

Androulla Vassiliou
European Commissioner for Education,
Culture, Multilingualism, Youth and Sport

**AMNESTY
INTERNATIONAL**



European Institutions Office

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Dear Mrs Vassiliou,

CALL FOR FREEDOM OF EXPRESSION AT EU-CHINA DIALOGUE ON CULTURE

The first EU-China High Level People to People Dialogue on 18 April provides an excellent opportunity to demonstrate that human rights are genuinely the 'silver thread running through all the European Union's external policies.' As stipulated in the UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expressions, which both the EU and China have ratified, "cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed."

China has long failed to uphold its human rights obligations, including on cultural rights, under its own constitution and international human rights law (see annex). The authorities severely curtailed freedom of expression by harassing, intimidating, arresting, torturing or disappearing hundreds of bloggers, activists and lawyers in 2011 following the online calls for "Jasmine revolution". Journalists reporting on sensitive issues risk imprisonment and torture. Chinese citizens continue to be at risk of severe punishment for publicly expressing an opinion, and for publishing or circulating materials which the authorities deem unwarranted criticism. This affects, *inter alia*, housing activists, human rights defenders, lawyers, and those expressing their views about such issues as the government's handling of the Tiananmen crackdown in 1989 as well as earthquakes in Tibet and Sichuan.

The sentencing on 10 February of veteran activist Zhu Yufu to seven years' imprisonment for writing a poem deemed to "incite subversion of state power" is further evidence of the Chinese Government's continuing repression of anyone it perceives as directly or indirectly criticising its policies. Recent amendments to the Criminal Procedure Law make it legal for police to detain suspects on their own authority for up to six months in "residential surveillance in a designated adobe" without informing their families about their whereabouts if they have been accused of crimes of "endangering state security," often used to silence peaceful government critics.

In the Tibetan Autonomous Region and Xinjiang Uighur Autonomous Region, minorities continue to be denied their rights to practise their distinct culture, language and religion. Since February 2009, 33 ethnic Tibetans have set themselves on fire in protest at religious and cultural repression. The Chinese authorities have not heeded legitimate grievances of Tibetans, Uighurs and other minorities, but have instead resorted to heavy-handed tactics which can only deepen and further fuel resentment.

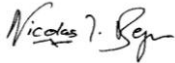
If the High Level People to People dialogue is to lead to "concrete actions that are to determine a positive evolution of our societies, in the full respect of their highly valued diversity", human rights must be at the heart of discussions. In view of the above, we urge you to call on China to:

- Adhere to its obligations under its constitution and international human rights law to respect, promote and protect freedom of expression and cultural rights
- Cease the harassment and intimidation of those who exercise their rights to freedom of expression, assembly and association, end all use of unnecessary or excessive force in facing protestors, investigate all instances of human rights violations, and allow independent monitors into areas of protest

- Immediately and unconditionally release all those detained or imprisoned solely for the peaceful exercise of their rights to freedom of expression, association and assembly
- Respect the rights of ethnic Tibetans, Uighurs and other minorities to enjoy their own culture, to practise their religion, and to use their own language.

We look forward to your response and stand ready to provide any further information you may require.

Yours sincerely,



Dr Nicolas J Beger
Director

Cc:

European Commission Directorate-General Education and Culture

Jan Trzuszczński, Director-General

Vladimír Šucha, Director, Directorate for Culture and media

Denis Crowley, Head of Unit for Policy and interinstitutional coordination

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Georges Cunningham, acting Director for China

Riina Kionka, acting Director for Human Rights and Democracy

Boguslaw Majewski, Chair of the Council Working Group on Asia

Annex – Background information on freedom of expression in China

During the Universal Periodic Review (UPR) of China in March 2009, several countries highlighted widespread restrictions to the freedoms of expression and association in the country. China refused to acknowledge any criticism, responding that the applicable laws provide complete guarantees, and that no individual or press has been penalised for voicing their opinions or views. China acknowledged that journalists, when reporting on certain sensitive stories, may - because of the nature of their profession - encounter obstacles or pressure, but that these obstacles were not from the government, but from other vested interests or concerned parties. The government and the judiciary would deal with such cases of harassment of journalists in accordance with the law. China went on to say that the law prohibits the use of the internet or other mass media for creating rumours or instigating subversion of the government, splitting national territory or instigating hatred amongst ethnic groups and religious discrimination, and that such restrictions were in conformity with the International Covenant on Civil and Political Rights (ICCPR). At the time of adoption of the outcome of the UPR in June 2009, China did not accept any recommendations related to removing restrictions on freedoms of expression and association.

The rights to freedom of expression and association are guaranteed by Article 35 of the Chinese Constitution, which stipulates that “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”

On 8 June 2010, the State Council issued a white paper or policy promotion document on the internet in China. Under guarantees of citizens’ freedom of speech on the internet, the paper affirmed the “public’s right to know, to participate, to be heard and to oversee in accordance with the law.”

Yet in spite of the existing legal framework and the assurances given by the Chinese Government during the UPR review and since then, Chinese citizens continue to be at risk of severe punishment for publicly expressing an opinion, and for publishing or circulating materials which the authorities deem unwarranted criticism. This affects, *inter alia*, housing activists, human rights defenders, lawyers, and those expressing their views about such issues as the government’s handling of the Tiananmen crackdown in 1989 as well as the earthquakes in Tibet (2011) and Sichuan (2008).

In March this year, China’s legislature, the National People’s Congress, passed amendments to the Criminal Procedure Law which significantly expanded police powers including by making it legal for police to detain those suspected of “endangering state security”, “terrorism” or certain types of “bribery” on their own authority in “residential surveillance in a designated adobe” for up to six months.

The Chinese authorities have long used vaguely-worded provisions in the Criminal Law to silence and imprison peaceful critics of the government and other activists. These include the very provisions under “endangering state security”, which include gathering or leaking so-called “state secrets”, “subversion of state power”, “splittism”, or incitement of subversion or “splittism”. In practice, those serving sentences for crimes of “endangering state security,” are granted sentence reduction and parole less often than other prisoners.

a) Jasmine revolution

In 2011, China took repression of human rights to new heights in the worst and widest clampdown observed since the crackdowns in the Xinjiang Uighur Autonomous Region and Tibet Autonomous Region in 2009 and 2008. Hundreds of little-known bloggers and ‘netizens’, as well as better-known human rights defenders and lawyers were arbitrarily detained in the aftermath of popular movements in the Middle East in the spring, many of them for several months. Some of those released described torture and ill-treatment while in custody, as a means to intimidate them into silence. Many others were too afraid to speak out about their treatment in detention.

Calls in China for a 'Jasmine revolution' in February consisted of online proposals to 'stroll' through designated public places on Sunday afternoons. News of the appeal spread quickly via Twitter and blogs, urging protesters to proclaim: "We want food, we want work, we want housing, we want fairness." However, faced with a large state security presence, no such large gatherings occurred.

Amnesty International collected information on over one hundred activists who were detained, subjected to monitoring and intimidation by the security forces, or were subjected to enforced disappearances following the events of February 2011. Many were detained without charge, including prominent human rights lawyers. Others were charged with some of China's most serious national security offences such as "subverting state power" and "illegal assembly," some for as little as being active online and mentioning the 'Jasmine Revolution' on Twitter. This includes many young Chinese who refer to themselves as 'netizens', i.e. active citizens on the internet, rather than 'activists'. Other activists were subjected to police surveillance and controls. Intimidation and arrests aroused fear in many provinces.

This clampdown reveals China's uneasiness at the example of the people's movements in North Africa and the Middle East including their use of the internet. Instead of fearing unrest, the Chinese authorities should encourage greater participation and uphold people's right to express diverse views in tackling the country's problems of social justice, corruption and inequality. The authorities must end the repression of calls for peaceful political reform, and listen to voices demanding redress for human rights abuses.

b) Tiananmen crackdown

More than two decades since the military crackdown on pro-democracy protests in and around Tiananmen Square on 3-4 June 1989, the Chinese authorities still refuse to hold an open and independent enquiry into the killing of many hundreds of peaceful protestors. Instead, they continue to prosecute citizens who criticise the crackdown or commemorate its victims, accusing them of "inciting subversion" and imposing lengthy imprisonment after unfair trials.

In 1989, millions across China gathered peacefully to pursue fundamental freedoms promised in the Chinese constitution, and their demands remain highly relevant today. The 1989 crackdown remains a major official taboo in China. Any public discussion is strictly prohibited. The "Great Firewall" - i.e. the official internet filtering and censorship system - prevents Chinese citizens from accessing any online information related to the crackdown and other sensitive topics, unless they know how to circumvent the Wall through proxy servers.

Numerous individuals have been arrested and sentenced to prison terms for exercising their freedoms of expression and association, as enshrined in domestic law and in the International Covenant on Civil and Political Rights (ICCPR) which China signed in 1998 and repeatedly stated its intention of ratifying. Moreover, public events commemorating the event have been prevented from being held.

Liu Xiaobo, a former participant in the 1989 pro-democracy student movement was sentenced to 11 years' imprisonment on 25 December 2009, for initiating and signing Charter 08, a manifesto calling for political accountability and human rights protection. Articles he wrote about the 4 June 1989 events were cited in his verdict as evidence of "inciting subversion."

Tan Zuoren, a Sichuan-based environmentalist was sentenced to five years in prison on 9 February 2010 for "inciting subversion of state power." He was convicted for criticising the Chinese Communist Party and the government, including their handling of the 1989 crackdown, in articles and diaries posted online and on overseas websites. His trial had also focused on his investigation related to the 2008 Sichuan earthquake and the deaths of children resulting from corruption and poor-quality school buildings. His appeal against the sentence was dismissed by the Sichuan Province Higher People's Court in a session lasting just ten minutes.

c) Tibetan Autonomous Region

The Chinese Government has displayed increasingly repressive behaviour in ethnic minority areas such as Tibet. Since February 2009, 33 ethnic Tibetans have set themselves on fire in protest at religious and cultural repression under Chinese rule. The self-immolations have appeared to be in protest against restrictions on basic freedoms and punitive security measures imposed on a number of monasteries in the area. The Chinese Government has responded to peaceful protests with mass arrests, imprisonment, and excessive use of force, including killings, by the security forces. The authorities disappeared hundreds of monks, who were taken away for "patriotic education" and after a few months, returned to their homes.

The self-immolation of 33 Tibetans since February 2009 has increased the urgency for the Chinese Government to address the underlying causes of protests. Years of restrictions on Tibetans' rights have led to further unrest and acts of desperation. The Chinese Government must put an end to repressive policies that infringe on the fundamental freedoms of ethnic Tibetans. The Chinese authorities have not heeded the demands of Tibetans for human rights improvements, but have instead resorted to heavy-handed tactics that can only deepen and further fuel resentments. They must respect the right of Tibetans to practise their religion and to enjoy their culture.

In a letter to Chinese President Hu Jintao on 3 November 2011, Amnesty International and Human Rights Watch called on the Chinese Government to carry out a comprehensive review of the human rights situation across the Tibetan plateau and to end legal and policy restrictions that breach human rights in the region. Of concern to many Tibetan monks and nuns is the requirement that they undergo compulsory political indoctrination under the guises of "patriotic" and "legal education" within the monasteries. This practice is seen as being particularly intrusive on their rights to free expression and free exercise of their religion.

Chinese security forces in Sichuan province reportedly fired on recent Tibetan protestors, killing at least three persons in three separate incidents and injuring dozens, several of whom were left in critical condition. Chinese authorities have dismissed reports based on eyewitness accounts of deadly clashes between police and Tibetan protestors as "hype". No foreign media or observers have been allowed into the area, making events difficult to confirm. The Chinese Government must ensure that allegations of excessive use of force against peaceful protestors are subject to an independent, impartial and effective investigation. Chinese security forces must exercise restraint and only use firearms when absolutely necessary and as a last resort. International standards dictate that lethal force may only be used as a last resort and strictly to protect life.

Tibetan film-maker **Dhondup Wangchen** is serving a prison sentence for "inciting separatism". He was detained in March 2008 for his involvement in making a documentary film about Tibetan attitudes towards the Beijing Olympics and the Dalai Lama. He was able to telephone a relative in July 2008 and said he had been tortured. After being held without charge for over a year, he was tried in secret, and in December 2009 was sentenced to six years' imprisonment by the Xining City Intermediate People's Court. He appealed, but a higher court appears to have upheld the judgement because in April 2010, he was transferred to Xichuan prison to serve his sentence. Here he was forced to work up to 18 hours a day, although the hours have since been reduced. Amnesty International considers him a prisoner of conscience.

d) Xinjiang Uighur Autonomous Region

Since the security crackdown in the Xinjiang Uighur Autonomous Region (XUAR) beginning in July 2009, when initially peaceful protests turned violent, Amnesty International has continued to receive reports of arbitrary detentions and unfair trials. Employment discrimination, repression of religious freedoms and cultural rights, all identified as underlying grievances of the protestors, show no sign of improvement. The authorities continue to pursue policies which severely violate Uighurs' civil and political rights. They routinely associate unofficial Uighur cultural activities, religious practice and

expressions of dissent with “terrorism, separatism and religious extremism.” Uighurs continue to be arbitrarily detained for peacefully exercising their right to freedom of expression, association and religion, including their right to enjoy and develop their culture. Particularly severe punishments are imposed on those who communicate information considered sensitive about the conditions of Uighurs in the XUAR to contacts outside China. Individuals do not enjoy fair and open trials, and suffer torture and ill-treatment in detention.

The policy of “bilingual education”, which has in practice pushed Mandarin as the dominant language of instruction at the expense of the Uighur language, has fuelled resentment on the part of Uighurs from all walks of life. Many Uighurs perceive the loss of their language as one of the greatest threats to Uighur culture and identity. Many tell of Uighur relatives and friends, particularly teachers, who have lost their jobs as a result of the policy, on the grounds that they do not have the requisite level of Mandarin.

Suppression of Uighurs’ right to practise their religion is among the harshest in China. According to regulations issued in December 2009, no organisation or individual may “lure or force minors to participate in religious activities”, although what constitutes such activities is not clearly defined. Parents risk a fine or detention if they provide religious education to their children or allow them to attend mosque. Uighur students have reported that they risk being expelled from school if they are caught going to a mosque. Civil servants in the XUAR, including teachers, policemen and other government employees, are prohibited from practising their religion, or otherwise risk losing their employment and face criminal prosecution.

In a region in which ethnic groups constitute around 60% of the population, of which Uighurs are the large majority, the government must respect and protect the rights of Uighurs and other ethnic groups to enjoy their own culture, to practice their religion, and to use their own language, in accordance with international human rights law and standards.

Author **Nurmemet Yasin** is currently serving a ten-year prison sentence for writing a short story, “wild pigeon”, which the Chinese authorities interpreted as a call for independence of the XUAR. Nurmemet Yasin was charged with either “inciting separatism” or “inciting racial hatred and racial discrimination”, depending on the source. Nurmemet Yasin was detained in November 2004 after “wild pigeon” was published. He was ill-treated during interrogation, convicted following a closed trial, and is now believed to be serving his sentence in No. 1 Prison in the regional capital, Urumqi (Chinese: Wulumuqi). He is believed to be in poor health.