insight in the silent diplomacy efforts and overall achieved results.
- Issue regular bilateral public statements to strengthen statements made by the EU or in the context of the UN.
- Combine public diplomacy efforts with an international media strategy to increase pressure on the Chinese government and facilitate the monitoring efforts of civil society/HRDs.
- Raise the position of HRDs, including individual cases, with the Chinese government and try to meet with HRDs during all high-level visits. Stay in touch afterwards, also when HRDs have to leave China.
- Continue monitoring trials against HRDs and commit to closely follow the trials of the HRDs who have been charged with national security related crimes in the context of the nationwide crackdown in 2015. Make (bilateral) public statements on the cases and reach out to the (international) media. Support the families and lawyers of the HRDs on trial.

- Be specific and persistent about desired changes, if needed over a prolonged period of time. Efforts for human rights and HRDs are necessary, even when the results are not immediately visible.
- Be flexible in issuing longer-term visas and ensure quick and safe exit support in urgent cases of HRDs at risk.
- Explore the possibilities for local government officials to promote human rights and the position of HRDs in their contact with Chinese officials. Decentralized experimental reforms towards a more enabling environment for civil society have been developed, for example, in Shenzhen.<sup>103</sup>
- Develop a knowledge platform with representatives of the Dutch government, Dutch civil society (organizations), and academics to share thoughts about ways to increase the effectiveness of human rights dialogues with China, support to Chinese civil society, including HRDs.
- Actively promote the opportunities for Chinese students studying in the Netherlands to acquire information on human rights.

### **As an EU member state at EU level**

- Actively work on incorporating human rights, the position of HRDs and individual HRDs cases into the sector-specific dialogues between the EU and China and stimulate the development of practical ways to mainstream EU commitments of human rights and HRDs. Promote the importance of the HRD issue at all levels of EU work on and in China.
- Support the development of concrete strategies on support, protection and engagement with Chinese HRDs (including crisis scenario's) in line with the EU-HRDs Guidelines and Action Plan. Make public diplomacy a key part of this strategy, as well as follow up actions to back up statements once issued.
- Urge that a strong and consistent human rights message is conveyed to the Chinese government during high-level visits of the EU and that the position of HRDs, including individual cases, is part of the agenda. Promote meetings with HRDs during high-level visits and guarantee it that government officials stay in touch with the HRDs concerned afterwards.
- Be more transparent about the Dutch government's agenda and achieved results in the context of the EU, including during meetings of COHOM and COASI. Promote more transparency related to these working groups in general.
- Strengthen the task force for HRDs and increase the possibilities for in-depth discussions on the formulation ("as and where appropriate") and implementation of the EU Guidelines, with a particular focus on countries where the space for HRDs has become close to zero.
- Ensure the regular invitation of Chinese HRDs to relevant EU institutions and invest in training for Chinese HRDs on relevant EU and other international instruments, language, advocacy and media skills as needed.

<sup>103</sup> In 2008, Shenzhen implemented a new policy that creates a more enabling for civil society, making it much easier to establish NGOs. This policy was contrary to national regulations, but was still allowed and supported by the Chinese Ministry of Civil Affairs. (see: Geoffrey Yeung Ka Wai, 'NGOs in China: Breakthroughs, Limitations and Hopes', *Hong Kong Journal of Legal Studies*, issue 185, 2013.)

- Make forms of support for HRDs and contact details of liaison officers for HRDs more visible and accessible (including on websites of EU missions). Apart from having an HRD focal point at the EU Delegation, each EU member state should have a liaison officer who at-risk HRDs can contact.
- Underline as much as possible the importance of the involvement of senior staff at EU missions in human rights (defenders) work.
- Find ways to keep and possibly increase funding for independent human rights projects and organizations, including projects focusing on civil and political rights.
- Put China regularly on the agenda of the Foreign Affairs Council in order to allow the systematic review of this key partnership, including human rights engagement, with a view to ensuring greater coherence and cooperation across EU institutions and member states.
- Consider publishing an annual public Country Report analyzing the human rights situation, including the position of HRDs, in China.

#### **As an UN member state at UN level**

- Promote and support the creation of an effective action by a new UN-wide senior focal point to prevent and address reprisals against individuals and groups cooperating with UN systems, mechanisms and field presences.
- Continue to urge the Chinese authorities to ratify the International Covenant on Civil and Political Rights and to implement accepted recommendations of the UPR, the UNCAT and other human rights treaty bodies and to accept visits from Special Rapporteurs.
- Urge the Chinese government to withdraw the draft legislation on cyber-security and amend the national security, anti-terrorism and foreign NGOs management laws that unduly restrict the rights to freedom of expression, association and assembly. These laws need to be brought in line with international human rights standards.
- Promote thorough discussion on the universality of human rights during this 10<sup>th</sup> anniversary of the UN Human Rights Council.
- Consider holding meetings to discuss the role and importance of (an independent) civil society and ensure participation by China.

# APPENDIX

## OVERVIEW OF EU STATEMENTS ON CHINA AND CHINESE HUMAN RIGHTS DEFENDERS

26-01-2014

### Statement by EU Delegation on the sentence of Dr. Xu Zhiyong

*“The Delegation of the European Union to China expresses regret at the sentence of 4 years imprisonment handed down to human rights defender Xu Zhiyong. The sentence has heightened the Delegation’s deep concern about the situation being faced by a number of Chinese Human Rights Defenders who have been prosecuted in relation to peaceful action against corruption and public advocacy of rule of law, transparency and social justice. This concern was expressed by High Representative Catherine Ashton in August.*

*The EU welcomes that the fight against corruption and the strengthening of rule of law have been declared top political priorities by the Chinese government and encourages the Chinese government to implement the necessary measures to meet these priorities. However, Xu Zhiyong’s conviction -and ongoing prosecution of other individuals advocating transparency and respect for the Rule of Law, including Zhao Changqing, Hou Xin, Yuan Dong, Zhang Baocheng, Ding Jiayi, Li Wei, Liu Ping, Wei Zhongping, Li Sihua and Liu Yuandong- is sending the wrong signal concerning the Chinese Government’s commitment to those aims.*

*The EU calls on the Chinese authorities to release immediately Dr. Xu Zhiyong and other individuals, who have been prosecuted for the peaceful expression of their views and guarantee the protection and freedom to which they are entitled to under the Constitution of the People’s Republic of China, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which China signed more than 15 years ago.*

*The EU attaches great importance to the respect for Human Rights, the situation of Human Rights Defenders and the due process of law all over the world, including in China, and will continue to follow these cases closely.”*

01-02-2014

### Declaration by High Representative Catherine Ashton on behalf of the European Union regarding the treatment of human rights defenders and their relatives in China

*“The EU has welcomed recent decisions by the Chinese authorities to deepen the reform of the justice system and to uphold the Constitution and laws to protect human rights. However, in recent weeks, the EU has become seriously concerned about the trials, convictions, detention and house arrests of a number of Chinese human rights defenders. Some, like Xu Zhiyong, were peacefully advocating social justice and a society based on the rule of law, and more transparency in the fight against corruption. Some, like Ilham Tohti, were promoting the human rights of minorities, while others, like Cao Shunli, were supporting the participation of independent civil society in the UN Universal Periodic Review of China.*

*The EU is also concerned by the health conditions of some prominent human rights defenders and their families, who are under house arrest or imprisoned, and not receiving appropriate independent medical treatment. The EU urges China to implement the announcements made at the last Third Plenum of the 18th CPC, as well as the pledges before the Human Rights Council, by releasing all those imprisoned or detained for the peaceful expression of their views.*

*The Candidate Countries Turkey, the former Yugoslav Republic of Macedonia, Montenegro, and Iceland, the Countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, align themselves with this declaration.”*

21-03-2014

**Statement by EU High Representative Catherine Ashton regarding the death of Chinese human rights defender, Ms Cao Shunli**

*The High Representative of the European Union for Foreign Affairs and Security Policy and Vice President of the Commission, issued the following statement today:*

*“I am deeply saddened by the death of Ms Cao Shunli. She had campaigned peacefully for the full participation of independent civil society organisations in the UN Universal Periodic Review (UPR) process and was due to travel to Geneva when she disappeared, and was subsequently arrested and put in detention, although never indicted. As her health seriously deteriorated, she was finally transferred to a military hospital where she died on 14 March 2014.*

*The EU would like to pay tribute to Ms Cao Shunli’s engagement and recall the EU’s attachment to the full participation of independent civil society organisations in the Universal Periodic Review process. The EU also reaffirms its call on China to implement the announcements made at the Third Plenum of the Central Committee of the 18th Chinese Communist Party, as well as the pledges before the Human Rights Council, by releasing all those imprisoned or detained for the peaceful expression of their views.”*

11-04-2014

**Statement by EU High Representative Catherine Ashton regarding the sentencing of Dr Xu Zhiyong and the trials of other human rights activists in China**

*The High Representative of the European Union for Foreign Affairs and Security Policy and Vice President of the Commission, issued the following statement today:*

*“The EU is deeply concerned by the confirmation on appeal of the four-year prison sentence handed down to human rights defender Dr Xu Zhiyong as well as by the ongoing trials of human rights defenders who have been prosecuted in relation to their peaceful action against corruption and public advocacy of the rule of law, transparency and social justice.*

*The EU reiterates its call on the Chinese authorities to release all the individuals who are imprisoned or detained for the peaceful expression of their views and guarantee the protections and freedoms that they are entitled to under international human rights law and China’s constitution.”*

28-05-2014

**Statement on the recent wave of arrests and detentions in China**

*“We are deeply concerned by the recent arrests and detentions of a large number of peaceful human rights defenders, lawyers and intellectuals including Pu Zhiqiang, a lawyer, Hu Shigen a lecturer at Beijing University, Xu Youyu, a researcher at the Chinese Academy of Social Sciences, Liu Di, a writer and Hao Jian, a professor at the Beijing Film Academy. We reiterate the EU’s calls on the Chinese authorities to abide by the Universal Declaration of Human Rights, to respect the freedoms of conscience, expression and association recognised by the Chinese Constitution, and to release all those imprisoned for the peaceful expression of their views.*

*While acknowledging China's advancement of the economic and social wellbeing of its people in the past 25 years, the EU also hopes to see greater space open up for discussion and debate about China's recent history and for lawyers, human rights defenders and journalists to carry out their work without harassment or interference. We also urge the Chinese authorities to ensure that, where needed, detainees have rapid access to independent and adequate medical care, in order to avoid a repetition of recent deaths in custody. The EU is willing to co-operate with China towards the release of detainees on humanitarian grounds."*

06-08-2014

#### **Statement by the Spokesperson on events in Hong Kong**

*"We have been concerned about events in Hong Kong and are closely monitoring developments. In the light of the ongoing demonstrations, we welcome the restraint shown by both sides. We urge all sides to continue to exercise this restraint. We encourage all parties to work in a spirit of compromise for a constructive solution within the framework of the Basic Law and the principle of "One Country – Two Systems", towards a fair electoral system which allows a high degree of political participation by the people of Hong Kong."*

31-07-2014

#### **Statement by the spokesperson on the situation in Xinjiang, China**

*"We express our condolences and sympathies to the victims, their families, and all those affected by the deadly attacks in Yarkand (Shache) county in the Xinjiang Uyghur Autonomous Region in China on 28 July. We condemn all acts of violence. We also call upon the Chinese authorities to address some of the deep-rooted causes of the frustration of the Uyghurs, ensuring that their right to practice their own culture, language and religion is respected."*

23-09-2014

#### **Statement by the Spokesperson on the sentencing of respected Uighur academic Ilham Tohti**

*"The EU condemns the life sentence for alleged "separatism" handed out today to Uighur economics professor Ilham Tohti, which is completely unjustified. The EU deplors that the due process of law was not respected, in particular with regard to the right to a proper defence. We call for his immediate and unconditional release as well as the release of all his supporters detained in relation to his case. We also urge the Chinese authorities to respect the rights of all persons belonging to minorities and their right to freedom of expression."*

02-10-2014

#### **Statement by the Spokesperson on events in Hong Kong**

*"We have been concerned about events in Hong Kong and are closely monitoring developments. In the light of the ongoing demonstrations, we welcome the restraint shown by both sides. We urge all sides to continue to exercise this restraint. We encourage all parties to work in a spirit of compromise for a constructive solution within the framework of the Basic Law and the principle of "One Country – Two Systems", towards a fair electoral system which allows a high degree of political participation by the people of Hong Kong."*

23-03-2015

**Statement by the Spokesperson on the arrest and detention of five Chinese human rights defenders campaigning against sexual harassment on International Women's Day**

*"The recent arrest and detention of women's rights activists in China on the grounds that they wanted to launch a campaign against sexual harassment on International Women's Day violates their right to demonstrate peacefully. We urge the Chinese authorities to release them immediately.*

*As the UN is preparing to celebrate the 20th anniversary of the 4th World Conference on Women and the adoption of the Beijing Declaration and Platform of Action, we urge China not to restrict the activities of human rights defenders promoting the human rights of women."*

14-04-2015

**Statement by the EU Delegation to China on the release of women's rights defenders**

*"The Delegation of the European Union to China takes note with relief of the release of the five women's rights defenders, who were detained on the grounds that they wanted to launch a campaign against sexual harassment on International Women's Day. As the spokesperson of the High-Representative of the European Union for Foreign Affairs and Security Policy stated on 23 March 2015, their detention violated their right to demonstrate peacefully.*

*However, we regret that the investigation of their cases has not been withdrawn yet, as they are still subjected to "bail pending further investigation", which entails restrictions on their freedom of movement and communication. As the UN is preparing to celebrate the 20th anniversary of the 4th World Conference on Women and the adoption of the Beijing Declaration and Platform of Action, we urge China not to restrict the activities of human rights defenders promoting the human rights of women."*

17-04-2015

**Statement by the Spokesperson on the sentencing of veteran Chinese journalist GAO Yu**

*"A sentence of seven years imprisonment has been handed down to veteran journalist GAO Yu today, despite the serious doubts that have been raised about the legal procedure. The sentence highlights the situation faced by a number of Chinese Human Rights Defenders, including journalists and bloggers, who have been prosecuted for exercising their right to freedom of expression. We call for the immediate review of Ms GAO Yu's case, in line with international standards, as well as other cases of individuals who have been prosecuted for the peaceful expression of their views or their calls for more transparency.*

*The protections and freedoms to which they are entitled under the Constitution of the People's Republic of China, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, signed by China more than 15 years ago, must also be guaranteed."*

20-05-2015

#### **Statement by the Spokesperson on charges against Chinese Human Rights Lawyer Pu Zhiqiang**

*“The charges brought recently against prominent Chinese lawyer, Mr Pu Zhiqiang, who has already spent more than a year in police custody since attending a small private gathering to commemorate the 25th anniversary of the Tiananmen Square events, raise serious questions of consistency with China’s constitutional guarantees of freedom of assembly, opinion and expression.*

*The Chinese Authorities should guarantee Mr Pu Zhiqiang’s right to a fair trial and fully respect his defence rights, in line with China’s international human rights commitments and the reforms it has announced to promote and deepen the rule of law. Foreign embassies should be permitted to observe his trial and Pu Zhiqiang should also be given adequate medical treatment.”*

18-06-2015

#### **Statement by the Spokesperson on political reforms in Hong Kong**

*“The EU expresses its continuing support for the introduction of universal suffrage for the Chief Executive election in Hong Kong, in line with the Basic Law, which would offer a genuine choice in a credible, transparent and inclusive election system.*

*Universal suffrage would help create more inclusive governance and give the government wider support and legitimacy to further Hong Kong’s economic objectives and tackle social challenges.*

*Following the 18 June vote of the Hong Kong Legislative Council on a Resolution to introduce universal suffrage for the election of the Chief Executive in 2017, the EU calls on all parties to engage in constructive discussions with a view to an early resumption of the electoral reform process. An agreement would also pave the way for the introduction of universal suffrage for the Legislative Council election*

*The EU expresses its continuing confidence in Hong Kong Special Administrative Region as a global financial and business centre, underpinned by the rule of law, rights and freedoms in line with the ‘one country, two systems’ principle and guaranteed by the Basic Law.”*

15-07-2015

#### **Statement by the Spokesperson on recent developments in the human rights situation in China**

*“The recent systematic arrest of a number of human rights lawyers and human rights defenders by Chinese public security forces raises serious questions about China’s commitment to strengthening the rule of law.*

*The Chinese authorities should abide by the Universal Declaration of Human Rights, respect the rights of all citizens as recognised by the Chinese Constitution and release all those detained for seeking to protect these rights.*

*Following the death in prison of Tenzin Delek Rinpoche, a Tibetan lama who has been a prisoner since 2002, we express our deepest condolences to his family, friends and supporters. The EU had consistently called for his release or adequate medical treatment. We expect the Chinese authorities to investigate and make public the circumstances surrounding his death.”*

22-10-2015

**Statement by the Spokesperson on recent developments in the human rights situation in China**

*“The ongoing detention of a number of human rights lawyers and defenders by Chinese public security forces in unknown locations, without access to legal counsel or visits from their relatives, continues to raise serious questions about China’s stated commitment to strengthening the rule of law.*

*Furthermore, the EU is particularly concerned about recent reports on the status of 16-year old minor Bao Zhuoxuan. Mr Bao’s passport was confiscated following his parents’ detention in mid-July and he is now reported to have been placed under house arrest. In the absence of any charges against him, the Chinese authorities should guarantee Mr Bao’s right to unrestricted movement.”*

07-11-2015

**Statement by the Spokesperson on the meeting of the leaders from the two sides of the Taiwan Strait**

*“Saturday’s first-ever meeting in Singapore between the leaders from the two sides of the Taiwan Strait is an encouraging step, demonstrating the level of trust that has been built through the ongoing process of rapprochement.*

*The EU looks forward to the continuation of the peaceful development of cross-Strait relations, to the benefit of the people on both sides of the Strait.”*

22-12-2015

**Statement by the Spokesperson on the sentencing of Chinese Human Rights lawyer, Mr Pu Zhiqiang**

*“The sentence handed out today to Chinese human rights lawyer, Mr Pu Zhiqiang, appears inconsistent with China’s own constitutional guarantees of freedom of assembly, opinion and expression as well as with its international human rights obligations.*

*The verdict also sets a dangerous legal precedent regarding freedom of expression online and offline. Foreign journalists and diplomats should not have been prevented from observing the trial.*

*The EU calls for Mr Pu Zhiqiang’s immediate and unconditional release as well as for full rehabilitation and reinstatement of his rights.”*

22-01-2016

**Statement by the Spokesperson on the arrest and detention of EU citizen Peter Dahlin**

*“Mr Peter Dahlin, an EU citizen and founder of China Urgent Action Working Group, a human rights NGO operating in China, was arrested on January 4th as he prepared to board a flight from Beijing. He has been detained ever since. The EU expects a swift resolution of this case in accordance with international human rights standards.*

*Mr Dahlin’s arrest and detention are part of a worrying trend and call into question China’s respect for the rule of law and for its international human rights obligations. The EU is also concerned by the recent broadcasting of confessions made by EU citizens.”*

## HUMAN RIGHTS DEFENDERS MENTIONED IN ASSESSMENT REPORT: SHORT DESCRIPTION

### **Cao Shunli**

Cao's human rights activism began in 2002 when she was fired from a government agency following her efforts to fight corruption in housing allocation. A lawyer by training, Cao used domestic laws and courts, as well as organizing petitions, to press the Chinese government for greater transparency in government information and citizen participation in the development of National Human Rights plans and the preparation of government reports on human rights to the UN. Cao also directly submitted a report to the Human Rights Council prior to China's Universal Periodic Review in 2013.

Cao was sentenced to a year of re-education through labour in 2008 for organizing a "Beijing Rights Defense Walk." In 2010, just 16 days after her release, she was sentenced to another 15 months of re-education through labour to prevent her from protesting at the Shanghai Expo. In June 2013, Cao led a two-month sit-in at the Chinese Ministry of Foreign Affairs. Protestors asked to be consulted in drafting China's report to the UN, and that petitions to government authorities gathered over many years would be included to create a report that "truthfully and comprehensively reflects the human rights situation in China". Then, on 14 September 2013, Cao Shunli was detained at the Beijing Airport on her way to Geneva for human rights training at the United Nations. She was accused of "picking quarrels to create disturbances". At the detention centre, her health worsened, but the authorities refused her timely medical treatment. She was taken to a military hospital for emergency treatment after losing consciousness on 19 February 2014, and died less than a month later.

### **Deng Chuanbin**

Human rights activist prevented from attending UN human rights training in Geneva in 2015. Since 2010, he has been active in the Rural Red Ribbon project, amongst others, that helps villagers in Henan and Hebei provinces to cope with HIV infection caused by blood contamination.

### **Fan Mugen**

Suzhou resident, defended his family with a knife against a violent gang carrying out forced evictions in his neighbourhood in December 2013. His wife and son were injured in the attack and Fan Mugen fatally wounded two of the attackers. He was tried at the Suzhou Intermediate Court for "the intentional infliction of injury upon another" and sentenced to eight years in prison in May 2015. Fan Mugen and his family members were preparing to appeal the sentence when their lawyer Wang Yu was put under 'residential surveillance'.

### **Gao Yu**

Journalist who was sentenced to seven years imprisonment in April 2015 for "revealing state secrets", because she allegedly shared 'Document No. 9', an internal Communist Party ideological paper. In November 2015, Gao Yu was released on medical parole and will serve the rest of her sentence outside of prison due to her failing health.

**Gao Zhisheng**

Human rights lawyer who is well-known for his legal defence of religious minorities, human rights activists, victims of forced evictions and death penalty convicts. Founder of the Shengzi Law office in Beijing. He was disbarred in 2005 and harassed, imprisoned and tortured numerous times. He was released in 2014 after serving a three-year prison sentence and remains under close surveillance by the Chinese authorities.

**Guo Feixiong (pen name of Yang Maodong)**

Writer, activist, self-taught legal defender and long-time campaigner for political reforms and human rights in China. On 27 November 2015, he was convicted of “gathering a crowd to disrupt order in a public space” and “picking quarrels and provoking trouble” and given a six-year prison sentence. He has been detained since 8 August 2013. Guo took part in a protest against media censorship in January 2013, after Communist Party officials had sparked outrage by changing a front-page editorial of the *Southern Weekly newspaper* that had called for greater civil and political rights as well as adherence to China’s Constitution.

Guo has been suffering ongoing harassment by the Chinese authorities since 2006. He had been previously detained in February 2006 and sentenced to five years in prison in November 2007 after being convicted of the crime of “illegal business activity” for publishing a book entitled *Shenyang Political Earthquake*. Guo was subjected to several forms of torture while in detention, including being hung from the ceiling by his arms and legs while he was beaten, and being shocked with an electric baton in his face and genitals. He is suffering from serious medical conditions and has not been given proper medical care.

**Hada**

Before he was arrested in 1995, Hada was the general manager of the Mongolian Academic Bookshop in Hohhot, and involved in the Southern Mongolian Democratic Alliance, which aimed to promote human rights, Mongolian culture and “a high degree of autonomy for China’s minority nationalities, as guaranteed in [China’s] Constitution”. In 1996 he was convicted of “splitting the state” and “espionage” and sentenced to a fifteen-year prison sentence. In December 2015 he was released, four years after his fifteen-year jail term.

**Ilham Tohti**

Prominent Uighur academic and writer. Through his work, Tohti has tried to build mutual understanding between Uighurs and Han Chinese in the Xinjiang Uighur Autonomous Region (XUAR) amid rising ethnic tensions in the region. He founded the website Uighur Online. Ilham Tohti was openly critical of government policies in the XUAR, where Uighurs face widespread discrimination in employment, education, housing, and curtailed religious freedom as well as political marginalization. He has consistently opposed violence and has worked peacefully to build bridges between ethnic communities in accordance with Chinese laws. He was arrested in 2014 and sentenced to life imprisonment in 2015 on the charge of “separatism”.

**Li Heping**

Beijing-based human rights lawyer who has been practising since 1997 and defended scores of HRDs and victims of rights abuses. He was disbarred in 2009, but continued to provide legal advice to victims of human rights violations. He was arrested during the crackdown in July 2015 and is still in detention on the charge of “subverting state power”.

**Liu Xiaobo**

Prominent scholar and human rights defender and 2010 Nobel Peace Prize Laureate. In 2009, he was sentenced to 11 years in prison for “inciting subversion of state power”, based on writing six articles published on websites outside mainland China and devising Charter 08, a manifesto and petition on human rights and democratic reform in China.

**Liu Xia**

Poet, artist and wife of Liu Xiaobo. She was placed under illegal house arrest on 8 October 2010, the day it was announced that her husband would receive the Nobel Peace Prize.

**Liu Yuandong**

Liu Yuandong is an activist, philanthropist and entrepreneur who owns a biotechnology company. A long-time financial supporter of democracy activists, Mr Liu has also engaged in protests in Guangzhou against the censorship of the *Southern Weekly* newspaper. He was sentenced to three years in prison for “gathering a crowd to disrupt order in a public place.”

**Ni Yulan**

Established herself as a human rights lawyer by defending Falun Gong practitioners and victims of forced evictions. Sentenced to a year in prison and disbarred in 2002. As a result of torture in prison in 2002, Ni was left permanently disabled. Sentenced to prison several times after her first arrest. Presently under house arrest after being refused a passport to attend the US International Women of Courage Award ceremony in March 2016. In 2011, she received the Dutch award for HRDs, the Human Rights Tulip.

**Nurmemet Yasin**

Uighur writer and poet. Detained in November 2004 after his short story “The Wild Pigeon” was published. On the basis of this story he was charged with “inciting splittism” and sentenced to 10 years in prison. Nurmemet Yasin was released in November 2014. Amnesty has been unable to get information about his well-being after his release.

**Pu Zhiqiang**

Human rights lawyer who has defended many human rights cases, including the prominent artist Ai Weiwei and persons linked to the “New Citizens’ Movement”, a network of activists that aims to promote government transparency and expose corruption. Pu Zhiqiang was originally detained by police on 6 May 2014, after he attended a private seminar in Beijing that called for an investigation into the 1989 Tiananmen crackdown. In December 2015 he was sentenced to three years imprisonment, suspended for three years, for “picking quarrels and provoking troubles” and “inciting ethnic hatred”.

**Shen Yongpin**

Filmmaker arrested in 2014 and imprisoned for one year for “illegal business activities” after making a documentary about the Chinese Constitution. The documentary “A Hundred Years of Constitutionalism” was posted online and distributed for free.

**Su Changlan**

Women’s rights activist Su Changlan could be facing a 15-year prison sentence after being formally arrested under suspicion of “inciting subversion of state power” on 3 December 2014. This is believed to be a result of online posts she made in support of the pro-democracy protests in Hong Kong in September 2014, and due to her activism on women’s rights issues. The trial to conclude her case has been postponed twice and is believed to take place in August 2016. Su Changlan is in poor health.

**Sui Muqing**

Human rights lawyer who has defended many fellow human rights defenders. He was arrested during the crackdown in July 2015, after which he was held under ‘residential surveillance in a designated location’ and was released in January 2016.

**Sun Desheng**

Sun was arrested in 2013 for holding a sign in public that read “Shame on Xi Jinping, Xu Zhiyong is innocent”. He was sentenced in November 2015 to two-and-a-half years imprisonment for “gathering a crowd to disrupt order in a public place”. Sun was released in February 2016. He has taken part in initiatives of the New Citizens’ Movement, and advocated for democratic reforms, constitutionalism, social justice and ratification of the International Covenant on Civil and Political Rights.

**Tang Jinling**

Guangzhou-based human rights lawyer whose clients have included villagers fighting corruption and victims of land appropriation. Tang was detained in May 2014 and in January 2016 sentenced to five years imprisonment for “inciting subversion of the state”. He is a signatory of Charter 08 and founded the “Non-violent Civil Disobedience Movement” in 2006. His licence to practise law was revoked in 2005 after his participation in a case to remove corrupt officials. He went on trial together with Yuan Xinting and Wang Qingying. The three men are known as the “Gentlemen of Guangzhou”.

**Tang Jitian**

Human rights lawyer, whose clients have included victims of land appropriation, Falun Gong adherents, parents of children poisoned by melamine-tainted milk, HIV/AIDS victims and fellow human rights lawyers. Signatory of Charter 08. Permanently disbarred in 2010. Tang was tortured by local security officials in March 2014 when serving a 15-day administrative detention in Heilongjian province because he and three other lawyers investigated alleged torture at a secret detention facility - known as a “black jail”.

**Tenzin Delek Rinpoche**

Prominent Tibetan monk who was sentenced to 20 years imprisonment in 2002 on charges of “separatism and terror”, after he was accused of being involved in a bombing attack in Chengdu. In 2015, he died in a Chinese prison after Tibetans and human rights groups had called for release on medical parole.

**Wang Qingying**

Prominent rights advocate in Southern China, one of the “Three Gentlemen of Guangzhou”. Detained in May 2014 on suspicion of “picking quarrels and provoking troubles”, when scores of activists and government critics were detained ahead of the 25th anniversary of the Tiananmen crackdown. Wang was convicted for “inciting subversion of state power” and sentenced to two-and-a-half years in jail in January 2016.

**Wang Quanzhang**

Human rights lawyer who, over the course of his legal career, has represented a wide array of clients in human rights cases, including Falun Gong practitioners, members of the New Citizens’ Movement and Ni Yulan. Wang also has written or co-authored many pieces on the legal profession and human rights, including a report on the role of lawyers in pro-democracy movements and one about the Internet and civil society movements. He has faced constant harassment and suffered retaliation for his work. He was arrested during the crackdown in July 2015 and is still being detained on the charge of “subverting state power”.

**Wang Yu**

Prominent human rights lawyer who took on many sensitive cases, including cases of Falun Gong practitioners, victims of violence against women and those of Ilham Tohti and Cao Shunli. She was the first human rights lawyer to be arrested during the crackdown in July 2015. Held for six months incommunicado under 'residential surveillance'. She is still detained on the charge of "subverting state power". Ms Wang and her husband Mr Bao (who also has been arrested) suffered additional upheaval late 2015, when their teenage son, Bao Zhuoxuan, was captured in a border town in Myanmar. The son had been denied permission to attend school in Australia, and he slipped into Myanmar as part of a plan that was to take him to the United States via Thailand. He was brought back to China and is living under surveillance.

**Xu Zhiyong**

Prominent legal scholar and human rights activist who founded the Open Constitution Initiative, a pro-democracy movement (banned by authorities in 2009) which later spawned the New Citizens' Movement, a loose group of human rights activists advocating democratic and rule-of-law reforms. In 2014, he was sentenced to four years in prison on the charge of "gathering a crowd to disturb public order".

**Yang Maodong**

See: Guo Feixiong.

**Yu Wensheng**

Beijing-based lawyer who in November 2015 filed a complaint at a district court in Beijing against the torture he experienced during a 99-day detention period in 2014-15. He was detained for "picking quarrels and provoking trouble" because of his support for the Hong Kong pro-democracy protests.

**Yuan Xinting (also known as Yuan Chaoyang)**

Former editor and Guangzhou-based HRD involved with the non-violent Citizens' Disobedience Movement. In January 2016 sentenced to three-and-a-half years in prison for "inciting subversion of state power". Known as one of the "Three Gentlemen of Guangzhou".

**Zhou Shifeng**

Prominent human rights lawyer and director of Beijing Fengrui Law Firm. He acted as a lawyer in many sensitive human rights cases, including representing victims in the 2008 contaminated powdered milk scandal. He was arrested during the crackdown in July 2015 and is still being detained on the charge of "subverting state power".