

CSW UPR MID-TERM REVIEW

INTRODUCTION

1. Christian Solidarity Worldwide (CSW) is a human rights organisation specialising in freedom of religion or belief for all (FoRB). Working with a variety of partners, CSW monitors the right to freedom of religion or belief in China within the broader context of human rights protection, and advocates for the right to freedom of religion or belief for all people in China.

2. This submission seeks to draw attention to particular concerns over the right to freedom of religion or belief in China.

3. In the reporting period, the overall level of freedom of religion or belief in the country has decreased. This downward trend fits into a broader pattern of increasing human rights abuses under President Xi, accompanied by and manifested through a shrinking space for civil society, a heightened sensitivity to perceived challenges to Party rule, and the introduction of legislation that curtails civil and political rights in the name of national security.

4. This submission will begin by looking at China's record in the present UPR cycle in relation to freedom of religion or belief (FoRB); it will then consider violations of freedom of expression, particularly those related to FoRB; the final section examines the ratification status of international treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the Rome Statute of the ICC.

COMMITMENTS RELATING TO FREEDOM OF RELIGION OR BELIEF

5. In the second UPR review in 2013, China accepted 13 recommendations directly related to freedom of religion or belief (FoRB) and noted 12 recommendations.

6. The accepted recommendations were mostly non-specific, calling on China to 'consider possible revisions' or to 'take effective measures' to safeguard FoRB.

7. Recommendations not accepted included: calls for China to work more closely with the Special Rapporteur on FoRB (Canada); calls for the end to the prosecution and persecution of people for the practice of their religion or belief (Spain, Canada); calls for guarantees that FoRB would be extended to all people (Germany); and requests directly related to the Uyghurs and the Tibetans (Czech Republic, France, Sweden).

8. Despite accepting certain recommendations relating to FoRB, there has been little or no evidence that China has made any effort to better protect FoRB in the reporting period so far. On the contrary, the reporting period has seen a deterioration in FoRB.

9. The reality for religion and belief communities in China is still very much a mixed picture, and conditions vary according to religion, location, ethnicity, attitude of local officials as well as other factors. However, a tightening of government policy has ensured that human rights conditions have worsened for non-government sanctioned religious groups, while certain sanctioned religious groups have also had their activities and practices restricted.

VIOLATIONS OF FREEDOM OF RELIGION OR BELIEF¹

GOVERNMENT POLICY RESTRICTING FoRB

10. Restrictions on the right to freedom of religion or belief are still a key concern in China. 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), which are overseen by seven state-sanctioned associations.

11. Xi Jinping's government has adopted a number of policies in order to ensure that the Communist Party of China (CPC) maintains control over religious organisations and activities, including Christian churches. In 2014 the director of China's State Administration for Religious Affairs told a seminar on the sinicisation of Christianity that "Chinese Christian theology should be compatible with the country's path of socialism," and should "adapt to China's national condition and integrate with Chinese culture."²

12. The concept of sinicisation was further developed in the introduction of the 'five introductions' and 'five transformations' (wujin, wuhua policy) in 2015.

13. Though appearing to be positive, encouraging churches to engage in charity work and manage their finances efficiently, these policies have justified an increase in the monitoring and control of religious activities.

14. In particular, their introduction highlights the irregular legal status of churches outside the state-

1 Christian Solidarity Worldwide, *Report: China – Freedom of religion or belief*, 19 October 2016 www.csw.org.uk/2016/10/19/report/3305/article.htm

2 *China Daily*, 'China plans establishment of Christian theology', 7 August 2014 http://europe.chinadaily.com.cn/china/2014-08/07/content_18262928.htm



sanctioned Three Self Patriotic Movement (TSPM). For years, while some unregistered Protestant churches have been harassed and pressured to register, others have existed and been active without having registered.

There are signs now that this period of de facto toleration for unregistered church activities is rapidly coming to an end, and some pastors feel that the wujin, wuhua policy is part of that change.

15. The Chinese government and the Vatican have reportedly been working towards a deal concerning the ordination of bishops. Behind this issue is the question of the leadership of the Church. Should a deal be reached, it is unclear what the implications would be for 'underground' or independent communities where the bishop is not recognised by Beijing. A number of clergy have been arrested or disappeared, including Father Yang Jianwei of Hebei Province, missing since April 2016; and Bishop James Su Zhimin, detained on 8 October 1997 in Hebei. In July 2012 Mgr Thaddeus Ma Daqin, auxiliary bishop of Shanghai, was effectively placed under house arrest after he publicly resigned from a state-sanctioned Catholic association at his ordination.

REGULATIONS ON RELIGIOUS AFFAIRS

16. In early September 2016, draft amendments to the Regulations on Religious Affairs (RRA) were released. The deadline for comments was 7 October. The draft adds 26 new articles to the original 48 articles.³

A) FOREIGN INFILTRATION

17. A primary concern in the amendments is stopping 'foreign infiltration' through the practice of religion. Article 4 specifically prohibits using religion to endanger 'national security'. References to 'foreign infiltration' and 'national security' are vague and have the potential to be used to place unacceptable restrictions on religious groups. They are part of a wider set of policies which have used 'national security' as a justification for repression.

18. On 7 July 2015 the UN High Commissioner for Human Rights expressed concern about the human rights implications of the national security law adopted on 1 July 2015.⁴ 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. Article 27 of the National Security Law concerns FoRB. Including national security in the new draft religion

recommendations and religion in the National Security Law combine to give weight to policies and measures which curtail FoRB.

B) MANAGEMENT AND CONTROL

19. Although the draft retains an article guaranteeing citizens' freedom of religious belief (Article 2), the control, management and containment of religious activities are themes which run throughout the text. The 2005 Regulations also focused on these issues; however, there are some important additions to the draft text, notably on issues concerning religious education and schools, financial management, and buildings used for religious activities.

20. The draft confines many religious activities to registered sites, and prohibits religious professionals from 'organizing, or presiding over unapproved religious activities held outside of religious activity sites' (Article 70). However, in order to apply to establish a religious activity site, applicants must prove that the local religious citizens need to conduct collective religious activities regularly (Article 20). There is no further guidance on what constitutes such a need, and it is possible that applicants will be told to join an existing religious activity site rather than establishing a new one.

21. In order to extend control over religious activities, the draft extends regulations which give authority for religious affairs to the national religious organisations while limiting the autonomy of individual local religious groups. For example, only national religious groups and those of the provinces, autonomous regions, and directly-governed municipalities may select and receive religious students studying overseas in accordance with provisions; other organisations or individuals may not (Article 9). Similarly, under Article 11 only national groups or those at the level of the province, autonomous region or directly-governed municipality may establish religious schools.

22. If, as it appears, these stipulations represent a removal of authority from individual churches to their overseeing national bodies, this could be interpreted as an attempt to place limits on registered churches which are seen to have become too independent, and to bring them in line with the direction of the TSPM.

C) RESTRICTIONS ON COMMUNICATION AND PROSELYTISING

23. The 2005 Regulations contained some articles concerning the publishing of religious materials; however, the new draft adds a number of new regulations on the communication of religious content. Most of these additions relate to online communication: Article 47 states that 'Engagement in internet religious information services shall be upon the review and consent of the religious affairs department for people's governments at the provincial level or above, and follow the relevant laws and regulations on internet information services management.'

24. The draft also includes prohibitions against proselytising through charity work (Article 56) or in state schools (Article 44). Charity work is regulated through separate regulations on non-profit organisations and foreign non-governmental organisations – regulations which have been criticised for limiting the freedom of

3 China Law Translate, Religious Affairs Regulations Draft Revisions (Deliberation Draft) <http://chinalawtranslate.com/religious-regulations/?lang=en>

4 United Nations Office of the High Commissioner for Human Rights, '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

civil society organisations and allowing the authorities to prevent organisations working on more 'sensitive' issues which could challenge Party interests.

25. In recent years there has been further scrutiny of religious activities in schools: in December 2014, in Zhejiang Province, the Wenzhou education bureau issued a directive banning primary schools and kindergartens from holding Christmas events. The directive also requires 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'.

D) ACKNOWLEDGEMENT OF PROBLEMS

26. One potentially positive note in the new draft legislation is that measures have been taken to stop the abuse of authority by personnel managing religious affairs. The 2016 draft specifies that they will be punished in accordance with the law, with administrative sanctions or criminal charges (Article 61). This could be an acknowledgement that some religious affairs officials have failed to do their duties or have abused their position for personal gain, and may be seen as part of Xi Jinping's wider campaign against corruption.

DESTRUCTION OF RELIGIOUS BUILDINGS

27. Demolitions and evictions have taken place at Tibetan Buddhist institutes. A 'renovation' campaign launched in July 2016 has resulted in the demolition of hundreds of homes at Larung Gar Buddhist institute in Sertar, Sichuan Province. Larung Gar is believed to be one of the largest Buddhist teaching centres in the world, with a population of over 10,000. A demolition order issued by the Chinese authorities details plans to reduce the number of residents to 5,000 by 30 September 2017.⁵

28. Up to 1,000 nuns at another Buddhist institute, Yachen Gar, have also been forced to leave the centre and return to their home towns, following an order by officials.

29. The large Christian population in Zhejiang province in south-east China has also been targeted. Since early 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. Some estimates put the total number of churches affected at over 2,000; conservative estimates are between 1,500 and 1,700. Throughout the campaign, crosses have been removed from both Catholic and Protestant, registered and unregistered churches in the name of a campaign that the authorities say aims to 'rectify and demolish' structures which have violated building codes.

30. Although there are different theories about the Zhejiang cross removals, most agree that the campaign was launched by the provincial authorities, rather than at the central government level. Nevertheless, the fact that the campaign has continued in the face of a strong

reaction from both local Christians and the international community, suggests that it has at least the approval of the central leaders, even if it did not originate in Beijing.

IMPRISONMENT OF ZHEJIANG CHRISTIANS

31. As part of the tightening of policy in Zhejiang province, in 2015 and early 2016 at least 20 Christians, including several senior pastors from state-sanctioned churches, were arrested and detained in connection with their peaceful opposition to the cross removal campaign.

32. On 25 February 2016 Pastor Bao Guohua and his wife Xing Wenxiang received jail sentences of 14 and 12 years respectively for corruption and 'gathering people to disturb social order'. On 27 January 2016 Pastor Gu Yue, senior pastor of one of the largest, if not the largest, registered church in China, was detained and accused of misuse of funds. He was released on bail in March 2016, but was re-detained and formally arrested on 7 January 2017, charged with misuse of funds.

MARGINALISATION OF ETHNIC UYGHURS

33. Uyghur Muslims continue to have their social, cultural and ethnic rights marginalised, as well as having their religious practice limited.

34. Article 27 of the National Security Law concerns religion and belief. 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 activities a national security issue. Nowhere is this felt more keenly than in Xinjiang.

35. The new legislation appears to continue the practice of approaching religion as a security issue, and follows the launch of a 'strike hard' campaign in Xinjiang allegedly aimed at combating religious extremism and other security threats. As part of the campaign, police have raided so-called illegal religious meetings. In May 2015 Imam Eziz Emet was arrested and later received a nine-year sentence for 'teaching religion illegally'.

36. Eight farmers arrested in connection with the 'illegal teaching' were sentenced to seven years each, according to RFA's Uyghur Service. According to local reports received by RFA, political prisoners in the men's village, Peyshenbebaz, number one in every three families. The village's security chief said that the authorities interpreted private prayer sessions at places they had not officially designated for worship as 'a sign of religious extremism'.

FALUN GONG AND ORGAN HARVESTING

37. The largest group classified as a cult in China is Falun Gong, a spiritual movement which has been banned since 1999. It is widely reported that a task force, the 610 Office, was established specifically to eradicate

⁵ Tibetan Centre for Human Rights and Democracy, 'China issues demolition order on world's largest religious town in Tibet', 15 June 2016 <http://tchrd.org/china-issues-demolitionorder-on-worlds-largest-religious-town-in-tibet/>

Falun Gong: adherents outside China continue to report the arrest, imprisonment, torture and death in custody of Falun Gong practitioners across the country.

38. A series of reports released between 2006 and 2016 provide evidence to suggest that Falun Gong practitioners and other prisoners of conscience, including other ethnic and religious minorities, have been victims of forced organ harvesting. Most recently, a 2016 report by David Kilgour, David Matas and Ethan Gutmann titled 'Bloody Harvest/The Slaughter: An Update' concludes that between 60,000 to 100,000 organs are transplanted each year in China, far above the government's figure of 10,000.⁶ This discrepancy suggests that the organs are being harvested from an undisclosed source. Furthermore, patients have reported that the waiting time for an organ is much shorter in China than elsewhere, and with a more precise timeframe, leading to questions about the source. CSW is not able to independently verify these reports but is in the process of engaging in research on this issue.

RECOMMENDATIONS

39. The State Party should honour its Universal Periodic Review commitments to take 'effective measures' to safeguard FoRB.

40. The State Party should revise the amendments to the 2005 Regulations to align with international standards on the right to freedom of religion or belief (FoRB) as set out in Article 18 of the ICCPR.

41. The State Party should ensure that the protection of the right to FoRB is not restricted to the five recognised religions.

42. The State Party should revise registration requirements and legislation pertaining to religion, in consultation with religious communities and legal experts.

43. The State Party should 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.

44. The State Party should ensure that religious leaders and community leaders in Tibet and Xinjiang are 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.

45. The State Party should 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.

46. The State Party should establish a complaints mechanism for religious buildings which have had their request for permission to build or extend refused, or which have had their religious symbol or building forcibly removed or demolished.

47. The State Party should immediately release all prisoners of conscience detained in connection with their religion or belief, and investigate cases of wrongful imprisonment.

COMMITMENTS RELATING TO UNLAWFUL DETENTION, THE INDEPENDENCE OF THE JUDICIARY AND FREEDOM OF EXPRESSION

48. At China's second UPR review, the government of China accepted five recommendations to improve freedom of expression and noted 11 recommendations.

49. The recommendations that were accepted were non-specific calls for China to 'strengthen' freedom of expression.

50. More specific or demanding recommendations were not accepted. These include Sweden's call Sweden to 'urgently release those being held in detention or imprisonment for exercising their freedom of expression.'

51. At its second UPR review, China also accepted five calls to 'improve the regulatory framework for lawyers' or 'strengthen the conditions in which lawyers exercise their functions'.⁷

52. China noted two more exacting recommendations from Czech Republic and Finland which called for the 'independence of judiciary and lawyers' and for the State Party to 'take effective measures to ensure that lawyers can defend their clients without fear of harassment and can participate in their management of their own professional organisations...'

53. Ongoing reports of restrictions on online and offline communication and the targeting of journalists, publishers and online commentators suggest that freedom of expression has decreased during the reporting period. Furthermore, a crackdown on human rights defenders beginning in 2015 demonstrates that the Chinese authorities have weakened protection for lawyers and have failed to safeguard their freedom to defend victims of human rights violations. Many of the lawyers who have been targeted are those advocating on issues of freedom of religion or belief.

⁶ International Coalition to End Organ Pillaging in China, An update to 'Bloody Harvest' & 'The Slaughter' <http://endorganpillaging.org/an-update/>

⁷ Recommendations of Hungary, Cape Verde, Finland, Timor-Leste, Jordan.

VIOLATIONS AGAINST HUMAN RIGHTS LAWYERS

54. Since July 2015, across China over 300 human rights lawyers and activists, and their colleagues and family members, have been interrogated, detained and in some cases imprisoned or disappeared. This figure includes many prominent members of the weiquan or rights lawyers' community, who have been at the forefront of advocating for civil rights and legal reforms. Many of these lawyers have represented clients from religion or belief communities, including Christians from unregistered churches and Falun Gong practitioners.

55. Li Heping is one of the most high profile Christian human rights lawyers in China, and has defended unregistered church Christians, petitioners, and fellow lawyers and activists including Gao Zhisheng and Chen Guangcheng. Mr Li was detained on 10 July 2015 and held incommunicado for six months under 'residential surveillance at a designated location' (RSDL) before being formally arrested in January 2016, accused of subversion of state power. He is currently in pre-trial detention and has had no access to legal counsel or family visits. Since he is being held incommunicado, there is a high risk of torture and ill-treatment.

56. Ilham Tohti is a prominent Uyghur scholar and economist. Although not a human rights lawyer or activist in the usual sense, he has written extensively about the discrimination against ethnic Uyghur Muslims in Xinjiang, and restrictions on their social and cultural rights and on their religious practice. Mr Tohti has previously been detained and placed under house arrest, after posting information online about Uyghurs who went missing during a period of intense repression in 2009. Despite harassment, he continued to advocate for peaceful dialogue, understanding and reconciliation. On 17 September 2014 Mr Tohti was sentenced to life in prison for separatism, a charge at odds with his adamant rejection of separatism as a solution for Xinjiang.

RECOMMENDATIONS

57. The State Party should provide an enabling and safe environment for civil society actors and human rights defenders (HRDs) engaging with international human rights processes and reporting, and strongly encourage the participation of civil society in China in preparations for human rights-related reporting, including the UN Universal Periodic Review process.

58. The State Party should immediately release human rights lawyers detained or imprisoned in connection with their peaceful and lawful defence of the rights of others.

59. The State Party should ensure that no lawyer or HRD, or any other citizen, is detained incommunicado;

and that family members of detainees are informed of their whereabouts and the charges against them in good time, in accordance with international standards.

INTERNATIONAL LEGAL OBLIGATIONS AND COMMITMENTS

60. Since the 2013 UPR review, China has not signed or ratified any new human rights treaties and relevant optional protocols, including those recommended by UN member states.⁸

61. China did not accept UPR recommendations to immediately ratify the International Covenant on Civil and Political Rights (ICCPR) but did accept calls to 'consider ratifying' the ICCPR. The government has yet to ratify this treaty.

62. China did not accept recommendations to become a 'party to the Rome Statute of the ICC'.

63. China also failed to accept calls to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED) or the Convention against Torture (CAT).

RECOMMENDATIONS

64. The State Party should ratify the ICCPR.

65. The State Party should accede to the Rome Statute of the International Criminal Court.

66. The State Party should ratify the CED and the CAT, and move their national laws and relevant policies in line with these international conventions.

CONCLUSIONS

67. China has made little effort in the reporting period to enact the commitments it made at its second UPR Review in 2013.

68. CSW expresses concerns that the nominal commitments which China made to safeguard freedom of religion or belief (FoRB), freedom of expression, and independence of the judiciary, have not been implemented. The human rights situation has deteriorated significantly during the reporting period. Hundreds of human rights defenders have been arrested, religious regulations have been tightened, and religious buildings have been destroyed.

69. CSW calls on China to uphold commitments it made at the second UPR review, and to consider recommendations made in this submission.

8 UPR Mid-Term Assessment of Chinese Human Rights Defenders, 22 November 2016 www.upr-info.org/sites/default/files/document/china/session_17_-_october_2013/china_2ndcycle_chrd_mid-term.pdf