

Freedom of Religion in China in 2008

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REGULATORY FRAMEWORK

China, Freedom of Religion or Belief and International Law

The international legal obligations that China has assumed towards freedom of religion are unequivocal. The **Universal Declaration of Human Rights (UDHR)**, an international instrument all U.N. member states accept, and which has attained the status of customary international law, guarantees persons the right to manifest their religion "either alone or in community with others and in public or private," the right to be free from discrimination based upon religions, and the right to be free from unnecessary and arbitrary government regulation in exercising religious beliefs.

China is also signatory to the **International Covenant for Civil and Political Rights (ICCPR)** but has persistently refused to ratify it. The ICCPR protects the right of the individual to "have ... a religion or belief of his choice, and [the] freedom, either individually or in community with others and in public or in private to manifest" it. The Covenant commits signatories to ensuring freedom of religion and also commits them not to practice discrimination on the basis of religion.

The Chinese Constitution and Freedom of Religion or Belief

Article 36 of the **Constitution of the People's Republic of China** guarantees freedom of religion but remains ambivalent. It indeed states that:

- (1) *Citizens of the People's Republic of China enjoy freedom of religious belief.*
- (2) *No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.*
- (3) *The state protects normal religious activities. No one may make use of religion to engage in activities that disrupt the public order, impair the health of citizens or interfere with the educational system of the state.*
- (4) *Religious bodies and religious affairs are not subject to any foreign domination.*

On one side, the constitution protects so-called "normal" religious activities without providing a clear definition of what is to be considered normal. On the other side, it prohibits religious activities that impair public order, health, or education and proscribes "foreign domination" of religious bodies and religious affairs without clearly defining the scope of such activities. Moreover, the freedom to express one's religion through activities is NOT guaranteed by the constitution. This has been noted by the *U.N. Working Group on Arbitrary Detention*, which in its 2004 report reiterated its recommendation that the Constitution be revised to include such a guarantee.

New Regulations on Religious Affairs

In November 2004, the State Council promulgated new national "**Regulations on Religious Affairs**", which took effect on 1 March 2005. This legal tool is fundamental for administering all religions throughout the People's Republic of China.

It was the latest policy decision aimed at restricting religious activities that fall beyond the scope of governmental control. Throughout 2004, officials claimed that the new regulations represent a "paradigm shift" in official thinking about religious affairs. Despite initial assurances that they would liberalize state management of religious affairs, these

regulations have been designed and introduced with the purpose of strengthening certain aspects of governmental control over religious activities.

The inherent flaw of these regulations is the arbitrariness with which local officials can take decisions to detain and arrest religious believers, close religious sites, and impose restrictions on the movements, contacts, visits, and correspondence of religious personnel. The new regulations also do not offer clarification of "normal" religious activity and of the scope of "religious extremism" and public order disturbances. Therefore, the new regulations have not removed the ambiguities implanted in the already existing legal policy framework, which is an indispensable condition for the correct management of religious affairs. It can be therefore concluded that there is no evidence that Chinese officials have undergone the claimed "paradigm shift" in their attitudes to religious matters. On the contrary, these new regulations provide additional evidence that the government remains unwilling to surrender its control of religious affairs.

Moreover, the Regional Ethnic Autonomy Law provides a specific framework for the five autonomous regions to adapt national laws "in the light of existing local conditions." In the Tibet Autonomous Region, this adaptation of the 2005 legislation was promulgated on 1 January 2007 under the name **"TAR Measures for Implementation of 'Regulations for Religious Affairs'"** and made thereby obsolete the "TAR Temporary Measures for the Management of Religious Affairs" of 20 December 1991. The new regulations which comprise 56 articles maintain the supremacy of the Chinese Communist Party and reinforce the already tight control of Beijing over religious practice and teachings. Approvals from multiple tiers of government are required for numerous activities.

Recognition and Control of Religions

The government of China recognizes five so-called "normal" religions: Protestantism, Catholicism, Buddhism, Taoism and Islam.

The registration of particular religious groups is a prerogative of the state. For each of the five officially recognized religions there is a government-affiliated association that monitors and supervises its activities: the *Chinese Buddhist Association*, the *Catholic Patriotic Association*, the *Protestant Three-Self Patriotic Movement*, the *Chinese Islamic Association* and the *Chinese Taoist Association*. All religious groups must register with the appropriate religious organization to be allowed to carry out their activities legally.

State recognition is all the more important since only state-sanctioned groups are afforded "protection" under China's religious freedom rules. The other side of this so-called protection is however that they must accept strict government supervision and they can only preach inside designated temples, churches and mosques.

According to Regulation 145, **"On Management of Places for Religious Activities"** issued in January 1994 and according to the **"Regulation Procedures for Religious Activities"** issued in May 1994, applicant groups must have a professional religious leader approved by the relevant patriotic association, a fixed meeting point and activities confined to a specific area. Any unregistered activity is illegal and may be prosecuted under the **"Regulations Governing Public Order Offenses"** which was amended in 1994 to include "Carrying out activities under the name of a social organization without registration," "organizing activities of superstitious sects and secret societies to disrupt public order," and "disturbing public order and damaging people's health through religious activities."

Hereby, the Government seeks to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of activities of religious groups. In this way, it is also trying to prevent the rise of groups that could constitute sources of authority beyond its sphere of influence.

The administrative control of the registered religious associations is operated through two major institutions: the *State Administration for Religious Affairs* (SARA) which is under the authority of the State Council of the People's Republic of China and the *United Front Work Department* (UFWD) which is under the authority of the Central Committee of the Communist Party of China. Both institutions have bureaus in the Autonomous Regions, in the provinces and in the municipalities. is responsible for monitoring and judging the legitimacy of religious activity. The SARA and the CPC *United Front Work Department* (UFWD) provide so-called policy "guidance and supervision" on the implementation of government regulations regarding religious activity, including the role of foreigners.

Using the national religious leaderships as the advocates of the Chinese government's religious policy, domestic and foreign political agendas is one of the missions of these state control agencies.

RELATIONS BETWEEN THE STATE AND RELIGIOUS COMMUNITIES

An overview of specific areas of tension between the Chinese authorities and various religious communities will now illustrate the reality of the lack of religious freedom in China.

Tibetan Buddhists

On 14 May 1995, the Dalai Lama appointed the new Panchen Lama, a six-year old boy from Tibet named Gendun Choekyi Nyima. As soon as the news was announced, troops surrounded the town and took the child and his family away. Since then, their whereabouts have been unknown and have been one of China's most keenly guarded secrets.

The Chinese state then appointed another six-year-old child, Gyaincain Norbu, as the right Panchen Lama, Tibetan Buddhism's second-highest figure. He was moved to an unknown place of safety in Beijing to protect him from supposed threats of revenge.

Surprisingly, the Chinese-appointed Panchen Lama made his debut on the world stage in 2006 at China's first international religious forum since 1949 organized by the state-controlled *Chinese Buddhist Association*.

"TAR Measures for Implementation of the Regulations on Religious Affairs" passed by the 11th Standing Committee of TAR People's Government and promulgated on 1 January 2007 aggravated the Panchen Lama issue. The new measures enforced one year and a half before the Olympic Games stated in article 36 that the search for any new Panchen Lama and his appointment was entirely in the hands of the Government and the Communist Party. Through the "TAR Measures", the Chinese authorities also took control of the entire education of reincarnate lamas, especially through a 'school for tulkus' in Beijing, located far away from Tibet.

On 31 January 2008, the Chinese appointed Panchen Lama, 17-year old Gyaltzen Norbu, pledged his support for the Communist Party during a "formal visit" to China's top legislator, Wu Bangguo, at Beijing's Great Hall of the People, the seat of China's legislature, the official Xinhua News Agency said. The reason for the meeting was not immediately clear, but it took place amid increased sensitivity ahead of this summer's Beijing Olympics over what critics say are China's continued attempts to subvert Tibetan Buddhist culture. On this occasion, Norbu "vowed to support the leadership of the Communist Party of China and to make more contributions to the Tibetan economy and

social harmony by guiding more religious work to adapt to China's socialist society," Xinhua said. And Wu encouraged Norbu to "take responsibility to enhance China's reunification and do more things that could benefit the country," the report said.

Catholics

Relations between the Vatican and China have been rocky since Beijing severed ties in 1951 in anger over the Holy See's diplomatic recognition of Taiwan.

In 1957, China set up the Patriotic Association, which formally oversees China's officially registered Catholics, estimated at numbering about five million, and is the sole authority to be allowed by the Government – with its approval - to appoint the Chinese bishops.

However, up to 10 million Chinese Catholics belong to communities that pledge allegiance to the Pope and are not affiliated with the government-controlled Catholic Patriotic Association. They worship in non-registered churches with non-registered priests and are therefore often subject to police and government harassment.

Bishops loyal to Rome are often appointed in secret, although Beijing and the Vatican have attempted to compromise in some cases by finding candidates acceptable to both. In recent years, the Vatican has voiced hopes that the two churches can be reconciled, especially as the numbers of Catholics attending both registered and unregistered communities have grown dramatically.

In a June 2007 letter to the Chinese faithful, Pope Benedict XVI called for unity in an overture widely seen as a call to restart normalisation talks. However, China's official position is that diplomatic relations can only be established after the Vatican cuts its ties with Taiwan and pledges not to use religion to interfere in its internal affairs.

Currently, every one of the approximately 35 underground Catholic bishops is either in jail, under house arrest, under strict surveillance, or in hiding. He was released on August 24, 2006 after more than 10 years confinement in prison. Bishop SHI Enxiang, Bishop of Yixian, Hebei, was arrested on April 13, 2001. He is now more than 80 years old and has been detained for more than 6 years. His whereabouts are not known. Bishop YAO Liang, the auxiliary bishop of the diocese of Xiwanzi in Hebei, was arrested on March 31, 2005, released, and arrested again on July 30, 2006. He is in his early eighties. His whereabouts are not known. Bishop ZHAO ZhenDong, Bishop of Xuanhua in Hebei, was arrested in December 2004. He died shortly after he was released. He was 87 years of age. Bishop HAN Dingxiang, Bishop of Yong Nian, Hebei, was arrested in December 1999 and was held in an unknown place for his last two years. He died last year in a very suspicious situation. He was cremated and buried within six hours of his death without any religious ceremony.

Protestants

Protestant churches are also divided along the same lines as the Catholic Church. A number of them have registered under the government-sanctioned Three-Self Patriotic Movement (TSPM) which was created in 1950 after Mao seized power. According to official figures, some 10 million Protestants are members of TSPM churches.

Other congregations, also called 'house churches', are not registered and their activities are considered illegal. The number of Protestants gathering in unregistered 'house churches' is estimated to exceed 50 million. Over the past year, the government has arrested 1,958 clergymen and Church members from house churches.

On 5 December 2007 police officers and officials from the Religious Affairs Bureau raided a house church in Kunming arresting all those present. In searching the building the agents found hundreds of religious books (including several Bibles) and burnt them.

Police also burnt the identity papers of three underground Christians and forced the landowner of the building where the group met to break the rental agreement he had with them.

However, under Chinese law police must release an official receipt whenever its agents seize anything for later use in trial to determine the quantity and value of individual items of proof. Instead in Kunming police agents did not follow procedures.

On 23 January 2008, police in the southern province of Yunnan violently beat up a group of Protestants from a non-registered church as they filed a claim for damages after police seized and later burnt hundreds of their Bibles and other religious objects during a raid on their house church. A woman, 54-year-old Liang Guihua who was thrown against a wall, was rendered unconscious. The violent episode occurred in an office of Xishan District's Public Security Bureau.

According to a secret document prepared for the Chinese communist party in Hubei, leaked to the West last November, a campaign is underway to 'normalise' the unregistered Protestant Churches by offering them two options: either join the TSPM or be suppressed.

This campaign is in clear violation of UN guidelines on religious freedom, which ban the distinction between lawful religious activities (i.e. state-controlled) and activities deemed unlawful because they are not controlled by the government.

Muslims

Most Chinese Muslims are Uyghurs and live in East Turkestan, which the Chinese call Xinjiang Uyghur Autonomous Region. Since 1949 when the homeland of the Uyghurs was occupied by the Chinese army, they have been subjected to repressive policies of the Chinese government. As the Chinese government has beefed up its efforts to suppress any form of political discourses and aspirations different from the official one, Uyghurs seeking democracy and freedom are denied their legal, cultural and economic rights, and suffer from a growing sense of cultural dilution, economic exploitation, and religious discrimination.

Over the past six and a half years, officials of the People's Republic of China (PRC) have unreservedly used the highly controversial concept of the "war on terror" as a justification for their repressive treatment of Uyghurs in East Turkestan and as a pretext to slander indiscriminately all Uyghur human rights organizations around the world, which are currently active in exposing human rights abuses in East Turkistan. After September 11, 2001 Xinjiang authorities used combating terrorism to justify placing restrictions on peaceful religious practices of Uighur Muslims. Because the Xinjiang authorities often did not distinguish carefully among those involved in peaceful activities in support of independence, "illegal" religious activities, and violent terrorism, it is often difficult to determine whether particular raids, detentions, arrests, or judicial punishments targeted those seeking to worship, those peacefully seeking political goals, or those engaged in violence. As a result, Xinjiang authorities sometimes erroneously charged Uyghur Muslims with committing the "three evils" of terrorism, separatism, and extremism.

Under the pretext of "unification of national education", all religious schools were banned and Uyghur children were transferred to other primary schools where Marxism, Leninism and Maoism were taught. At present, there are no private religious schools in East Turkestan and private religious instruction is banned.

Throughout East Turkestan, more than 29,000 mosques were closed and turned into barracks, stables and slaughter houses.

In several areas of Xinjiang, officials restrict the building of mosques and the training of clergy. Chinese authorities keep closures of mosques and the non-reaccreditation of imams secret. It is difficult to assess the number and scale of such actions. However, information found in scattered official sources suggests that retaliation against non-conforming mosques and clerics is prevalent and has gained new vigor since late 2001. At that time, authorities in Xinjiang imposed even more control on mosques, effectively banning any new construction work on mosques in Xinjiang. However, the government has been careful to maintain a few showcase mosques that have undergone extensive renovation, such as the Id-Kah Mosque in Kashgar.

The Government tightly monitors the publication of Islamic religious materials. Several Uighur Muslims were reportedly detained for possession of an illegal religious book called the Mishkat-ul Misabih and other illegal religious activities in Xinjiang.

Pilgrimage to Mecca continues to be restricted by the Chinese authorities.

Falun Gong Practitioners

On 22 July 1999, the Ministry of Civil Affairs under the State Council banned "the Research Society of Falun Dafa and the Falun Gong organization under its control." On June 10, 1999, under direct orders from the then leader of the Chinese Communist Party (CCP), Jiang Zemin, the CCP Central Committee formed the "610 Office", an organization with the sole mission of cracking down on Falun Gong. The power it enjoys far exceeds that which is officially authorized under the Chinese constitution: it has absolute power over each level of administration in the Party and all other political and judiciary systems. The "610 Office" has full control over any issue that has to do with Falun Gong. Besides its central office in Beijing, the "610 Office" has branches in all the Chinese cities, villages, governmental agencies, institutions, and schools.

Since 1999, more than 3000 Falun Gong practitioners have been confirmed tortured to death, over 100,000 were sent to labor camps, more than 6,000 were sentenced to prison terms of up to 18 years, and hundreds of thousands were illegally arrested and detained.

According to 2002 Human Rights Watch report "**Dangerous Meditation: China's Campaign against Falun Gong**", "there is evidence of a range of serious abuses against Falun Gong members in custody, including beatings, electric shock and other forms of torture, forced feeding and administration of psychotropic drugs, and extreme psychological pressure to recant."

In the first three weeks of January 2008, 29 Falun Gong practitioners were known to have been arrested in China. In December 2007, four practitioners from Ezhou in Hubei province - Chen Beiping, Liu Xiuying, Liu Zhenggen and Gao Zhuyun - were secretly sentenced to forced labor for one year and nine months by Ezhou city's members of the 610 Office.

In 2007, Mr. Shen Hailong, a 32-year old practitioner from Anshan City, in Liaoning Province, was sentenced to 18 years of imprisonment because he participated in broadcasting Falun Gong messages via satellite. Recently he was transferred from Wafangdian Prison in Dalian City to Nanguanling Prison where he is forced to sew clothes and work every day from 6 a.m. to 6 p.m.. In Wafangdian Prison, he was brutally tortured. Nanguanling Prison is also a prison known to torture Falun Gong practitioners.

CONCLUSIONS

On the eve of the Olympic Games, China makes a lot of efforts to convince the international community that progress in human rights and in religious freedom follows and will follow the same pace as its economic development. Nothing is so far away from the reality.

When in 2001 the International Olympic Committee awarded the 2008 Olympic Games to Beijing, it did so because the Beijing bidding committee pledged that the hosting of the Games "will help the development of human rights" and most notably, "there will be no restrictions on media reporting and movement of journalists up to and including the Olympic Games".

A few months before the Olympics are to start there has been no tangible improvement of human rights in China.

In 2001, the Chinese Government had not ratified the International Covenant on Civil and Political Rights, which includes provisions protecting freedom of religion and belief and the right to profess and practice it individually and collectively; since then, **there has not been any progress.**

In 2001, the Chinese Government only recognized the legal existence of five religions while all the others were either just tolerated or officially banned, like the Falun Gong; since then, **there has not been any progress.**

In 2001, the Chinese Government considered illegal the Catholic, Protestant, Muslim, Buddhist and Taoist communities that had not registered with the appropriate religious organizations under the control of the Communist Party, i.e. the Chinese Buddhist Association, the Catholic Patriotic Association, the Protestant Three-Self Patriotic Movement, the Chinese Islamic Association and the Chinese Taoist Association; since then, **there has not been any progress.**

In 2001, members of religious communities which did not want to register with the state-controlled religious organizations or whose applications were rejected were denied the right to enjoy freedom of assembly and freedom of worship. Those communities were considered illegal, their pastors and their members were facing heavy fines and imprisonment if they gathered for a religious service; since then, **there has not been any progress.**

In 2001, religious communities and their faithful were living under restrictive laws that were not consistent with international standards; since then, **there has not been any progress.** Not only these laws have not been repealed but new sets of regulations have been adopted which further restrict the freedom of all state-sanctioned religions.

In 2001, the clerics of all recognized religions were only allowed to preach inside designated temples, churches and mosques; since then, **there has not been any progress.**

In 2001, Catholic priests were not allowed to minister their communities in communion with Rome; since then, **there has not been any change.**

In 2001, the Chinese Government was controlling the appointment of Catholic bishops; since then, **there has not been any substantial progress.**

In 2001, Tibetan Buddhists and their clergy were not allowed to express their religious devotion to the Dalai Lama and to have access to him; since then, **there has not been any progress**.

In 2001, the Chinese Government was keeping the Panchen Lama appointed by the Dalai Lama in state custody and had appointed its own. Since then, not only **there has not been any progress** but the situation has even worsened as it has taken the control of the selection process of the Panchen Lama, including its identification and its religious and patriotic training.

In 2001, the one-child policy imposed by the state was violating the right of believers of various religions to abide by the ethical standards of their faith; since then, **there has not been any progress**.

In 2001, the Chinese Government was turning a deaf ear to UN Special Rapporteur on Freedom of Religion and Belief, Ms Asma Jahangir, who needed an official invitation to carry out a fact-finding mission about the alleged violations of religious freedom in China; since then, **there has not been any progress**.

When Beijing starts making substantial progress in all these specific issues, its promises will begin to be credible. Up to then, any other move or promise of change will be only be pure propaganda.