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**RELIGIOUS FREEDOM IN CHINA**

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## RELIGIOUS FREEDOM IN CHINA

### 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 also holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to highlight religious freedom abuses in China for the 2013 Universal Periodic Review (UPR). These abuses primarily result from the government's failure to enforce religious freedom guarantees and the prevalence of religiously motivated violence. China has a history littered with religious persecution and, unfortunately, the Chinese government continues to perpetrate religious abuses on a variety of religious groups.

### China's Promotion of Religious Discrimination and Religious Persecution

2. The 2009 UPR expressed concern that "Chinese officials continue to repress religious activities considered to be outside the State-controlled religious system."<sup>1</sup> This concern is prominent throughout the Interactive Dialogue and Responses (IDR) section of the 2009 UPR; mentioned in ten of the eighty-seven paragraphs.<sup>2</sup> Notably, Australia expressed "*grave* concerns about reports of harassment, arbitrary arrest, punishment and detention of religious and ethnic minorities . . . ."<sup>3</sup> Moreover, "Canada expressed *deep concern* about reports of arbitrary detention of . . . religious believers . . . without information about their charges, their location and wellbeing."<sup>4</sup> However, the Working Group did not address China's religious repression in any of its forty-two recommendations. The only mention of anything related to religion or China's repression thereof is a tangential reference to strengthening Internet governance to ensure that defamation of religions is prohibited.<sup>5</sup> We urge the Working Group to make specific recommendations regarding China's repression of religious minorities in its 2013 UPR.

3. Since the 2009 UPR, Chinese officials have continued to repress and persecute members of disfavored religious groups. This persecution is most often perpetrated against Catholics, Protestants, Tibetan Buddhists, Uyghur Muslims, and practitioners of Falun Gong.<sup>6</sup> A majority of the persecution is perpetrated against one of the five State-recognized religions, which is ironic considering that the recognized religions supposedly enjoy more religious freedom than non-recognized religions. Even more heinous persecution is perpetrated by Chinese officials against practitioners of Falun Gong. Recent reports indicate that Chinese authorities continue to

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<sup>1</sup>Rep. of the Working Group on the Universal Periodic Review, Human Rights Council, 11th sess., 5 Oct. 2009, para. 27, U.N. Doc. A/HRC/11/25\*.

<sup>2</sup>*Id.* paras. 27, 28, 38, 69, 74, 82, 96, 97, 102, 105.

<sup>3</sup>*Id.* para. 27 (emphasis added).

<sup>4</sup>*Id.* para. 28 (emphasis added).

<sup>5</sup>*Id.* para. 114(36).

<sup>6</sup>U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 2012, 137 (Mar. 2012) [hereinafter ANNUAL REPORT 2012].

harvest the internal organs of imprisoned Falun Gong practitioners for research and experimentation purposes.<sup>7</sup> In many cases, victims were alive when doctors removed the organs.<sup>8</sup>

4. Rather than responding to the 2009 UPR by taking affirmative action to mitigate religious persecution in China, Chinese officials have nearly doubled the frequency of the religious persecution of Christians since 2009.<sup>9</sup> Most frequently, religious persecution by Chinese officials takes one of two forms: preventing or prohibiting church operations or arbitrarily arresting, detaining, and torturing religious adherents and religious leaders. Such persecution aimed at religious believers is in direct contravention of Chinese law as well as international law.

#### **Arbitrary Arrest, Detention, and Torture of Religious Believers and Religious Leaders**

5. On 26 July 2012, six Christians began a journey through the rural parts of the autonomous region, stopping in villages where they provided free medical clinics and evangelized to village residents.<sup>10</sup> Seven days into the trip, a local resident notified the evangelists that the police were coming.<sup>11</sup> The police tracked them down on their way to another village,<sup>12</sup> arrested and detained the evangelists, and confiscated their van and expensive medical equipment.<sup>13</sup> Eventually, the Re-education Through Labor Management Committee of Hinggan League sentenced two of the evangelists to two years in a forced labor camp.<sup>14</sup> Those who are detained in forced labor camps are denied fundamental procedural and judicial rights. However, denial of procedural and judicial rights is the least of detainees' concerns. In numerous instances, punishment instruments have been used on detainees.<sup>15</sup> Although such punishments require "approval" and are supposedly limited to a duration of seven days, beatings can be severe, sometimes even life-threatening.<sup>16</sup> In practice, beatings are administered liberally, often for refusing to work sixteen-hour days or refusing to sign statements of guilt.<sup>17</sup> In extreme cases, authorities have given electric shocks to detainees.<sup>18</sup> This violates the prohibition of torture under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which China is a party.<sup>19</sup> Article 2 of the CAT requires that "[e]ach State Party . . . take effective . . . measures to prevent acts of torture in any territory under its

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<sup>7</sup>See, e.g., Matthew Robertson & Li Wenhui, *Chinese Doctor Admits to Falun Gong Organ Harvest*, THEEPOCHTIMES, <http://www.theepochtimes.com/n2/china-news/chinese-doctor-admits-to-falun-gong-organ-harvest-279113.html> (last updated 28 Aug. 2012).

<sup>8</sup>*Id.*

<sup>9</sup>See *2012 Annual Report Chinese Government Persecution of Christians & Churches in Mainland China: January – December 2012*, CHINA AID ASS'N, 7 (4 Feb. 2013), <http://www.chinaaid.org/p/chinaaid-annual-reports.html>.

<sup>10</sup>2012's Top 10 Cases of Persecution of Churches and Christians in China, CHINA AID ASS'N, 10-11 (16 Jan. 2013), <http://www.chinaaid.org/p/chinaaid-annual-reports.html> [hereinafter 2012's Top 10 Cases of Persecution].

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

<sup>13</sup>*Id.*

<sup>14</sup>*Id.*

<sup>15</sup>Reeducation Through Labor in China, HUM. RTS. WATCH, <http://www.hrw.org/legacy/campaigns/china-98/laojiao.htm> (last visited 21 Feb. 2013).

<sup>16</sup>*Id.*

<sup>17</sup>See, e.g., *id.*

<sup>18</sup>*Id.*

<sup>19</sup>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2, 10 Dec. 1984, 1465 U.N.T.S. 85.

jurisdiction.”<sup>20</sup> Here, rather than preventing torture, Chinese authorities are the ones inflicting the torture.

6. On 26 July 2011, Domestic Security Protection agents burst into a church leadership meeting in Wuhai.<sup>21</sup> During the raid, all twenty-one attendees were criminally detained, and agents confiscated all of the belongings at the meeting site.<sup>22</sup> After detaining the leaders for two weeks, authorities notified the detainees’ families that they must raise \$7,915 in order to secure their release.<sup>23</sup> After the families did so, the prosecutor’s office sent the case back to the Public Security Bureau without releasing the detainees.<sup>24</sup> Subsequently, the Public Security Bureau extended another extortion offer to the detainees’ families in order to secure their release and avoid their transfer to labor camps.<sup>25</sup> Blatant religiously motivated discrimination, such as extortion, is inconsistent with the prescriptions of China’s Religious Affairs Regulations (RAR), which require that the “state . . . uphold the lawful rights and interests of religious groups, places of religious activity, and religious citizens.”<sup>26</sup>

7. The 2009 UPR addressed the situation of Christian Pastor Alimjan Yimit. Despite the admonitions of the 2009 UPR, Chinese authorities continue to detain Pastor Yimit, who is serving a fifteen-year sentence for allegedly leaking state secrets to overseas organisations.<sup>27</sup> His lawyer maintains that he was arrested for having contact with Protestant organisations in the United States.<sup>28</sup> Pastor Yimit is one of the more fortunate detainees. He is one of the few detained religious believers who has legal representation in his case. Many other religious detainees are not so fortunate.

#### *Thwarting the Efforts of Christian-Rights Attorneys*

8. China’s persecution is not limited to religious believers, but the government also persecutes the advocates who speak out for religious freedom. China has systematically targeted “human rights lawyers and activists belonging to the *wei quan* (rights defense) movement.”<sup>29</sup> Most often, targeting human rights lawyers involves the revocation of lawyers’ licenses to practice law or shutting down their law firms.<sup>30</sup> However, occasionally, targeting human rights lawyers can be more nefarious, including some of the same treatment endured by Chinese religious leaders and religious believers. On 19 February 2011, human rights attorney, Teng Biao, was abducted from his home and detained for over two months.<sup>31</sup> During his abduction,

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<sup>20</sup>*Id.* art. 2.

<sup>21</sup>2011’s Top 10 Cases of Persecution of Churches and Christians in China, CHINA AID ASS’N, 7 (19 Jan. 2012), <http://www.chinaaid.org/p/chinaaid-annual-reports.html> [hereinafter 2011’s Top 10 Cases of Persecution].

<sup>22</sup>*Id.*

<sup>23</sup>*Id.*

<sup>24</sup>*Id.*

<sup>25</sup>*Id.*

<sup>26</sup>Religious Affairs Regulations (No. 426) (promulgated by the State Council, 30 Nov. 2004, effective 1 Mar. 2005), art. 3 (UNHCR) (China).

<sup>27</sup>ANNUAL REPORT 2012, *supra* note 6, at 147.

<sup>28</sup>*Id.*

<sup>29</sup>*Id.* at 149–50.

<sup>30</sup>*Id.*

<sup>31</sup>*Teng Biao, Chinese Human Rights Lawyer, Released after Detention*, HUFFINGTON POST: WORLD (29 Apr. 2011), [http://www.huffingtonpost.com/2011/04/29/teng-biao-chinese-lawyer-released\\_n\\_855511.html](http://www.huffingtonpost.com/2011/04/29/teng-biao-chinese-lawyer-released_n_855511.html).

officers seized two computers, a printer, articles, books, and DVDs.<sup>32</sup> One officer was quoted as saying “[l]et’s beat him to death and dig a hole to bury him in.”<sup>33</sup> This is not an isolated incident. Some estimate that over 100 lawyers and human rights defenders were forcibly disappeared in 2011 alone.<sup>34</sup>

### **Chinese Government Inhibiting or Prohibiting the Use or Operation of Religious Facilities**

9. Occasionally, rather than illegally arresting or detaining religious leaders and believers, Chinese authorities simply remove believers’ ability to gather with one another for worship, teachings, or other religious activities by inhibiting the use or operation of their religious facilities. This kind of flagrant infringement on religious rights can take a variety of forms, including: 1) terminating basic utilities; 2) preventing the construction of churches through building permit processes; 3) inhibiting a church’s ability to locate and lease facilities conducive for religious activities; and 4) condemning or destroying churches.<sup>35</sup> These actions violate the prescriptions of article 36 of Chinese Constitution<sup>36</sup> as well as articles 30, 33, and 35 of the RAR.<sup>37</sup> Article 30 of the RAR mandates that

[l]and lawfully used by religious groups or religious places of activity and buildings, structures, facilities, and other lawful property . . . are protected by law. . . . No organization or individual may seize, plunder, break up, destroy, seal off, attach, freeze, confiscate, or subject to fines lawful property of a religious group or place of religious activity . . . .<sup>38</sup>

10. Since 10 April 2011, parishioners of the Shouwang Church in Beijing have been forced to weather the elements in outdoor worship services after Chinese authorities locked the church

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<sup>32</sup>*Id.*

<sup>33</sup>Ellen Bork, *Meanwhile, in Beijing* ..., THE WKLY. STANDARD (11 Apr. 2011), <http://www.weeklystandard.com/keyword/Teng-Biao>.

<sup>34</sup>U.S. DEP’T OF STATE, *International Religious Freedom Report for 2011 – China*, 132 (May 2011), <http://www.uscirf.gov/reports-and-briefs/annual-report/3594-2011-annual-report.html>.

<sup>35</sup>*See, e.g.*, Jason Wert, *China’s Christians Facing Increased Persecution*, JIM BAKKER SHOW (22 Feb. 2013), <https://jimbakkershow.com/blog/2013/02/22/chinas-christians-facing-increased-persecution/>.

<sup>36</sup>“Citizens of the People’s Republic of China enjoy freedom of religious belief. No state organ, public organization or individual may compel citizens to believe in, or not believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.” XIANFA art. 36 (2004) (China).

<sup>37</sup>Article 33 provides,

[i]f, for reasons of city planning or a key construction project, it becomes necessary to dismantle buildings or structures of a religious group or a place of religious activity, the party that intends to dismantle shall consult with the religious group or place of activity and solicit opinions from the department of religious affairs. After all parties have been consulted and consent to the dismantling, the party that is responsible for the dismantling shall rebuild the dismantled building or structure or, pursuant to the relevant state regulations, provide compensation based on the appraised market value of the dismantled building or structure.

Religious Affairs Regulations, *supra* note 26, art. 33. Article 35 provides “[r]eligious groups and places of religious activity may, in accordance with the relevant state regulations, accept donations from organizations and individuals both in China and abroad. These may be used for activities that conform to the purpose of the religious group or place of religious activity.” *Id.* art 35.

<sup>38</sup>Religious Affairs Regulations, *supra* note 26, art. 30.

out of its meeting site and prevented the church from taking possession of its newly purchased property.<sup>39</sup> Three subsequent attempts to rent a new venue were stonewalled by Chinese authorities.<sup>40</sup> Not only have parishioners been denied access to the facilities the church now owns, Chinese authorities have subjected parishioners to persecution for their persistence in holding outdoor services. Members of the church “were detained more than 1,600 times by either Domestic Security Protection agents in various districts [of Beijing] or in more than 90 different police stations across Beijing (for periods of several hours to 48 hours).”<sup>41</sup> Sixty of the church’s members were evicted from their homes and ten lost their jobs due to their affiliation with the church.<sup>42</sup> Moreover, the church’s pastors, elders, and ministers have been forced into house arrest for the duration of the church’s closure.<sup>43</sup> Most concerning is the fact that the action taken against Shouwang Church is merely a small part of a large-scale crackdown by Chinese authorities.<sup>44</sup>

11. On 4 March 2011, Shi Enhao, the pastor of Suqian house church in Jiangsu province was seized by police officers and physically abused during his seizure and subsequent detention.<sup>45</sup> After Pastor Enhao’s release, he—along with some of his coworkers—was formally arrested on 31 May 2011.<sup>46</sup> Pastor Enhao was sentenced to two years in a labor camp, and police confiscated his personal books and documents, \$22,160 worth of church offerings, a church vehicle, and musical instruments. Not only does this series of incidents violate the RAR’s proscriptions against interference with religious facilities, but these actions by Chinese authorities also contravene article 35 of the RAR, which permits “religious groups . . . [to] accept donations from organizations both in China and abroad . . . [and] use [such donations] for activities that conform to the religious group.”<sup>47</sup>

12. As previously identified, the above incidents are both part of a recent, large-scale crackdown on house churches. In fact, the Chinese government recently “mounted a new three-phase approach designed to wipe out unregistered house churches . . . .”<sup>48</sup> This approach includes a new government office to investigate house churches, create files for each church, and issue reports on their activity.<sup>49</sup> Unlike the egregious incidents identified above, much of this new approach incorporates a more subtle undermining of the house-church movement. In most cases, law-enforcement officials use “utility companies, service committees and neighborhood committees to terminate contracts with facilities and cut off electricity and water . . . .”<sup>50</sup>

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<sup>39</sup>2012’s Top 10 Cases of Persecution, *supra* note 10, at 2–3.

<sup>40</sup>Michael Bristow, *Chinese Shouwang Church Vows to Hold More Services*, BBC NEWS ASIA-PACIFIC (12 Apr. 2011), <http://www.bbc.co.uk/news/world-asia-pacific-13048472>.

<sup>41</sup>2012’s Top 10 Cases of Persecution, *supra* note 10, at 3 (alterations in original).

<sup>42</sup>*Id.*

<sup>43</sup>*Id.*

<sup>44</sup>Bristow, *supra* note 40.

<sup>45</sup>2011’s Top 10 Cases of Persecution, *supra* note 21, at 5–6.

<sup>46</sup>*Id.*

<sup>47</sup>Religious Affairs Regulations, *supra* note 26, art. 35.

<sup>48</sup>Joshua Rhett Miller, *China’s Christians See Mounting Persecution in Country’s Effort to Disband Churches, Report Finds*, FOX NEWS (21 Feb. 2013), <http://www.foxnews.com/world/2013/02/21/christians-house-churches-in-china-see-erious-escalation-persecution-report/>.

<sup>49</sup>*Id.*

<sup>50</sup>*Id.*

13. The attacks of 10 April and 4 March, the large-scale crackdown on Chinese house churches, and numerous other human rights abuses discussed in this report violate a number of China's legal obligations, including the Chinese Constitution, the RAR, the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and the UN Charter. The Chinese Constitution prohibits any "state organ, public organization or individual [from] . . . discriminat[ing] against citizens who believe in . . . any religion."<sup>51</sup> The ICCPR provides for fundamental rights of freedom of religion and uninhibited belief.<sup>52</sup> Although China is only a signatory to the ICCPR, it is nevertheless bound to not act against the object and purpose of the ICCPR<sup>53</sup> by violating its citizens' right to freedom of religion and belief—a fundamental right that cannot be restricted under any circumstances. Many international scholars consider the right to freedom of religion or belief as *jus cogens*, from which no derogation is allowed: "The basic elements of the freedom of religion and belief have no doubt the status of *jus cogens*, or international customary law. A state is thus obliged to respect the right regardless of ratification of international texts."<sup>54</sup> Furthermore, as a member of the UN, China is bound by article 55 of the UN Charter, which mandates "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to . . . religion."<sup>55</sup> However, by its continued and systematic persecution of religious minorities, China has disregarded its legal obligations towards its own citizens.

### Conclusion

14. The 2009 UPR, despite the prevalence of commentary in the IDR section, failed to adequately convey the gravity of China's religious persecution and religious discrimination in its conclusion section. Regardless, China has disregarded many countries' admonitions, continuing religiously motivated abuses and formulating carefully considered approaches to subvert the religious practices of Chinese citizens. In order to begin the process of eliminating religious abuses, the 2013 UPR must unequivocally urge China that further religious persecution must be stopped.

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<sup>51</sup>XIANFA, *supra* note 36 (emphasis added).

<sup>52</sup>"Each State . . . undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as . . . religion . . . ." International Covenant on Civil and Political Rights art. 2, 16 Dec. 1966, 999 U.N.T.S. 171. "Everyone shall have the right of freedom of thought, conscience and religion. This right shall include the freedom to have or to adopt a religion or belief of his choice . . . ." *Id.* art. 18.

<sup>53</sup>Vienna Convention on the Law of Treaties art. 17, 23 May 1969, 1155 U.N.T.S. 331.

<sup>54</sup>*Freedom of Religion*, FORUM 18, 9 (Feb. 2001), <http://www.forum18.org/PDF/freedomofreligion.pdf>.

<sup>55</sup>U.N. Charter art. 55.