



CHINA

FREEDOM OF RELIGION OR BELIEF, RULE OF LAW AND CIVIL SOCIETY

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EXECUTIVE SUMMARY

In February 2015 CSW reported that under Xi Jinping, space for civil society was shrinking. For many observers, events over the past six months have not only confirmed this view, but have also demonstrated the force with which the government is willing to strike down all perceived opposition.

The state's concentrated efforts to prevent any activity or expression not in line with governmental objectives have recently expanded. These efforts now include the arrest or harassment of academics, online commentators and entrepreneurs, as well as lawyers, activists, journalists and members of religious communities. A wave of mass arrests and disappearances of over 280¹ lawyers, activists, associates and family members began on 10 July 2015, and has widely been seen as the largest concerted attack on the legal rights community for decades. Rights lawyers have suffered years of harassment, imprisonment and even torture for their work on 'sensitive' cases; yet the spate of interrogations, detentions and disappearances, covering 24 provinces and municipalities, has been deeply shocking because of its scope and speed. Alongside these actions against individual civil society actors, the government has introduced new and draft legislation on foreign non-governmental organisations and national security, among others. This legislation has been met with heavy criticism both from domestic human rights defenders and the international community, for its potential to further limit fundamental rights and freedoms.

It is important to understand this context when looking at restrictions on the right to freedom of religion or belief, and general conditions for religion or belief communities in China. This briefing gives considerable coverage to events in Zhejiang: the province has not only been the site of a large-scale campaign to remove crosses from churches, but has also been the target of various warnings and notices from the authorities, implementing and re-emphasising pre-existing restrictions on religious

education and Party membership. The briefing also looks at the increase in the use of so-called cult legislation, and the situation for religious communities in Xinjiang and Tibet, and ends with recommendations to the Chinese government and to the international community.

MASS DETENTION OF RIGHTS LAWYERS, AND RULE OF LAW

As the number of lawyers taking on 'sensitive' cases of human rights abuse has grown, reaching between 200 and 300 by some estimates,² those involved have also become more connected, in part thanks to online communications tools. This new level of interconnectivity, as well as the nature of the cases they take up, means the legal rights defence community is seen as a threat to the dominance of the Communist Party of China (CPC) - a threat Xi Jinping's government is not willing to tolerate.

The wave of arrests and disappearances beginning on 10 July 2015 has been interpreted both as a sign of the Party's fear of this threat, and as an attempt to demonstrate its unchecked power and strength. The scope of this wave, and the rapid and organised way it has been carried out, is an unprecedented attack on the legal rights defence community. In addition to being taken from their homes, questioned, detained, and disappeared, rights lawyers have been defamed in the state-run media: branded members of a 'criminal gang', and accused of disturbing

2 China File, 'China's "Rule by Law" Takes an Ugly Turn', 14 July 2015 www.chinafile.com/conversation/chinas-rule-law-takes-ugly-turn

1 Information correct at the time of writing.

public order, violating the law, and having ulterior motives.

Many of the lawyers detained and interrogated have worked on cases defending religious communities whose freedom of religion or belief has been restricted by the authorities. For example, Li Heping, believed to have been forcibly disappeared on 10 July, has defended Christians and Falun Gong practitioners. Zhang Kai, who was detained and released but at the time of writing has disappeared again, defended Protestant pastor Huang Yizi, who protested the demolition of churches and the forced removal of crosses in Zhejiang Province (see also below). Chang Boyang, who founded the first pro-bono legal aid organisation in his home province of Henan, represented Zhang Cuijian, who was detained after petitioning for the release of her brother, Pastor Zhang Shaojie.³

Harassment of lawyers who take on sensitive cases is nothing new. Prominent Christian lawyer Gao Zhisheng is best known for his work defending Christians, Falun Gong adherents, and other vulnerable social groups; he had his law firm closed down and his licence revoked before being illegally detained, disappeared, tortured, and finally imprisoned for three years for 'inciting to subvert state power'. Wang Qiaoling, the wife of disappeared lawyer Li Heping, says her husband has been regularly harassed, kidnapped, beaten and threatened for ten years because of his "risky profession".⁴ Some lawyers have even been harassed in the courtroom, with female lawyers being sexually harassed when passing through court security. Beijing lawyer Wang Quanzhang reported being dragged out of the courtroom by bailiffs on the orders of the presiding judge. Wang was violently beaten by the bailiffs for ten minutes.⁵

The detention of so many lawyers is worrying not only in terms of the impact on the individuals and their families, but also for those who require their assistance. Rights defence lawyers in China not only defend and represent fellow human rights defenders; they take up the case of ordinary people, most often where a citizen has petitioned the authorities for justice and faces spurious charges as a consequence. As one letter of protest recently asked of the perpetrators, "When you yourselves need a lawyer, where do you think you'll find one in China who insists on

serving the law and the law only? No one would dare say they will never need a lawyer."⁶

NEW AND DRAFT LEGISLATION

In addition to actions against individuals, the government has introduced legislation and draft legislation which threaten to further restrict certain human rights. On 7 July 2015 the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, expressed concern about the human rights implications of the national security law adopted on 1 July. The High Commissioner said the law's "extraordinarily broad scope" and vague terminology left "the door wide open to further restrictions of the rights and freedoms of Chinese citizens, and to even tighter control of civil society" by the government.⁷

Article 27 of the National Security Law concerns religion and belief. The Article reaffirms the state's protection of citizens' freedom of religious belief and 'normal religious activities': this is generally interpreted as referring to activities conducted by recognised religions operating under the supervision of the state-sanctioned religious associations. Activities outside these associations may or may not be tolerated: they are not protected by law. In addition, according to Article 27, the state opposes foreign interference in domestic religious affairs, and 'shuts down cult organisations in accordance with law' (see below). The inclusion of religious activities in a law concerning national security gives weight to existing policies and measures curtailing freedom of religion or belief, by making these religious activities a national security issue.

Additionally, a draft law on foreign non-governmental organisations (NGOs) operating in China has been heavily criticised by domestic and international NGOs, and has drawn concern from governments and regional institutions. The president of the European Union Chamber of Commerce predicted that the conditions created by the law would mean that 'foreign NGOs will find it ever less appealing to stay in China'.⁸ Under the proposed law, the overall responsibility for the registration and management of foreign NGOs would pass from the Ministry of Civil Affairs to the Ministry of Public Security, a move many observers see as symbolic of the way the government views foreign organisations as potential security threats.

3 Christian Solidarity Worldwide, 'Pastor Zhang Shaojie sentenced to 12 years', 1 September 2014 www.csw.org.uk/2014/09/01/news/2218/article.htm

4 Chinese Human Rights Defenders, 'Prisoner of Conscience – Li Heping', 11 August 2015 <http://chrnet.com/2015/08/prisoner-of-conscience-li-heping/>

5 China Change, 'Black Ten Minutes: Chinese Lawyer Recounts Being Beating in a Courthouse in Shandong', 30 June 2015 <http://chinachange.org/2015/06/30/black-ten-minutes-chinese-lawyer-recounts-being-beating-in-a-courthouse-in-shandong/>

6 China Change, 'A Letter of Protest Against China's Arrest of Rights Lawyers, to be read at a rally in front of the Chinese Embassy in Washington, D.C., and then formally delivered', 13 August 2015 <http://chinachange.org/2015/08/12/a-letter-of-protest-against-chinas-arrest-of-rights-lawyers-to-be-read-at-a-rally-in-front-of-the-chinese-embassy-in-washington-d-c-and-then-formally-delivered/>

7 OHCHR, 'UN human rights chief says China's new security law is too broad, too vague', 7 July 2015 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16210&LangID=E#sthash.92J1K4iR.dpuf

8 European Union Chamber of Commerce in China, 'European Chamber submitted comments on draft foreign NGO management law', 4 June 2015 www.europeanchamber.com.cn/en/national-news/2282/european_chamber_submitted_comments_on_draft_foreign_ngo_management_law

The draft law does not appear to consider religious organisations as NGOs: religion is not included in the list of fields for NGO activities. Article 5 prohibits foreign NGOs from 'illegally' engaging in or funding religious activities, although it is not clear whether the act of engaging in religious activities is in itself illegal for foreign NGOs, or whether only some forms of engagement are illegal.

The law does not set out, for example, whether an overseas church would be allowed to fund a social charity operating in China. The law appears to stipulate that only registered foreign organisations can fund domestic organisations, but at the same time, the scope of the law does not appear to include religious groups. The lack of clarity around the space for faith-based foreign organisations in China, and the listing of illegal religious activities alongside serious crimes such as subversion, separatism and gathering state secrets (Article 59),⁹ are concerning for overseas religious organisations partnering with charities and other NGOs in China.

ZHEJIANG CHURCH DEMOLITIONS AND CROSS REMOVALS

Zhejiang Province, just south of Shanghai, has become both the site of the most extensive campaign to remove Christian crosses in China, and the scene of extraordinary resistance from both state-sanctioned and independent churches. Since the beginning of 2014 the authorities in Zhejiang have removed hundreds of crosses from churches in the province, in some cases destroying part or all of the church at the same time. The authorities maintain that the cross removals and church demolitions have nothing to do with religion, and point to the 'Three Rectifications and One Demolition' campaign launched by the provincial government in 2013 to demolish 'illegal structures'. However, in the majority of cases it is the church's cross which has been removed; and where whole buildings have been demolished, the cross has usually been removed first, leading Christians in the province to believe the real aim of the campaign is to rid the province of Christian crosses.

Zhejiang Province is famous for its rapid economic development, and has seen comparatively little interference in church affairs by the authorities: two factors which have contributed to a relatively sizeable and wealthy Christian population. The cross removals in Zhejiang therefore took the Christian community by surprise. Members of churches which have existed in their villages for decades, or sometimes hundreds of years, have asked why the cross on top of the building is suddenly considered unsafe, unsightly or illegal.¹⁰ The authorities have removed crosses from both Catholic and Protestant churches, and from state-sanctioned churches belonging to the Three Self Patriotic Movement (TSPM) as well as unregistered churches, sometimes known as 'house churches'.

Christians in the province have responded in various ways. Many churches originally tried to enter into dialogue with the authorities. Some churches which were notified of plans to remove a cross were able to negotiate with the authorities to delay the removal of the cross, while other Christians attempted to prevent demolitions by forming a human chain around the building. However, the authorities would often return during the night to remove the cross: church members who resisted were sometimes forcibly removed.

Most Christians opposing the removals who were summoned for questioning were released soon afterwards; however, a number of church leaders have been tried and sentenced. In March 2015 Pastor Huang Yizi of Fengwo Church was convicted of 'gathering a crowd to disturb public order' and sentenced to one year in prison. Pastor Huang was taken into custody in August 2014 for protesting the authorities' use of violence against Christians opposing church demolitions - he had spoken out about the demolitions on his blog. He was released on 1 August 2015. Also in August 2015, the authorities detained married pastors Bao Guohua and Xing Wenxiang of Holy Love Christian Church in Jinhua. Chinese state media accused them of embezzling church funds and conducting an illegal business, and five other church employees were accused of 'instigating others to disrupt the social order'. However, their lawyer believes they are being punished because their church refused an order in June to remove their cross.

Increasingly, church leaders and lay Christians who have tried in vain to negotiate quietly with officials, have turned to more public forms of peaceful protest. On 24 July 2015 Catholic Bishop Vincent Zhu Weifang of Wenzhou, having issued a pastoral letter in July 2014 calling the policy of demolition of churches "wrong and unjust", led a protest outside government offices in Wenzhou. Three days later Bishop Zhu and the Wenzhou clergy circulated a public letter alleging that the authorities' campaign had become "a naked attempt to rip down the crosses atop every single church". The letter protests that while the clergy have "communicated rationally", those behind the campaign have become more aggressive. In addition, the letter says, the church's peaceful petitions have been treated as illegal.¹¹

The Zhejiang branch of the state-sanctioned China Christian Council has also issued an open letter, which alleges that over 1,200 crosses have been removed during the campaign, including crosses belonging to "fully permitted churches totally compliant with the regulations". The letter boldly states that the campaign "goes completely against the ideology and spirit of Party and state policy regarding 'governing the country in

⁹ For English translation, see <http://chinalawtranslate.com/2015nsl/?lang=en>

¹⁰ For further background information, see www.csw.org.uk/zhejiangtimeline

¹¹ China Change, 'Christian Sentiment in Zhejiang Against Cross Removal: Three Statements', 7 August 2015 <http://chinachange.org/tag/zhu-weifang/>

accordance with law” and is “a flagrant violation of the policy of religious freedom that the Party and government have been implementing”.¹²

In summer 2015 Christians began to construct their own crosses from wood, which they painted red and displayed inside their churches and in their homes, and some have posted pictures of themselves with their crosses on social media. Christian lawyers have come together in response to the demolitions and cross removals. In July 2015 rights defence lawyer Zhang Kai¹³ announced the formation of Lawyers for Protection of the Cross, which aims to “fight for religious freedom according to China’s existing laws”.¹⁴

Religious leaders in other parts of mainland China have spoken out against the cross removals. Following the release of Bishop Zhu’s letter, Bishop Yang Xiangtai of Handan in Hebei Province publicly criticised the cross removal campaign for infringing on the right to freedom of religion or belief, and called on all Catholics in his diocese to pray and fast for the Church in Zhejiang. Bishop Vincent Zhan Silu of Mindong, Fujian Province, a bishop from the ‘open church’ who was ordained without papal mandate, criticised the campaign in his personal blog.¹⁵

In Hong Kong, both the Catholic Cardinal John Tong Hon and the Anglican Archbishop Paul Kwong have appealed to Beijing to halt the cross removal campaign. In a statement issued on 12 August, Cardinal John Tong Hon said¹⁶ he had “urgently appealed to the central government to contact the Zhejiang provincial government and investigate the real situation and stop all illegal cross removals”.¹⁷ Archbishop Paul Kwong has also written to

the government, and has said publicly that the forceful removal of crosses is damaging religious freedom.¹⁸

The public opposition of high ranking clergy, and the open condemnation from leaders within the state-sanctioned religious associations, suggests that the government may have underestimated the reaction the campaign would provoke from Christians in Zhejiang and elsewhere. It is still unclear whether the campaign was orchestrated by the central or provincial authorities: some believe the demolitions and cross removals are the work of Party Secretary Xia Baolong and the provincial authorities, in response to the growth and wealth of churches in Zhejiang. Others believe this is part of a centrally-orchestrated, top-down plan to be rolled out across the country, which aims to bring in line those registered churches which have become ‘too independent’, and pressure independent churches to register. It seems impossible to believe that such a widespread campaign, which has drawn so much public opposition, could occur without at least the approval of Beijing. In either case, the campaign seems to be another sign that under President Xi Jinping, the threshold of tolerance for civil society activities, including religious expression, is rapidly falling.

PARTY MEMBERSHIP AND RELIGION

In February 2015 Party authorities in Zhejiang warned that applicants to the CPC would be rejected if they were found to have “embraced religious beliefs”, while existing Party members would need to submit “a written promise rejecting religion beliefs”. The CPC’s rules already state that members may not hold religious beliefs or take part in religious activities. In this sense, the February notice was not introducing a new policy; it was simply restating the rules. In an article in the *Global Times*, a daily paper under the official Party newspaper, the *People’s Daily*, Professor Li Yunlong of the CPC Central Committee’s Party School reiterated that, “Party members are banned from joining religions. Believing in communism and atheism is a basic requirement to become a Party member,” adding that, “This could be a part of efforts against the penetration of Western hostile forces.”¹⁹

The notice restating the Party rules appears to be connected firstly to the cross removal campaign in Zhejiang Province (see above), but also to wider concerns that religious beliefs may have ‘infiltrated’ the Party. Three months after the warning, the newsletter of the party’s Central Commission for Discipline Inspection (CCDI) published an opinion piece²⁰ alleging that the fact that a small number of Party members had “turned to religion” was “attracting serious concern, to the extent that it now falls within the purview of disciplinary work”.

12 *ibid.*

13 Lawyer Zhang Kai has since disappeared and at the time of writing is believed to be in some form of extra-judicial detention.

14 China Aid, ‘Lawyers band together against forced cross demolitions despite recent crackdown targeting human rights defenders’, 14 July 2015 www.chinaaid.org/2015/07/lawyers-band-together-against-forced.html

15 UCANews, ‘Chinese bishop, clergy speak out against cross-removal campaign’, 29 July 2015 www.ucanews.com/news/chinese-bishop-clergy-speak-out-against-cross-removal-campaign/73999

16 Cardinal John Tong Hon’s message to Beijing came just over a week after the ordination of the first Catholic bishop in three years. The presiding bishop and concelebrants were all Vatican-approved and recognised by the government.

17 Vatican Radio, ‘Hong Kong cardinal appeals to Beijing over church crosses’, 13 August 2015 http://en.radiovaticana.va/news/2015/08/13/hong_kong_cardinal_appeals_to_beijing_over_church_crosses/1164893

18 UCANews, ‘Anglican archbishop says China cross removals must stop’, 10 August 2015 www.ucanews.com/news/anglican-archbishop-says-china-cross-removals-must-stop/74052

19 *Global Times*, ‘Zhejiang CPC bans religious beliefs among applicants’, 1 February 2015 www.globaltimes.cn/content/905305.shtml

20 UCANews, ‘Anglican archbishop says China cross removals must stop’, 10 August 2015 www.ucanews.com/news/anglican-archbishop-says-china-cross-removals-must-stop/74052

The report restated that Communist Party members cannot be religious believers. In an article by Radio Free Asia (RFA), two Protestant pastors said that they had seen a number of Chinese officials and Party members convert to Christianity, in part because of a loss of faith in Communist ideology.²¹

Interviews with Protestant pastors and lay Christians, carried out by CSW, support the assertion that converts to Christianity can be found within the CPC. In recent years Christians who are also Party members have sometimes managed to keep their faith private until they retire from an official position. This suggests that the CPC has either turned a blind eye to personal beliefs which are not made public and do not interfere with other aspects of Party membership, or else the Party has been unaware of this trend until now - although this seems less likely. Whichever is true, the piece by the CCDI seems to suggest that the CPC now recognises that there is a trend of Party members 'turning to religion', and considers this a breach of internal discipline.

The second challenge to Party rules on religion comes from new applicants. The February notice by Zhejiang officials specifically refers to applicants to the CPC, and says that the pre-examination recruitment system should be improved. According to one Chinese Protestant in Beijing, "Inside China, young, middle class Chinese Christians still face a choice when it comes to joining the Party. The Chinese Communist Party is an atheist organisation, and its members are not permitted to follow any religion. Young people want to join the party not for ideological reasons, but to advance their career and gain opportunities. This is a difficult choice for young Christians." Another source inside the country agreed: "These days, the Party lacks strong values. Nevertheless, to join the Party, one must officially adhere to atheism. Young Christians therefore often leave the church if they join the Party."

The notice can be read as a reaction to the growing prevalence of religious belief within the Communist Party. The growth of Christianity has been most notable among urban middle-class professionals: since the Communist Party draws many of its new recruits from the same pool, it is not altogether surprising that some new recruits have already 'embraced religion'. Eradicating all trace of religious belief from Party ranks is therefore likely to be a difficult and painful process, one which will inevitably throw into sharp relief the fact that some of the most privileged people in China are denied the right to freedom of religion or belief.

CHILDREN AND YOUNG PEOPLE

While there may be a crackdown on religious belief among potential young recruits to the CPC, there are also indications that the government is targeting the 'infiltration' of religious beliefs among young people in general. In December 2014, again in Zhejiang Province, the Wenzhou education bureau issued a directive

banning primary schools and kindergartens from holding Christmas-related events. The directive also directed class leaders to "keep an eye on the attitude of classmates" and warned that "spot checks will be carried out by the education bureau and the schools district authorities". Although this was the only Christmas ban directive leaked on social media, one high school employee told RFA that the ban was nationwide.²²

The Chinese government firmly separates religion from public education. With the exception of colleges and research institutes responsible for the study of religion, public education does not include any teaching about religion.²³ A decree setting out Regulations on Religious Affairs (2005) allows for the establishment of an institute for religious education (Article 8), with the permission of the local religious affairs department, but there appears to be no provision for religious education within a mainstream school or other educational institute.

In 2014-2015, China Aid reported the case of two kindergartens run by Liangren House Church in Guangdong Province.²⁴ One kindergarten was shut down for failing to pass an inspection, while the other was accused of using religious publications and reading materials. The authorities alleged that the kindergarten was using a religious textbook to promote Christianity among minors. The church maintained that the book, although published by the church, did not constitute religious material and contained no mention of God or Jesus. In April 2015 the Luinan District Court sentenced three church members involved with the kindergartens to two years in prison and a fine of 5,000 yuan (approximately £500) for 'illegal business operations'; the printer who produced the textbook was sentenced to one year and nine months in prison, with a fine of 4,000 yuan (approximately £400).²⁵

Restrictions on the religious freedom and education of minors have long been most keenly felt in the Xinjiang Uyghur Autonomous region (XUAR) and the Tibet Autonomous Region (TAR), and among children of banned religious groups such as Falun Gong. In its 2013 periodic report on China, the UN Committee on the Rights of the Child expressed concern that "mainland China continues to introduce a series of regulations and policies that impose severe restrictions on cultural and religious

22 RFA, 'China Bans 'Un-Chinese' Christmas Celebrations in Schools, Colleges', 25 December 2014 www.rfa.org/english/news/china/christmas-12252014124013.html

23 People's Daily Online, 'China's Policy on Religion', 19 August 2015 <http://en.people.cn/92824/92845/92875/6442436.html>

24 China Aid, 'Authorities shut down 2 church-run kindergartens, approve arrests of 4 Christians', 18 August 2014 www.chinaaid.org/2014/08/authorities-shut-down-2-church-run.html

25 China Aid, 'Hualin Kindergarten: 3 Christians sentenced to 2 years; other defendant sentenced to 1 year, 9 months', 24 April 2015 www.chinaaid.org/2015/04/hualin-kindergarten3-christians.html

21 RFA, 'Warning Over Religious Believers in Chinese Communist Party Ranks', 25 May 2015 www.rfa.org/english/news/china/china-religion-05252015112309.html

freedoms of various groups of children, including Tibetan and Uighur children and children of Falun Gong practitioners, among others.”²⁶ Restrictions include limitations on Tibetan children’s ability and freedom to study and practise their religion; this is a result partly of the intrusive controls placed on Tibetan monasteries. Furthermore, a stakeholder report to the Committee submitted by the World Uyghur Congress stated that “children under the age of 18 are not allowed to enter mosques for prayer and are not provided the opportunity to study Islam in school.” Article 14 of the XUAR law on ‘Implementing Measures for the Law on the Protection of Minors’ prohibits parents and guardians from permitting minors to engage in religious activities.

RELIGIOUS PRACTICE AND STATE REPRESSION IN XINJIANG AND TIBET

Human rights lawyers, religious leaders and other commentators consistently state that the autonomous regions of Xinjiang and Tibet are two of the most severely troubled areas in China for violations of the right to freedom of religion or belief. For Uyghur Muslims in the XUAR and Tibetan Buddhists in the TAR and neighbouring provinces, religious belief is closely connected to ethnic and cultural identity. The Chinese authorities often view expressions of cultural identity as potentially separatist actions. As a result, freedom of religion or belief in Xinjiang and Tibet is subject to restrictions justified by ‘security concerns’ aimed at suppressing inter-ethnic tensions and challenges to Beijing’s rule.

In 2015, the authorities in Xinjiang once again warned civil servants not to fast during Ramadan. At least one local education bureau also issued a directive telling students not to fast or to enter a mosque, and restaurants were told to remain open during the fasting period. Similar restrictions were reported in 2014, and in some cases Muslims were pressured by colleagues to eat during the fasting period.

Visitors to Xinjiang say the region is becoming increasingly militarised and mosques are subject to intensive surveillance. There have been further reports of restrictions on dress and appearance with religious connections, such as head coverings for women and long beards for men, including reports that women have been barred from public libraries for wearing headscarves. It is difficult to verify these reports, and government spokespersons consistently report that Uyghur Muslims have the right to freedom of religion or belief. Nevertheless, the official approach to religion continues to emphasise the need for religions to be aligned with national and political goals

26 Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September - 4 October 2013)

and free from foreign influence: in May 2015, President Xi Jinping urged religious organisations to “adhere to the principle of independence” and emphasised the need “to incorporate religions in socialist society”.²⁷

The government’s usual response to fears of religion-based separatism, has been to impose further restrictions. However, there are some signs that another strategy may be being employed. In May 2015 UCANews reported that the state media had announced plans to enlarge Xinjiang’s only Muslim training centre, apparently in an attempt to “seize firmer control of Islamic teachers and their interpretation of the Qur’an”. The article observes that the government has used a similar strategy in Tibet, introducing advanced education cases to “cultivate and build a reserve of Tibetan Buddhists who are ‘politically reliable, educated and venerable’”.²⁸ In this way, the Chinese government is restricting religious education by independent or unregistered religious organisations, including the Christian kindergartens mentioned above and independent Muslim scholars; and at the same time using education to cultivate religious leaders loyal to the government.

IMPLEMENTATION OF ‘ANTI-CULT’ REGULATIONS AND PROPOSED REVISIONS

The Chinese constitution protects ‘normal’ religious activities (Article 36). In practice this refers to activities under the five officially recognised religious traditions (Buddhism, Taoism, Islam, Protestantism and Catholicism) overseen by seven state-sanctioned associations. Not all religious communities which exist outside the state-sanctioned associations are labelled cults; many independent religious communities operate inside a legal grey area. However, organisations officially labelled cults are deemed illegal and their activities are banned.

The classification of religious organisations as cults is highly problematic. Article 300 of the Criminal Law defines cults as ‘illegal organizations established in the name of religion, qigong [a form of meditative exercise] or other pretexts [which] harm society’. However, the description is subjective, and law enforcement officers often have little or no additional guidance on identifying a ‘cult’. In 2013 CSW learned that some local officials requested help from unregistered Protestant churches in distinguishing between so-called ‘cults’ and mainstream or ‘orthodox’ Christian groups. The fact that officials are enlisting the help of churches suggests that they are identifying possible cults based on their teachings and beliefs, rather than the presence of criminal activities.

This brings to light two key problems. Firstly, religion or belief groups are being classified as cults on the basis of the subjective opinion of outside observers. Any unregistered religious organisation could potentially find itself banned based, for example, on the whim of a

27 *Guardian*, ‘President Xi Jinping warns against foreign influence on religions in China’, 21 May 2015 www.theguardian.com/world/2015/may/21/president-xi-jinping-warns-against-foreign-influence-on-religions-in-china

28 UCANews, ‘President Xi urges China’s religions to shun foreign influences’, 21 May 2015 www.ucanews.com/news/president-xi-urges-chinas-religions-to-shun-foreign-influences/73636

biased official, the assessment of an 'orthodox' religious community, or the decision of a government employee under pressure to stamp out cult activity in his district. Secondly, members of alleged cults can become criminals simply as a result of their association with the banned organisation, without having committed any criminal act. In effect, this is guilt by association, and the criminalisation of belief.

Public pressure on the authorities to identify and eliminate dangerous cults increased following the murder of a woman in Shandong Province by members of Eastern Lightning (also known as the Church of Almighty God) in May 2014.²⁹ Later that year, CSW received reports of an increase in anti-cult activities by the authorities in various parts of the country, including investigations into unregistered churches which have been operating without interference for several years. In June 2014, China Aid also reported that 22 church members had been "rounded up by 30 Heze municipal police for practicing hymns and playing musical instruments". Most of the group were released, but two members, Zhao Weiliang and Cheng Hongpeng, were later convicted of 'using a cult to undermine law enforcement' and sentenced to four and three years in prison respectively, in June 2015. They were accused of belonging to the Total Scope Church, also known as the Born Again Movement, a group labelled as a major cult organisation. Zhao Weiliang's wife, Liu Cuiping, stated neither her husband nor any of the other church members were members of the Total Scope Church or knew anything about it prior to this incident. Zhao's lawyer, Chen Jiangang, said "Politically, this is [a case] of religious persecution and an attack on religious belief."³⁰

Total Scope Church is one of 20 organisations identified as a cult by the China Anti-Cult Association (CACA). The most well-known and probably the largest group on the list is Falun Gong, a spiritual movement which has been banned since 1999. It is widely reported that a specific task force, the 610 Office, was established specifically to eradicate Falun Gong: adherents outside China continue to report the arrest, imprisonment, torture and death in custody of Falun Gong practitioners across the country.

The CACA's list also includes groups who claim to be Christian or who follow some parts of the Christian teaching, including the Total Scope Church, Eastern Lightning and the Shouters. Furthermore, the non-profit humanitarian organisation Dui Hua says that it has discovered official documents in which local public security officers refer to groups not on the list. Worryingly, Dui Hua also claims that their research indicates that "violence is only rarely involved" in cases involving organisations targeted as part of the anti-cult campaigns;³¹ that is, individuals arrested

as a part of a crackdown on cults have in most cases not committed any act of violence. They are targeted because of their association with a group whose leaders or other members have committed or are suspected of committing violent crimes, even if they were not involved. In the case of some groups, there is no suspicion of violence at all, but the group is targeted because it is deemed to be a political. In addition, in July 2015 members of the National People's Congress Standing Committee put forward a set of proposed amendments to China's Criminal Law, which included changes to Article 300. The proposed changes would lengthen the maximum penalty for cult activities with 'especially grave' factors from 15 years in prison to life imprisonment.

According to Dui Hua, factors that can be considered 'especially grave' include 'organizing groups or recruiting members across provincial boundaries, colluding with overseas organizations or persons, and printing or distributing very large quantities of propaganda'.³² Taken together, the draft amendments and existing patterns of implementation mean that religious adherents allegedly affiliated with banned cults could be charged with non-violent 'cult' activities, and then face life imprisonment, without having committed any other criminal offence.

CONCLUSION: FREEDOM OF RELIGION OR BELIEF AND THE RULE OF LAW

This briefing looks at a range of phenomena affecting Chinese citizens' right to freedom of religion or belief, from the detention of hundreds of rights lawyers to new legislation on NGOs, cults and national security; from the removal of crosses in Zhejiang to restrictions on religious freedom in Tibet and Xinjiang. Diverse as these topics are, they can all be examined in the context of the Xi government's current focus on rule of law.

The fourth plenum of the CPC's 18th Central Committee, in October 2014, was the first session at this level to take rule of law as its main topic. This is closely linked to the high-profile anti-corruption drive which has seen a number of senior officials removed from their posts, and in some cases charged. However, the banner of rule of law and legal reform extends far beyond the targeting of corrupt officials. Increased emphasis on rule of law should in theory mean increased protection of the right to freedom of religion or belief, as guaranteed in the constitution, and an improvement in the environment in which lawyers work to defend this right. The mass detention and disappearance of lawyers and other human rights defenders suggests otherwise: one of the state-run media's main accusations against these 'criminals' is that

29 *Telegraph*, 'Inside China's most radical cult', 2 February 2015 www.telegraph.co.uk/news/worldnews/asia/china/11046155/Inside-Chinas-most-radical-cult.html

30 China Aid, 'Two Christians in Shandong's Cao County Sentenced to four, three years respectively for "cult" activities', 15 June 2015 www.chinaaid.org/2015/06/two-christians-in-shandong-s-cao-county.html

31 Dui Hua, 'Identifying Cult Organizations in China', 10 July 2014 www.duihuaresearch.org/2014/07/identifying-cult-organizations-in-china.html

32 Dui Hua, 'China Mulls Harsher Penalties for Protesters, "Cults"; Fewer Capital Crimes', 6 August 2015 www.duihuahrjournal.org/2015/08/china-mulls-harsher-penalties-for.html

they have 'disturbed social order' by posting information online, and by mobilising 'troublemakers' to petition outside courts. In effect, the CPC is saying that rule of law is the Party's responsibility: citizens and lawyers who take things into their own hands by petitioning, protesting or otherwise challenging the Party's handling of the case, will find themselves on the wrong side of the law.

Legislation affecting religious activities also seems to draw a sharp line between independent religious expressions and state-approved activities; the latter are legal and tolerated, the former are illegal and unwelcome. The space for independent religious activities and sentiment, even within the state-sanctioned churches, is shrinking in line with the space for civil society. Rule of law is being used to distinguish that which the Party allows from that which it wishes to eradicate; the same tool is being used to accomplish this goal. The legislation the Party claims is part of building rule of law – such as labelling rights lawyers as 'criminal gangs', and demolishing 'illegal' churches – actually serves the purpose of attacking activities it wishes to eradicate. What remains unclear, however, is how religious adherents otherwise aligned with the Party will respond to these developments, and whether the Party has underestimated the strength of their reaction.

RECOMMENDATIONS

To the government of the People's Republic of China:

- Set out a clear timetable for ratification of the International Covenant on Civil and Political Rights (ICCPR);
- Extend protection of the right to freedom of religion or belief (FoRB) to religions and beliefs not included in the list of five recognised religions, and to religion or belief communities outside the state-sanctioned religious bodies;
- Ensure that all legislation complies with international standards on FoRB, including the ICCPR. In particular, remove all legislation relating to 'illegal religious activities' not in line with international standards;
- Ensure that the means of official registration for religious activities are non-discriminatory and are not used in any way to curtail the right to religious freedom of any individual or group;
- Repeal laws and regulations pertaining to 'cults', and issue new guidelines stipulating that religious groups cannot be banned on the basis of their 'orthodoxy' or precepts. In the meantime, immediately ensure that there are adequate safeguards in place to prevent abuses of power and errors by officials charged with classifying cults;
- Immediately end the practice of detaining members of registered religion or belief organisations solely on the basis of their affiliation and ensure that those wrongfully detained have access to appeal and redress in accordance with the law;
- Immediately release prisoners of conscience detained in connection with their religion or belief, including those detained solely because of their affiliation with banned religion or belief groups such as Falun Gong, and fully investigate cases of suspected wrongful imprisonment;
- Train local officials and police in the correct implementation of legislation affecting religious organisations and individuals, and hold to account any officials whose actions are found to be in violation of the law;
- Immediately cease the demolition of crosses on churches in Zhejiang: where a cross or another part of the structure is considered 'illegal', the authorities should present the church leaders with their complaint and endeavour to negotiate as soon as possible;
- Establish a complaints mechanism for churches and other religious buildings which have had their request for permission to build or extend refused, or which have had their building or religious symbol forcibly demolished or removed;
- Make consistent efforts to enter into dialogue with religious leaders on all matters relating to their activities, with a view to promoting mutual trust and positive relations;

- Remove restrictions on the peaceful religious practices of Uyghurs, Tibetans and other ethnic minorities, and actively seek ways of creating mechanisms to address grievances and engage in constructive, mutually respectful dialogue with ethnic and religious minorities;
- Ensure that religious leaders and community leaders in Tibet and Xinjiang are included and consulted in plans to implement security measures in the ethnic minority autonomous regions, to ensure that such measures do not place further restrictions on citizens' cultural and religious rights;
- Release immediately human rights lawyers detained or imprisoned in connection with their peaceful and lawful defence of the rights of others;
- Ensure that no lawyer or human rights defender, or any other citizen, is detained incommunicado, and ensure that family members of detainees are informed of their whereabouts and the charges against them in good time, in accordance with Chinese law;
- Ensure that the rights of lawyers are protected in accordance with China's own National Human Rights Action Plan. In particular, ensure protection for lawyers from any form of harassment or personal intimidation in connection with their defence of a 'sensitive' case;
- Ensure that lawyer and former prisoner Gao Zhisheng, now a free citizen, has full access to medical care and freedom of movement. Immediately and impartially investigate all incidents of alleged ill-treatment during Gao's detention, in accordance with the law; and, where incidents of torture and other forms of ill-treatment are found to have occurred, ensure that those responsible are held to account and prosecuted in accordance with the law.

To the UK, US, European Union, and other UN member states:

- Strongly urge China to follow the recommendations listed above;
- Ensure that issues and cases concerning FoRB are raised consistently in high-level visits and other bilateral exchanges with China;
- Where high level visits take place, ensure that China's human rights record and specific incidents are raised both in public and in private;
- During high level visits, wherever possible, include opportunities for civil society actors with information and concerns about human rights violations in China to brief ministers and officers before the visit;
- Strongly encourage the participation of civil society in China in preparations for bilateral human rights dialogues and other human rights-related reporting, including the UN Universal Periodic Review process;
- Include in human rights dialogues clear benchmarks for progress, and hold China to account regarding such benchmarks;
- Advise embassies in China to develop relationships with religious leaders and communities, especially those in ethnic minority areas;
- Continue to monitor cases of religious freedom violations, and consider meeting with lawyers working on relevant cases when it is safe to do so.

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CSW is a Christian organisation working for religious freedom through advocacy and human rights, in the pursuit of justice.

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