

SUMMARY

A RITUAL DANCE WITH THE DRAGON?

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

SUMMARY

Being a human rights defender in China has become increasingly more difficult in the last three years. Their legitimate, peaceful activities to promote and defend human rights and fundamental freedoms recognised worldwide are curbed and have been criminalized by restrictive laws and practices, all under the guise of national security.

Human rights defenders are stigmatised, intimidated, attacked, prosecuted, arrested and sentenced to long prison terms, often on the basis of vague and fabricated charges in unfair trials. Their family members, friends and lawyers are also exposed to prosecution and intimidation. Amnesty International is extremely concerned about this trend that has worsened under Xi Jinping. The organisation calls on the international community to intensify their support for Chinese human rights defenders and their work in accordance with national and international policy, and to adapt their policies so that human rights defenders are capable of carrying out their work properly and safely.

In the report *A ritual dance with the dragon?*, Amnesty International Netherlands documented the efforts the Dutch government has made since the end of 2013 to support human rights defenders in China.

The findings were rather disappointing. Although the Dutch government takes welcome measures and provides support, under the current circumstances these efforts are not enough. It is striking that only some of the Dutch policies on human rights and human rights defenders are implemented, and have not been modified to fight the increasing repression in China. The Dutch government appears to be clinging to a standard approach. Instruments that may be employed to protect human rights defenders and promote their work do not appear to be intensified, nor modified.

Amnesty has arrived at these conclusions on the basis of information that is publicly accessible, and from conversations held with policy officials in the Netherlands and Brussels. Amnesty is not able to assess what happens behind closed doors in the contacts with Chinese government officials and human rights defenders. The Dutch human rights policy in regards to China is characterised by a lack of public transparency. In its contact with China, the Dutch government's default approach is silent diplomacy when it comes to raising cases of violations against individual human rights defenders, but there is little to no insight into the manner in which these diplomatic efforts lead to the desired result

or not. This is not the case when it comes to efforts on a bilateral level, nor when it comes to Dutch efforts within the EU. This lack of transparency deviates from the Dutch policy to protect human rights defenders by increasing their visibility and to call attention to their legitimate work. Chinese human rights defenders do not even understand what “silent diplomacy” is and what it should yield in terms of results. What would actually make them feel more supported would be more public action, also to see how the Chinese government reacts to such activities.

Amnesty believes the Dutch government should modify its policies in close consultation with Chinese human rights defenders, and be more outspoken and make its points of view more visible in its bilateral and international diplomacy. Amnesty also asks the Dutch government to make more information on achieved results publicly accessible. Amnesty believes that human rights, including the position of (individual) human rights defenders, must be addressed by all representatives of the Dutch government, at all levels. If the government hopes to live up to the self-imposed “moral and legal requirement” to defend human rights, it will have to urgently look at effective possibilities the Chinese government complies with its international obligations as well as instruments for improving support to human rights defenders. The Dutch government can involve civil society in a more intensive and structural manner in developing (and implementing) effective instruments. Without a doubt, human rights defenders play a crucial role in improving the human rights situation in China.



© Private photo

human rights lawyer Wang Yu

CRACKDOWN ON HUMAN RIGHTS DEFENDERS

Since President Xi Jinping came to power in March 2013, the human rights situation in China has deteriorated substantially. This development accelerated in 2015. On 9 July 2015, human rights lawyer Wang Yu went missing after she sent 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 of human rights defenders and organisations were raided. As of 18 March 2016, 18 people had been formally arrested, 15 of whom were charged with “inciting subversion of state power” or “subverting state power”.

In a Chinese Communist Party newspaper, the crackdown was presented as a necessary operation to destroy a “major criminal gang” involving the law firm Wang Yu was working for. The wide scope of the arrests and disappearances and the ongoing restrictions on human rights lawyers and activists point to a much broader approach than that applied in the past to silencing critics of Chinese government policies. From July 2015 onwards, for example, a series of laws were introduced which strongly curtail the freedoms of expression, peaceful association and assembly and legalise the prosecution of critics. In July 2015, the National Security Law was enacted, in December 2015 an Anti-Terrorism Law, in April 2016 the Foreign NGO Management Law, and a Cyber Security Law is currently being drafted.

Dutch policies on China and human rights defenders

“The Netherlands has a rich tradition of defending human rights, both at home and abroad. Doing so is a moral and legal obligation, and 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), p. 3

The foreign policy on China stipulates as its objective that the Netherlands must act through dialogue and cooperation to improve respect for human rights, and by drawing attention to human rights violations, including violations against individual human rights defenders. All members of the Dutch government are expected to address human rights in their contact with their Chinese counterparts.

Human rights are a cornerstone of the foreign policy of the Netherlands. Bilateral efforts to improve human rights are viewed as being valuable. Bilateral actions, such as issuing public statements for example, are one of the means of reinforcing the message that the EU sends. As far as human rights defenders, considered to be a priority, are concerned, capacity-building, innovation, and safety are cited as being key concerns. Visibility is underlined as a way of giving human rights defenders more protection and of giving them and their work more legitimacy.

The EU Guidelines on Human Rights Defenders and the Dutch Action Plan for Human Rights Defenders are the most important policy documents with regard to which the Netherlands has made commitments and which recommend steps in support of human rights defenders. The policy instruments contained therein include developing local support strategies, organizing meetings, providing (visible) recognition, and holding high-level meetings as a way to call attention to the importance of the work of human rights defenders.

What do Chinese human rights defenders want?

Chinese human rights defenders shared with Amnesty that they would highly appreciate regular, long-term and close contact with EU diplomats and high-level foreign officials, both within and outside of China. They wish to be better informed about and consulted on the agendas and outcomes of bilateral dialogues, and dialogues between the EU and China. Many are not familiar with the EU guidelines for the protection of human rights defenders and would like to know more about the practical aspects of what they can expect from them. Human rights defenders indicate that they benefit from public campaigns, including campaigns on individual human rights defenders. They also perceive intensive contact with diplomats and government officials as a form of acknowledgement for their situation and moral support. Public diplomatic actions and statements enhance their legitimacy and help increase the pressure on the Chinese government to respect human rights.

Human rights defenders feel that more transparency is important so that they can see how the Chinese government responds to public statements and actions on the part of foreign governments. They can then use this in their own work to fight violations. A staunch and systematic critical approach to China's human rights record by foreign governments is considered to be of importance. Some human rights defenders stressed that human rights should not just be a "symbolic talk for a cup of tea, after which business as usual in the economic field would be resumed". In their view, human rights and economic diplomacy should be effectively integrated.

Some of the important practical forms of support mentioned included being able to take part in a variety of training courses, trial monitoring by diplomats, maintaining contact with the family and lawyers of those charged, visits to human rights defenders (and their families) under house arrest or in detention, a flexible approach to funding independent NGOs and support for (the families of) human rights defenders, and extending long-term multiple-entry Schengen visas to human rights defenders at risk.

What the Dutch government omitted to do

The Dutch government has taken a number of very welcome efforts to support human rights defenders in China. However, not all of the available policy instruments have been used for this purpose, or used to their fullest potential.

The repression of Chinese human rights defenders therefore demands an urgent intensification of the existing implementation of policy and innovation.

The most striking omissions in the Dutch government's approach up to the present:

- **Contact and communication** – Within the context of this study, human rights defenders reported that they are not (structurally) involved in the preparations, follow-up and evaluation of the bilateral Netherlands-China human rights dialogue, the EU-China human rights dialogue, or the contributions made by foreign governments to, for example, the UPR (Universal Periodic Review) and other relevant UN mechanisms. They had very little contact with EU diplomats and did not understand the Dutch "silent diplomacy" approach. They were not aware of the EU Guidelines for human rights defenders or what kind of practical value these guidelines could offer them, nor of the existence of the Dutch Shelter City Initiative (the requirements of which must be adjusted in order to be suitable for most of them).
- **Transparency about actions and impact** – The government seems to be convinced that confidentiality about the individual cases raised with the Chinese government will be more effective, but offered only one example as "proof" for their conviction in this regard: in 2014, international (silent) diplomatic pressure supposedly helped get Liu Xia, poet and photographer and the wife of the detained Nobel Prize winner Liu Xiaobo, to hospital for necessary medical treatment. This confidential approach makes it impossible to monitor whether or not these types of efforts are indeed effective and it deviates from the Dutch human rights policy to make human rights defenders more visible as a way of protecting them.

Also, the Dutch government did not issue public reports (or did so only minimally) on its efforts at EU and UN level for (more effective) support for human rights defenders in China.

- **Bilateral statements to initiate or strengthen EU-statements** – Human rights defenders would appreciate and feel morally supported by such statements, view it as an acknowledgement of their own work and as a way of being able to increase public pressure on the Chinese government. Amnesty is aware of cases in which public international support has led to releases, for example the releases of the journalist Gao Yu and the five women's rights activists who were arrested on the night before International Women's Day 2016.
- **Support strategy** – Despite the severe crackdown on human rights defenders in the last three years, the local strategy in support of them does not seem to have been modified. An initial minor stocktaking by Amnesty of the current needs and requests from Chinese human rights defenders has already led to ideas on communication, additional and different instruments (to be developed), and activities. A few examples:
 - training on EU guidelines for human rights defenders and human rights policy (instruments);
 - involvement in the (preparation of) bilateral and EU human rights dialogues;
 - training on relevant UN conventions and mechanisms and safe access to the UN;
 - training on secure (digital) communication and safety in general, support for network meetings for the families of prosecuted human rights defenders;
 - development of a local media strategy by embassies designed to inform the Chinese population about positions adopted by foreign governments on human rights and human rights defenders;
 - possible actions for human rights defenders in detention or under house arrest;
 - policy that effectively combines human rights and economic diplomacy.

Human rights defenders have always indicated that they wanted to protect their own safety and that of their families, colleagues and friends. However, they do not see safety (and the lack thereof) as an obstacle preventing foreign governments from developing innovative ideas to support their position and work.



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Human rights lawyer Pu Zhiqiang

BILATERAL STATEMENTS: AN EXAMPLE

Human rights lawyer Pu Zhiqiang was arrested on 6 May 2014. On 22 December 2015, he was charged with “picking quarrels and provoking trouble”, and “inciting ethnic hate”. The charge was formulated primarily on the basis of seven messages on social media in which he expressed criticism on government officials and government policies. Pu Zhiqiang was sentenced to three years in prison, suspended for three years.

The lawyer experienced countless violations of not only his, but also other people’s rights. Supporters demanding

his release were arrested and denied access to lawyers, and foreign journalists and diplomats were manhandled by police outside the court. Foreign diplomats, including a Dutch representative, were not allowed into the courtroom, having been told it was full.

The United States, the United Kingdom and the EU all made statements in which they expressed their concern about the incidents surrounding the trial, and denounced the conviction of Pu Zhiqiang. The Netherlands did not issue a public reaction.

Recommendations

Given the repressive laws and measures to which Chinese human rights defenders are increasingly being subjected and the Netherlands' own human rights policy, it is essential for the Dutch government to make more intensive and innovative efforts in respect of the legitimacy of human rights defenders and the internationally recognized rights they are trying to protect or improve in their own country. With a view to the development of more effective support of human rights defenders in China, Amnesty has the following recommendations for the Dutch government (for a more extensive version of our recommendations, see *A ritual dance with the dragon?*)

At a bilateral level

- Maintain and intensify close and regular contact with Chinese human rights defenders (their families and lawyers) within and outside of China.
- Be transparent about efforts made at the bilateral, EU and UN levels.
- Issue bilateral statements to strengthen statements made by the EU or within the context of the UN.
- During all high-level meetings, raise the position of human rights defenders, including individual cases, with the Chinese government and try to meet with human rights defenders.
- Be specific and persistent about desired changes, if necessary, over a prolonged period of time.
- Be flexible in issuing longer term visas and ensure quick and safe exit support for human rights defenders at risk.
- Develop innovative instruments to support civil society in China, including human rights defenders, in cooperation with civil society in the Netherlands.

As an EU member state, based on an assessment of the overall performance of the EU that relate to supporting Chinese human rights defenders

- Actively work on integrating human rights, the position of human rights defenders and individual cases into the sector-specific dialogues between the EU and China. Promote human rights defenders and the work they do at all levels of EU contact in and with China.
- During high-level visits by the EU, insist that the position of human rights defenders, including individual cases, is on the agenda and promote meetings with human rights defenders during these visits.
- Strengthen the EU task force for human rights defenders.
- Ensure the regular invitation of Chinese human rights defenders to visit relevant EU institutions, and promote capacity-building and training of human rights defenders on relevant EU and other instruments. Language, lobbying, communication and media training programmes also contribute to capacities that human rights defenders would like to develop.
- Make support instruments and contact details of liaison officers responsible for human rights (defenders) more visible and accessible (including on websites of EU missions).

- Underline the importance of the involvement of senior staff of EU missions in human rights work (and the work of human rights defenders).
- Maintain and intensify where possible support to independent human rights projects and organisations, including those designed to protect civil and political rights. In all international contact with China, continue to insist on a review or abolition of the Foreign NGO Management Law.

As a UN member state, based on an assessment of the bilateral efforts for (Chinese) human rights defenders at UN level

- Promote a new UN-wide high-level senior focal point to prevent and address reprisals against individuals and groups (interested in) cooperating with UN institutions, mechanisms and local UN representations.
- Insist that the Chinese government withdraws the draft legislation on Internet Security and amend the national security, anti-terrorism and foreign NGOs management laws in accordance with international obligations and agreements.
- Promote thorough discussions on the universality of human rights during the 10th anniversary of the UN Human Rights Council.

Research methodology

To assess the implementation of the Dutch policies, Amnesty International Netherlands looked at the available public information, held discussions with the officials responsible for China at the Ministry of Foreign Affairs, corresponded with the Dutch Embassy in Beijing, and interviewed EU officials from the European Commission, the European External Action Service, the European Parliament and the Permanent Representations of Germany and the Netherlands. Amnesty consulted Chinese human rights defenders on the support they received from foreign governments (particularly the Netherlands and other EU member states) and their embassies in Beijing and on what they would consider to be effective forms of support.

Chinese police manhandled foreign journalists, diplomats and supporters of human rights lawyer Pu Zhiqiang outside the court on December 14, 2015. Foreign diplomats, amongst whom a Dutch representative, were not allowed into the courtroom, stating it was full.

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Amnesty International
Postbus 1968
1000 BZ Amsterdam

T (020) 626 44 36
E amnesty@amnesty.nl
I www.amnesty.nl