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RELIGIOUS FREEDOM AND FREEDOM OF EXPRESSION IN CHINA

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council¹. The purpose of this report is to raise concerns regarding human rights violations in China for the 2018 Universal Periodic Review (UPR). These violations primarily stem from constitutional provisions and other laws.

Constitutional Provisions, Regulations and International Agreements Regarding Freedom of Religion

2. China's Constitution offers conditional protection for religious liberty: "The State protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State. Religious bodies and religious affairs are not subject to any foreign domination"². Although the Constitution guarantees freedom of religious belief and forbids discrimination on the basis of religion³, it does not guarantee the right to practice or worship in accordance with that belief. Religious practices are limited to "normal religious activities", where "normal" is left undefined and can be narrowly interpreted by those enforcing the law.

3. In addition to its constitutional provisions and regulations, China signed the International Covenant on Civil and Political Rights (ICCPR) in 1998, although it has yet to ratify it⁴. As such, China is not yet bound to the specific provisions of the ICCPR. However, as a signatory, China has the obligation to act in good faith and not defeat the purpose of the ICCPR. Contrary to the purpose of the ICCPR, the Chinese government continues to persecute its citizens through its restrictive laws.

Despite the Constitutional Provisions for Freedom of Religion, Other Laws Unduly Restrict that Freedom

4. While providing constitutional protections, Chinese law contradictorily curtails the freedom of religion through two laws: 1) the Regulations on Religious Affairs, which was passed in 2005 and revised on 1 February 2018, and 2) Article 300 of the Criminal Code. In 2005, the State Council passed the Regulations on Religious Affairs, which only allows state-registered religious organizations to gather, possess property, publish literature, train and approve clergy, and collect donations⁵. The state only recognizes five religions—Buddhism, Catholicism, Daoism, Islam, and Protestantism. Formally, the practice of any other faith is prohibited, although often tolerated, especially in the case of traditional Chinese beliefs. Religious organisations must register with one of five state-sanctioned patriotic religious associations, which are supervised by the State Administration for Religious Affairs⁶.

5. The revised Regulations on Religious Affairs increases the government's control of religions and prohibits all unregistered religious activities. First and foremost, this law no longer allows small group gatherings in private homes for religious purposes, but instead requires registration of venues for any religious activities⁷. This empowers the local authorities to lawfully and freely intervene in any religious activities that are not held in designated registered venues and to punish the people who attend such religious activities⁸. Second,

unregistered groups cannot legally receive donations or acquire property, and such donations or property are confiscated⁹. Third, religious professionals must be appointed only by registered religious groups and must register with local authorities¹⁰. Anyone engaging in a religious profession without the above two prerequisites will be subject to punishment¹¹. Forth, minors under the age of 18 are not allowed to participate in religious activities, and religious activities are prohibited on campuses or in schools. Fifth, anyone who uses the internet or social media to publish topics on religious matters must first obtain the provincial government's approval or she/he may be subject to sanctions. Sixth, the law authorises sixteen different government branches to control and supervise religious groups, while the previous version only designated two bureaus. Finally, the revised version establishes additional provisions on legal responsibilities and punishments for violations including the revocation of registration licenses and the confiscation of property and donations. Fines can be imposed of up to 3 times the total amount of prohibited donations with an additional RMB 200,000 fine (roughly USD 30,000), and, if a crime is constituted, there is individual criminal liability¹².

6. The Chinese government regularly cites Article 300 of the Criminal Law, defined as “organizing evil cults and sects and using superstition to undermine law enforcement” to persecute religious people and their activities. The Central Government Administrative Office and the Ministry of Public Security provided a list of 14 “evil cults”, and followers of evil cults are subject to maximum sentence of life imprisonment according to Article 300¹³. In 2014, the government began a sweeping crackdown of Christian house churches in the name of “attacking evil cults”, despite the fact that Christianity does not fall under the evil cult list¹⁴.

7. Additionally, many Christians were deprived of their right to an attorney at trial. Chinese Criminal Procedure provides the right for the criminally accused to be effectively represented in court¹⁵. The Chinese government frequently threatens the accused and their family members so that they will only retain government appointed attorneys, who then provide little or no effective defense. Moreover, the government constantly persecutes the human rights attorneys who defend and represent these Christians by arresting the attorneys without due process and revoking their license to practice law.

8. On 4 February 2018, the Chinese Central Government issued No. 1 Central Document of 2018, which specifically stated that the government should “increase the force to crack down illegal religious activities, to prevent foreign infiltration, and to forbid anyone from using religion to intervene in public affairs”¹⁶. This document is a general policy guidance for the Chinese Communist Party, which generally focuses on the economic development of agriculture and rural areas. This year is the first time the word “religion” was so specifically addressed. According to the newly revised Regulations on Religious Affairs, all house churches and unregistered religious activities will be considered illegal and the government will enforce the No. 1 Central Document against Christians.

Incidents of Restrictions on Freedom of Religion

9. Since December 2017, persecution against religious groups in China has intensified. Christians suffer a majority of the persecution because they are the most organized group among all religions in China and have the highest number of members. The current government views these non-registered groups as a strong threat to its authority and tries to monitor and

suspend religious group activities. There are two church systems that have been coexisting for years: one is the Protestant Three Self Patriotic Association, or the Chinese Catholic Patriotic Association (generally referred to as the “government-held churches), and the other is a compilation of the unregistered house churches. In the past, house churches were persecuted the most; however, the situation has worsened, and now the government-held churches are also facing restrictions and persecution. In 2017 alone, our contacts in China received and collected information on roughly 600 incidents of persecution targeting Christians. A majority of the incidents occurred in the Hennan Province, Yunnan Province, and Xinjiang Uygur Autonomous Region. The examples listed below are provided by our contacts in China and are merely the most recent examples of persecution faced by Christians in China.

10. On 28 December 2017, the Yun County Court of Yunnan Province sentenced six Christians to imprisonment: Dianhong Ju to 13 years, Qin Liang for 10 years, Shunxiang Yang for four years, Hongyan Zhang for 2 years and 6 months, Chaocai Zhang for 2 years and 6 months, and Huimei Zi, for one year and 6 months. All of them are subject to various criminal fines as well. This case is part of the provincial-wide action called “YN 3.15” carried out on 15 March 2016 by the Yunnan Provincial Public Security Department to crack down on Christian house churches across the Yunnan province. Since 21 October 2016, more than 200 people have been detained, and around 40 of them are facing criminal prosecution under Article 300 of Criminal Code for “organizing evil cults and sects and using superstition to undermine law enforcement”. These Christians were falsely accused of practising “Three Grades of Servants”, which is listed by the government as an evil cult. These cases are being tried in multiple county courts, including Kunming, Dali, Chuxiong, Yun County, Fengqing, Zhaotong, Lingcang, Xishuangbanna, Baoshan, and Yuxi. At the time of this report, in addition to the 6 defendants from Yun County Court, two defendants from Dali are also facing a 4-year imprisonment sentence, and are waiting on appeal. The rest of the detained Christians are either currently waiting for the trial or they were tried and are waiting for the sentencing. Moreover, some of the defendants were not effectively represented during their trials. The government threatened to suspend one attorney’s license if he continued to plea innocent on behalf of the defendant he was representing. In addition, the local governments tried to intimidate the defendants’ family members into accepting government appointed attorneys instead of retaining renowned human rights attorneys. For instance, during the trial in Fengqing county court, 4 defense attorneys were not allowed to represent their clients because their clients were forced to waive their power of representation. Additionally, all of the defendants have been detained for more than 400 days.

11. Following the well-known “Cross-removal” incident in the Zhejiang Province in 2015, the demolition of churches has again commenced. On 27 December 2017 and 9 January 2018, the Shanxi provincial government demolished one protestant church and one Catholic church despite the fierce protest of the church members. Both churches were demolished in the name of a “citywide campaign to remove illegal buildings”. The protestant church—Golden Lampstand Church—has more than 50,000 members. The church building was five stories and was built for 17 million Yuan (\$2,603,380.00 USD) obtained from church members’ donations. It was arbitrarily demolished without due process nor compensation to the church. The other building that was demolished was the government-held Catholic church building, built in 1999 with the full permission of local government.

12. Since mid-January 2018, the government authority in the Hennan Province started to enforce the “no minor in church” policy in all its Government-held churches, both Protestant and Catholic. For instance, on 20 January 2018 in the Government-held Cathlic Church of

Zhengzhou City, Father Liu received a phone call from the Zhengzhou Religious Bureau demanding that the Father ban any minors below the age of 18 from attending any of the church activities. The next morning, several local officers came before the Sunday Mass, stood at the entrance, randomly checked attendees' IDs, and enforced the "no minors" policy¹⁷. In another instance, in Puyang County, the Government-held Protestant Church was forced to put up a sign next to the entrance church door stating: "no minors is allowed to enter". On 1 February 2018, the religious bureau and the United Front Work Department ordered the government held Catholic churches to stop all religious activities for students, including summer and winter camps, Sunday schools, and other youth group activities.

13. On 13 January 2018, 14 pastors from a house church in Wenzhou city, Zhejiang Province, were taken away by the authorities and have been missing ever since. Up to the date of this Report, no information has been obtained on where the pastors are being held or of their wellbeing.

14. On 19 January 2018, the court in Guiyang City, Guizhou Province issued a judgment to enforce the auctioning of Guiyang Living Stone Church's building and property. Back in December 2015, the church was shut down and the pastor and some of the church co-workers were taken away by the police. On 6 January 2017, the pastor was sentenced to two and a half years imprisonment for "intentionally disclosing state secrets". On 19 May 2017, the local religious bureau issued the administrative sanction against the church to confiscate the 7 million RMB (around USD 1.2 million) the church had received in donations since its establishment, which is one of the largest fines ever imposed on a house church.

15. Since early January 2018, several house churches in Beijing, the capital of China, and in Shenzhen, a metropolitan city adjacent to Hong Kong in the southeast of China, were shut down by local authorities who claimed that the buildings in which the house churches gathered did not meet fire safety standards. This reason has been repetitively used by local authorities to close down house churches.

16. On 20 January 2018, 10 Christians from in Xinjiang Uyghur Autonomous Region with a Muslim background were arrested during an "anti-terrorist" action. As of the date of this report, more than 100 Christians with Muslim backgrounds have been taken to an unknown "re-education center" where these Christians have been forced to study communist ideology. Since October 2017, the local authorities in Xinjiang Uyghur Autonomous Region have imposed strict religious policies geared toward closing down all unregistered house churches, monitoring all Christians' activities, and detaining those deemed "active members" of the house churches in various "re-education centers". The Christians who are kept in the study center lose all communication with their families.

17. Since 1 February 2018, when the Regulation on Religious Affairs became effective, a majority of the house churches in Xihua County, Hennan Province, were shut down by the local authorities. According to sister Feng, a member of one of the house churches, local officials from each village not only closed down the local house church venue, but also went into each residence to remove religious decorations containing crosses or Bible verses. These officials also visited local schools and met with students, whose parents are Christians, to pressure the students to forsake their faith and become Communist Party members.

18. On 9 February 2018 in Menglian County Court, Yunnan Province, a trial was held on the criminal charges of “illegally crossing the nation’s border” against Pastor Sanqiang Cao, who is a long time missionaries to Wa in Myanmar and the Chinese ethnic groups on the border between Yunnan Province and Myanmar. It is normal for local people on both sides to cross the border informally. Nevertheless, as more and more people turned to Christianity due to Pastor Cao’s mission work, the local authorities began to view his work as a threat to their control of minority groups and their communist ideology. On 5 March 2017, Pastor Cao was arrested at the border when he returned from Myanmar to Yunnan and falsely accused.

Conclusion

19. The 2018 Working Group on the UPR must address China’s continuous violations of the freedom of religion, and urge China to not only to reform its laws and policies but also to refrain from enforcing the current laws. Chinese law and its enforcement are severely restricting fundamental human rights, and the Working Group must supervise and encourage China to carry out its obligation to guarantee religious freedom for all of its citizens under its constitution as well as its international commitments under the ICCPR.

¹*Integrated Civil Society Organisations System*, NGO BRANCH, U.N. DEP’T OF ECON. & SOC. AFF., <http://esango.un.org/civilsociety/> (last visited 28 Mar. 2018) (discussing consultative status in 2007 for the European Centre for Law and Justice by searching “European Centre for Law and Justice” in the iCSO Database).

²CONST. OF THE PEOPLE’S REP. OF CHINA art. 36, available at http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm.

³*Id.*

⁴*Status of Ratification Interactive Dashboard*, OFF. U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://indicators.ohchr.org/> (last accessed 28 Mar. 2018) (accessed by selecting China from the countries list).

⁵REGULATIONS ON RELIGIOUS AFFAIRS (2005), available at CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA, <https://www.cecc.gov/resources/legal-provisions/regulations-on-religious-affairs>.

⁶*2017 Annual Report Of The U.S. Commission On International Religious Freedom: China*, USCIRF.GOV, <http://www.uscifr.gov/sites/default/files/China.2017.pdf> (last visited 28 Mar. 2018) [hereinafter *USCIRF Report*].

⁷Regulations on Religious Affairs (2018), art. 21, 35, 40, 67, available at <https://www.chinalawtranslate.com/宗教事务条例-2017/?lang=en>.

⁸REGULATIONS ON RELIGIOUS AFFAIRS (2018), art. 68.

⁹*Id.*, art. 41, 50, 51, 67.

¹⁰*Id.*, art. 36.

¹¹*Id.*, art. 71.

¹²*Id.*, chap III.

¹³CRIM. LAW OF THE PEOPLE’S REP. OF CHINA, art. 300, available at <http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm>.

¹⁴*Annual Report 2015: China*, USCIRF 36 (2015), available at: <https://www.uscifr.gov/sites/default/files/China%202015.pdf>

¹⁵CRIM. PROCEDURES LAW OF THE PEOPLE’S REP. OF CHINA, art. 11 (2012), available at <https://www.cecc.gov/resources/legal-provisions/criminal-procedure-law-of-the-peoples-republic-of-china>.

¹⁶Document summary available in English at *SCIO Briefing on the ‘No. 1 Central Document’ in 2017*, SCIO.GOV (6 Feb. 2017), <http://www.scio.gov.cn/32618/Document/1541574/1541574.htm> (Chinese version available at <http://www.moa.gov.cn/ztl/yhwj2018>).

¹⁷ See “Determined to Safeguard the Religious Freedom of Believers’ Children” (unpublished pamphlet issued by the Zhengzhou Catholic Diocese) (on file with author).