

# CHINA

The People's Republic of China is a one-party state, ruled by a single authority, the all-pervasive Chinese Communist Party (CCP). With nearly 20% of the world's population, it is the most populous country in the world (1.381 billion people from the latest census in May 2016<sup>1</sup>) as well as one of the most rapidly expanding economies.

Religion (宗教 *zōngjiào*) in China tends to be syncretic and non-theistic, where following one religion does not require the rejection or denial of others. Traditional Chinese culture has been marked by a worldview that all things are part of the whole, an essential oneness that permeates the universe and unites the many into one. Some philosophical and belief systems in China, such as Confucianism, defy typically Western notions of what actually constitutes a 'religion.'

Hundreds of millions of people practice some form of Chinese folk religion and Taoism. There have been several attempts to estimate the number of Taoists. These attempts often resulted in only small percentages of the population willing to consciously identify themselves Taoist, since there is no difference between Taoism and Chinese folk religion in the minds of most Chinese people.

Statistics for religious believers differ widely for a number of reasons. According to the 2014 Index Mundi survey,<sup>2</sup> Buddhists represent 18.2%, Christians 5.1%, and Muslims 1.8% of the Chinese population. The majority Han Chinese maintain many local religious practices. There are also numerous ethnic minority groups in China who follow their traditional autochthone religions. Various sects of indigenous origin are represented by 2-3% of the population. Identifying oneself with Confucianism is popular among intellectuals. There are also significant faiths that are specifically connected to certain ethnic groups, such as Tibetan Buddhism and the Islamic religion of the Hui and Uyghur peoples.

47% of Chinese self-identify as 'convinced atheist' (2012 WIN/GIA poll). Officially, the Communist Party in China is atheist.

The Pew Center estimates the total number of Christians in mainland China to be sixty-seven million, nine million of these Catholic. Notably, this number approaches the total membership of the Chinese Communist Party, estimated in 2012 to be eighty-five million. Indeed, sporadic CCP-inspired efforts to contain the further expansion of Christianity appear more fear-driven than practical. The ongoing campaign to remove church crosses from public view in Zhejiang

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<sup>1</sup> <http://www.worldometers.info/world-population/china-population/>

<sup>2</sup> <http://www.indexmundi.com/china/religions.html>

Province is one such action. Since the operation began in 2014, more than 2,000 crosses have been demolished by local authorities.

The activities of religious communities are regulated by various state agencies, especially the State Administration for Religious Affairs (SARA) and the United Front Work Department (UFWD), which is directly under the authority of the Communist Central Committee. Both institutions have offices in the Autonomous Regions as well as at the provincial and municipal level. These agencies are responsible for monitoring and judging the legitimacy of religious activities within their area. Even still, the SARA and the UFWD provide so-called policy ‘guidance and supervision’ on the implementation of government regulations regarding religious activities, including those of foreigners.

Another role of these state control agencies is to leverage the national religious leadership bodies to serve as advocates for the Chinese government’s religious policy and domestic and foreign political agendas.

### **Falun Gong Practitioners in Prison**

#### ***Hundreds of prisoners sentenced to three to seven years: many died in prison in 2016***

Established in 1992, the Falun Gong (or *Falun Dafa*) movement originated in north-eastern China, where Master Li Hongzhi presented teachings on the healing and health benefits of the ancient Chinese practice of Qigong. As there are no formal membership records maintained by Falun Gong, only rough estimates are available for the numbers of practitioners worldwide. At the peak of its popularity in China there were an estimated seventy million adherents. Hundreds of thousands are estimated to practice it outside China in over seventy countries worldwide.

The Falun Gong movement is the world’s most persecuted religious/spiritual denomination by a single country. China is the only country where its practitioners are perceived as a threat to the state, repressed, and put in prison. On 22<sup>nd</sup> July 1999, Falun Gong was banned as an ‘illegal organisation’ by the Ministry of Civil Administration for ‘*advocating superstition, spreading fallacies, hoodwinking people, inciting and creating disturbances and jeopardizing social stability.*’

On 30<sup>th</sup> October 1999, the National People’s Congress Standing Committee adopted specific legislation about ‘evil cults,’ called the *Resolution on Banning Heretic Cult Organisations*, its chief purpose being to repress the Falun Gong movement. Since then, several other religious groups, including Protestant churches, have fallen into this category. The government even established a special agency, called the ‘610 Office,’ that is in charge of dealing with Falun Gong practitioners.

For several years the website [minghui.org](http://minghui.org)<sup>3</sup> has been documenting thousands of cases of arrest, imprisonment, disappearance, torture, and killing of Falun Gong practitioners.

In October 2014, a state-run newspaper announced that China would impose even harsher punishments on people participating in illegal cults.

The usual sentence is between three and seven years, but in certain circumstances individuals have received sentences as long as twelve or even seventeen years.

While in prison, Falun Gong practitioners have been known to live in harsh conditions and, among other ill-treatment, are victims of physical and mental torture, sleep deprivation, and denied family visits. Every year a number of them die during their detention because of inhumane treatment.

### *Some cases*

#### **Zuo Xianfeng<sup>4</sup>**

Ms. Zuo Xianfeng is a thirty-seven-year old school teacher from Yilan County. She was arrested on 8<sup>th</sup> December 2015 after she invited people to attend the court trial for Falun Gong practitioner Li Chang'an. She was later sentenced to five years in prison and was transferred in Heilongjiang Women's Prison in May 2016. She was denied family visits even though her mother travelled a long distance to see her.

The prison authorities have tried to convince her to abandon her beliefs through a forced transformation procedure. She refused to comply, and as a consequence of her refusal two inmates were enjoined to abuse her physically. She was also the victim of 'sitting torture,' where she was forced to sit on a small stool for several successive hours every day. The practice of sitting torture causes severe pain, injury, and mental breakdown and is commonly used by the Chinese authorities.

#### **Luo Jianrong<sup>5</sup>**

Ms. Luo Jianrong was arrested for being a Falun Gong practitioner and sentenced to four years in prison. There she was forcibly administered unknown drugs which caused her to develop a mental disorder. In addition, she has been denied family visits for refusing to give up her belief.

#### **Guo Chuanjiang<sup>6</sup>**

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<sup>3</sup> English version: <http://en.minghui.org/cc/10/>

<sup>4</sup> <http://en.minghui.org/html/articles/2016/6/21/157505.html>

<sup>5</sup> <http://en.minghui.org/html/articles/2016/6/14/157405.html>

<sup>6</sup> <http://en.minghui.org/html/articles/2016/6/5/157292.html>

Practitioner Mr. Guo Chuanjiang from Anshan City was arrested and transferred to ward No.19 in Liaoning Province Prison in March or April 2013. He was tortured with electric batons, the tiger bench, and his nose was burned with a lighter. His torturers also threatened to blind him.

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### **Catholics in Prison**

Since the end of diplomatic relations between China and the Holy See in 1951, the Catholic Church has had two faces in China: the government-established Chinese Catholic Patriotic Association (CCPA), grouping Catholic churches under the sole authority of the Chinese state, and the Roman Catholic churches loyal to the Pope. The Chinese Government only recognizes clerics who openly declare their independence from the Vatican and have sworn allegiance to the Communist regime. Roman Catholic clerics and churches rejecting the authority of the state were forced underground.

Despite this official policy, an estimated 90% of CCPA bishops and priests have been secretly ordained by the Vatican. In several provinces, the CCPA and unregistered Catholic clergy and congregations work in close collaboration.

Eight Catholics are known to still be in prison or missing after their arrest years ago:

**Fr. Cui Tai**, underground priest of the diocese of Xuanhua (Hebei)

He was arrested by the staff of the SARA Bureau on 22<sup>nd</sup> June 2011. No information on his whereabouts and conditions has been made available since that time.

**Fr. Gao Jiangping**, diocesan administrator of the Diocese of Suiyuan, which refuses to join the state-sanctioned CCPA.

He was arrested on 31<sup>st</sup> January 2012 and is detained in Hohhot for unknown charges. In his statement he declared the incompatibility between the allegiance to the regime and his loyalty to the Roman Catholic Church and the Pope.

**Fr. Liu Honggen**, underground priest of the diocese of Baoding (Hebei)

He was charged with refusing to join the CCPA following his arrest on 27<sup>th</sup> December 2006. According to some sources, Fr. Liu was released from the Prison of Qingyuan in August 2015, after being convicted without trial and serving eight years in prison. He was reportedly arrested again later and has not been seen since.

**Thaddeus Ma Daqin**, Bishop of Shanghai

He was charged with resigning from the state-controlled CCPA and affirming in his statement the incompatibility between allegiance to the regime and his loyalty to the Roman Catholic Church. This information was confirmed on 12<sup>th</sup> December 2012 by Joseph Liu Yuanlong, a vice chair of the CCPA, saying that the government-sanctioned Catholic Bishops' Conference in China had revoked the appointment of Thaddeus Ma Daqin as auxiliary bishop of Shanghai for violating the rules for episcopal ordinations. He has been under house arrest since 2012 at the Sheshan Regional Seminary near Shanghai.

**Mgr. Cosma Shi Enxiang**, underground bishop of Yixian (Hebei)

Mgr. Cosma was arrested in Beijing on 13<sup>th</sup> April 2001. Before this arrest he had intermittently suffered long periods in prison and house arrest from 1957 until 1980. Early in 2015 there was a report that Mgr. Cosma had died, but to date this information has not been confirmed.

**Fr. Song Wanjun**

Fr Song Wanjun from Qiaodong District was arrested on 7<sup>th</sup> August 2013 and sentenced to three years in prison. He was at first detained in Qiaodong District then taken to Zhangbei County. He had previously evaded several arrests.

**Tian Dalong**

He organised catechism classes for adults in Qinyuan County in Hebei Province and was arrested early October 2013. He is said to be held in the police barracks in Baoding but has gone missing since his arrest.

**Mgr. James Su Zhimin**, underground bishop of Baoding (Hebei)

He was arrested on 8<sup>th</sup> October 1997 for charges still unknown. According to AsiaNews, Mgr. Zhimin remains in police custody. He has been considered for many years a 'counter-revolutionary,' because he has refused to join the CCPA since the 1950s. He has already spent altogether forty years in captivity. He was last seen by his relatives in 2003 in a hospital surrounded by police.

Most Catholics in detention are priests and bishops, whose loyalty to the Roman Catholic Church precludes their association with the *Chinese Catholic Patriotic Association* controlled by the Communist Party. In some cases, there were no official charges and no trial.

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## **Protestants in Prison**

The members of unregistered churches are especially subject to discrimination, harassment, and even prosecution under the Regulations Governing Public Order Offences. These regulations address such offenses as ‘Carrying out activities under the name of a social organisation 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.’

Despite the restrictions, harassment arrests, and government surveillance, the number of Protestants is on the rise in China, mainly among Evangelicals and Pentecostals. The government tolerates regular and public worship activities of unregistered religious groups; however, the level of tolerance can vary, depending on province or locality. In a number of cases Protestants have been arrested and sentenced for defending their church buildings, holding underground religious services, having missionary activities or accused of disruption of public order and fraud.

Several types of charges have been used to convict Protestants. For example, a range of charges can be applied which relate to state security: ‘divulging state secrets,’ ‘subversion of state power,’ ‘suspicion of gathering a mob to disturb social order’ and of ‘stealing, spying on, buying and illegally providing state secrets and intelligence to overseas organizations,’ ‘using a cult to undermine law enforcement,’ ‘belonging to a forbidden cult,’ ‘illegally occupying farmland and disturbing transportation order’ or ‘gathering crowds to disturb public order.’

Protestants may also be convicted for charges relating to finance: ‘embezzling and accepting bribes,’ ‘illegal business operations,’ ‘concealing accounting documents, accountings books or financial statements,’ or printing and distributing publications that were considered harmful or seditious.

### *Some cases*

**Bao Guohua (Pastor)** was arrested on 26<sup>th</sup> July 2015 in Jinhua, along with his wife Xin Wenxiang and their son Bao Chenxing. The official charges were: Embezzlement; gathering a crowd to disturb public order; illegal business operations; and concealing accounting documents, accounting books, or financial statements. However, he thinks he was targeted for speaking out against forced cross removals across the province. In first instance, the Yangcheng District Court of Jinhua sentenced him to 14 years in prison, confiscated his assets totaling 600,000 Yuan [(U.S. \$91,850)], and ordered him to pay a fine of 100,000 Yuan [(U.S. \$15,300)].

**Gong Bangkun**, the leader of the Evangelical South China Church, was sentenced to death for “using a cult to undermine enforcement of the law” in December 2001. In September 2002, his

sentence was converted into a fifteen-year prison term. Bangkun is the founder of China's biggest network of Evangelical house churches. **Huang Yizi**, a pastor, was arrested on 3<sup>rd</sup> August 2014 in Wenzhou. He was charged of gathering a crowd to disturb public order. In reality, he helped Christians at the Salvation Church defend their cross from removal by the authorities. On 24<sup>th</sup> March 2015, he was sentenced to one year in prison. He was released on the 5<sup>th</sup> February 2016. He is now under house arrest.

**Yimiti Alimujiang**, a Christian ethnic Uyghur, was arrested in 2008 on suspicion of inciting subversion of state power and leaking state secrets. Since 2002 he had been preaching Christianity among the people of his ethnic group, distributing religious materials and converting some to Christianity. On 12<sup>th</sup> September 2008, the United Nations Working Group on Arbitrary Detention ruled in its No. 28 document that Alimujiang's arrest and detention had been arbitrary. On 6<sup>th</sup> August 2009, Kashi District Intermediate Court secretly sentenced Yimiti to fifteen years in prison for "illegally providing state secrets to foreign nationals."

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### **Tibetan Buddhists in Prison**

The Chinese government maintains control of the teachings, worship sites, and selection of religious leaders of Tibetan Buddhism. It systematically arrests and detains individuals who support the Dalai Lama or oppose government policy. Tibetan Buddhists are routinely sentenced to heavy prison sentences on the ground of separatism.

On 14<sup>th</sup> May 1995, the Dalai Lama recognised a six-year old boy from Tibet named Gendun Choekyi Nyima as the new Panchen Lama, the highest-ranking lama in the Gelugpa lineage after the Dalai Lama himself. Soon after the announcement, Chinese troops abducted the child and his family who were taken to an unknown location. Their whereabouts remain one of China's most closely guarded secrets.

Subsequently, the Chinese government appointed another six-year-old child, Gyaincain Norbu, as the correct Panchen Lama and then moved him to an unknown place of safety in Beijing, ostensibly to protect him from threats to his life. Interestingly, the Chinese-appointed Panchen Lama made his world debut in 2006 at China's first international religious forum since 1949, organized by the state-controlled Chinese Buddhist Association.

On 31<sup>st</sup> January 2008, the Chinese-appointed Panchen Lama, then aged seventeen, pledged his support for the Communist Party during a formal visit to China's top legislator, Wu Bangguo.

In recent years, more than a hundred Tibetan Buddhists have set themselves ablaze to oppose Beijing's rule and call for the Dalai Lama's return. China has arrested and imprisoned numerous Buddhists belonging to the Tibetan ethnic group, including many monks, for their religious and/or other non-violent protest activities.

### *Some cases*

HRWF Int'l has documented a limited number of cases related to the exercise of freedom of religion<sup>7</sup> as detailed information about the victims is usually not available.

#### **Gendun Choekyi NYIMA and his parents**

Gendun Choekyi NYIMA, born on 25<sup>th</sup> April 1989, was kidnapped with his parents on 17<sup>th</sup> May 1995 at their place of residence in Lhary Counti (Tibet). Three days before his arrest, the young boy had been named by the Dalai Lama as the 11<sup>th</sup> incarnation of the Panchen Lama of Tibet. The Chinese authorities claimed that usurping the title of reincarnation of the 10<sup>th</sup> Panchen Lama was an 'illegal and invalid' decision.

#### **Bhumo**

He was arrested on 4<sup>th</sup> May 2008 in Ganzi (Kardze) County, Ganzi TAP, Sichuan Province, for protesting government demands that nuns of Pangri Nunnery denounce the Dalai Lama. He was sentenced to nine years in detention.

#### **Gomar Choephel**

He was arrested on 10<sup>th</sup> July 2015 and held for seven months without trial for passing a photo of the Dalai Lama to friends via social media and having the photo in his personal possession. The People's Intermediate Court in the Malho (in Chinese, Huangnan) Tibetan Autonomous Prefecture sentenced him to two years in prison on 17<sup>th</sup> February 2016. He was charged with undermining social stability and of taking actions aimed at splitting the country. He is now held in the county's Drakmar detention center.

#### **Monlam Kalsang**

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<sup>7</sup> Others have been arrested and sentenced to long prison terms or to death for their involvement in political non-violent, or violent activities according to the Chinese authorities, or as human rights defenders but the lack of access to reliable information did not allow HRWF Int'l to check the nature of their activities and the veracity of the official accusations. It was also difficult to identify cases in which the victims were imprisoned for purely exercising their freedom of religion. A margin of error is not excluded.

He was arrested on 5<sup>th</sup> May 2015 at his place of residence in the Labrang Monastery in Amdo Labrang County. The authorities searched his room and phone before taking him away. There is no information about Monlam's condition or whereabouts.

### **Thardhod Gyaltsen**

He was arrested in December 2013 for possession of banned images and teachings of the Dalai Lama. He was sentenced to eighteen years in prison by the court and is likely detained in Chushul Prison.

### **Sonam Lhasto**

Sonam Lhasto, a nun, was arrested on 14<sup>th</sup> May 2008 in Ganzi (Kardze) County, Ganzi TAP, Sichuan Province during a peaceful demonstration. She protested with fifty other nuns against the demands that nuns of Pangri Nunnery denounce the Dalai Lama. In 2008 or 2009, the court sentenced her to ten years in prison. She is likely detained in Mianyang Prison.

### **Tenzin Lhundrup**

A well-respected senior monk from Gom Gonsar Monastery in Driru County known for his social service and promotion of Tibetan culture. He was arrested in May 2014 and later sentenced to twelve years in prison.

### **Bangri Tsamtrul Rinpoche (also known as Jigme Tenzin Nyima / Bangri Chogtrul Rinpoche)**

Arrested in 1999, he was convicted of 'attempting to split the country' after a partial confession was extracted under torture during a five-day interrogation session. He was given a sentence, which was later commuted to eighteen years. He is presently detained at Chushul Prison, Tibet Autonomous Region.

### **Phurbu Tsering Rinpoche**

He was arrested on 18<sup>th</sup> May 2008 in Ganzi (Kardze) County, Ganzi TAP, Sichuan Province, during the nuns' demonstration against an official campaign to impose 'patriotic re-education' on their convents in which they were required to denounce the Dalai Lama. He was charged with illegal possession of ammunition and with embezzlement – charges which he denies – and then sentenced in 2009 to eight years and six months in prison. His last known place of detention was Hardze, Sichuan Province.

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According to the SARA, there are more than twenty-one million Muslims in China; unofficial estimates range as high as fifty million. Hui Muslims number around ten million and are concentrated primarily in the Ningxia Hui Autonomous Region and Qinghai, Gansu and Yunnan Provinces. Uyghur Muslims live primarily in Xinjiang. According to Xinjiang Statistics Bureau data from 2010, there are approximately ten million Uighurs in the Xinjiang Uyghur Autonomous Region.

For more than a decade, Chinese officials have unreservedly used the ‘war on terror’ as a justification for their repressive treatment of the Uyghur Muslim population. Since 11<sup>th</sup> September 2001, Xinjiang authorities have placed restrictions on the peaceful religious practices of Uyghur Muslims, charging them with the ‘three evils’ of terrorism, separatism, and extremism.

Over the past year, the government has intensified its campaign to curtail ‘religious extremism’ and ‘illegal religious gatherings,’ and to ‘weaken religious consciousness.’ The precise meaning of these terms is vague and undefined, although authorities have reportedly targeted twenty-three kinds of ‘illegal religious activity,’ including student prayer, holding unauthorized religious classes, ‘distortion of religious doctrine,’ conducting certain marriage practices, and advocating ‘Pan-Islamism.’ Regional regulations and local directives restricting religious practice in Uyghur areas are harsher than those found in other parts of China.

In 2016, many Uyghur Muslims were victims of arbitrary arrests on charges of terrorism and separatism. Usually they are charged with separatism under the provisions of Article 103 of the Chinese Criminal Law stating that:

*Whoever organizes, plots, or acts to split the country or undermine national unification, the ringleader, or the one whose crime is grave, is to be sentenced to life imprisonment or not less than ten years of fixed-term imprisonment; other active participants are to be sentenced to not less than three but not more than 10 years of fixed-term imprisonment; and other participants are to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, control or deprivation of political rights.*

*Whoever instigates to split the country and undermine national unification is to be sentenced to not more than five years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights; ringleaders or those whose crimes are grave are to be sentenced to not less than five years of fixed-term imprisonment.*

Endangering state security under Article 13 of the Chinese Criminal Law stating that:

*All acts that endanger the sovereignty, territorial integrity, and security of the state; split the state; subvert the political power of the people's democratic dictatorship and overthrow the socialist system; undermine social and economic order; violate property owned by the state or property collectively owned by the labouring masses; violate citizens' privately owned property;*

*infringe upon citizens' rights of the person, democratic rights. and other rights; and other acts that endanger society, are crimes if according to law they should be criminally punished.*

However, if the circumstances are clearly minor and the harm is not great, they are not to be deemed crimes.

Reporting on the exact number of Muslim Uyghurs jailed for their religious beliefs is a complicated task as it is not always an easy to distinguish whether people have been jailed for their ethnicity or their religious affiliation.

#### *Some cases*

**Akemanjiang**, a Uyghur restaurant manager, was arrested in September 2008 because he did not follow government policy requiring restaurants to stay open in the month of Ramadan, during which time observers of the holiday fast during the day. On 24<sup>th</sup> March 2009, he was sentenced to ten years in prison.

**Erkin Emet** was arrested on 14<sup>th</sup> April 2008, in Gulja County. He was accused of splitting the state. He denied the charges and stated that he was simply teaching Islam. On 24<sup>th</sup> March 2009, he was sentenced to ten years imprisonment.

**Sadike Ku'erban** was arrested in 2012. He was accused of being involved with illegal religious schools or religious instruction (illegal for not being registered under the state-controlled *Chinese Islamic Patriotic Association*). More specifically, Sadike Ku'erban was accused of "extremist religious thought and inciting others to wage a holy war." Sadike Ku'erban was running a network of home schools in four different parts of Xinjiang over ten years that taught eighty-six students, including sixteen under fourteen years of age. On 31<sup>st</sup> May 2012, he was sentenced to a prison term of fifteen years in Kashgar.

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### **Laws Used to Criminalize Religious Activities**

Members of so-called 'evil cults,' including Falun Gong practitioners, are usually sentenced on the basis of the following articles of the Criminal Code:

Article 300: Using a cult to undermine law enforcement

Article 296: Holding an assembly without permission

Article 293: Provocative and disturbing behaviour

Article 290: Disturbance of public order

Article 234: Intentional injury of another

Article 232: Murder

Article 105: Subversion<sup>8</sup>

**Article 300:**

Whoever organizes and utilizes superstitious sects, secret societies and evil religious organizations or sabotages the implementation of the state's laws and executive regulations by utilizing superstition is to be sentenced to not less than three years and not more than seven years of fixed-term imprisonment; when circumstances are particularly serious, to not less than seven years of fixed-term imprisonment.

Whoever organizes and utilizes superstitious sects, secret societies and evil religious organizations or cheats others by utilizing superstition, thereby giving rise to the death of people is to be punished in accordance with the previous paragraph.

Whoever organizes and utilizes superstitious sects, secret societies, and evil religious organizations or has illicit sexual relations with women, defraud money and property by utilizing superstition is to be convicted and punished in accordance with the regulations of articles 236, 266 of the law.

The Chinese government has also provided guidance through the Supreme People's Court and the Supreme People's Procuratorate on how to apply this article to religious organisations. The guidance includes a two-part series (1999 and 2001) of 'Explanations ... on Applying Specific Laws to Handle Cases of Organizing and Utilizing Heretical Sects to Commit Crimes.'

Other articles of the Criminal Code may also be applied to a religious sect. For instance, if sect members cause a public disturbance (Article 290), turn violent (Article 234) or divulge state secrets (Articles 111, 282 and 398), then related provisions within the criminal law code may be justifiably invoked.

Some Protestants have also been convicted for embezzlement under Article 272, which stipulates that 'any employee of a company, enterprise or any other unit who, taking advantage of his position, misappropriates the funds of his own unit for personal use or for loaning them to another person shall be charged with embezzlement.'

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<sup>8</sup> [http://www.ecoi.net/file\\_upload/2107\\_1313501296\\_chn36204.pdf](http://www.ecoi.net/file_upload/2107_1313501296_chn36204.pdf)

## **National Standards for Detention Conditions**

The Constitution of the People's Republic of China provides protection for everyone's basic rights and freedom.

Article 37: 'The freedom of person of citizens of the People's Republic of China is inviolable. No citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and arrests must be made by a public security organ. Unlawful deprivation or restriction of citizens' freedom of person by detention or other means is prohibited; and unlawful search of the person of citizens is prohibited.'

Article 38: 'The personal dignity of citizens of the People's Republic of China is inviolable. Insult, libel, false charge or frame-up directed against citizens by any means is prohibited.'

### **Criminal Law**

Article 247: 'Any judicial officer who extorts confession from a criminal suspect or defendant by torture or extorts testimony from a witness by violence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law.'

Article 248: 'Any policeman or other officer of an institution of confinement like a prison, a detention house or a custody house who beats a prisoner or maltreats him by subjecting him to corporal punishment, if the circumstances are serious shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law.'

### **Criminal Procedure Law**

**Article 43:** 'Judges, procurators and investigators must, in accordance with the legally prescribed process, collect various kinds of evidence that can prove the criminal suspect's or defendant's guilt or innocence and the gravity of his crime. It shall be strictly forbidden to extort confessions by torture and to collect evidence by threat, enticement, deceit or other unlawful means. Conditions must be guaranteed for all citizens who are involved in a case or who have information about the circumstances of a case to objectively and fully furnish evidence and except in special circumstances they may be brought in to help the investigation.'

Police Law, Judges Law, Public Procurators Law, State Security Law and Prison Law have special provisions regarding the prohibition of torture so as to safeguard the human rights of all citizens. As for instance the Police Law states in its Article 22 (4) that: ‘People's policemen may not commit any of the following acts: to extort confession by torture or subject criminals to corporal punishment or maltreat them.’

## **International Reports on Prison Conditions in China**

### **Universal Periodic Review**

As part of the Universal Periodic Review, the human rights situation in China was reviewed by its peer States in 2013. The OHCHR devoted a section of its report at that time to the administration of justice, including impunity and the rule of law:

The Special Rapporteur on the question of torture remained concerned about the reports of excessive use and length of pretrial detention, the lack of guarantees to challenge the lawfulness of detention and the continuing allegations about the use of forced labour as a corrective measure, ill-treatment of suspects in police custody and harassment of lawyers and human rights defenders. He reiterated that the period of holding detainees in police custody should not exceed forty-eight hours, and that no detainee should be subjected to unsupervised contact with investigators (paragraph 28).

In the same report a section was devoted to the Freedom of Religion or Belief, expression, association and peaceful assembly, and the right to participate in public and political life:

In 2012, the Special Rapporteur on the situation of human rights defenders sent several joint communications regarding allegations of, inter alia, imprisonment and/or arbitrary detention/disappearance, threats and harassment and torture of human rights defenders and excessive force against peaceful demonstrators. The Government replied to all communications alleging, inter alia, that allegations were false and providing information on the situations referred to. The Rapporteur expressed her deep concern about the arrest, detention and intimidation of human rights defenders in China, for peacefully exercising their right to freedom of expression, including their family members (paragraph 40).<sup>9</sup>

In 2012, the Special rapporteur on the situation of Human Rights Defenders communicated allegations of ‘imprisonment and/or arbitrary detention/disappearance, threats and harassment and torture of human rights defenders and excessive force against peaceful demonstrators.’

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<sup>9</sup> [http://www.upr-info.org/sites/default/files/document/china/session\\_17\\_-\\_october\\_2013/a\\_hrc\\_wg.6\\_17\\_chn\\_2\\_e.pdf](http://www.upr-info.org/sites/default/files/document/china/session_17_-_october_2013/a_hrc_wg.6_17_chn_2_e.pdf)

Several countries have recommended that China create a better definition of torture corresponding to the CAT requirements and strongly enforce laws prohibiting torture. Other countries have also urged China to put an end to arbitrary detentions.

### **Committee Against Torture**

Charged with monitoring the implementation of the Convention against Torture, Cruel and Inhuman treatment, this body (the CAT) issued a 2015 report, including concerns and recommendations, which was released in advance of China's Periodic Review.

The Committee is concerned that the State party considers solitary confinement as a 'management method' in detention centres, which is applied to all 'class 1- major safety risk' detainees, including detainees at risk of self-harm, suspected of having mental illnesses and those who 'pick quarrels and provoke troubles.' Solitary confinement can also be imposed in compulsory isolation drug treatment centres when persons undergoing drug treatment are not 'reformed through education' or do not obey discipline, among many other grounds. The Committee regrets the lack of relevant statistical data on the use of solitary confinement in both instances, as well as information on its maximum duration. It also regrets the lack of information with regard to the regulation and due process rights concerning the use of restraints. In this regard, the Committee expresses concern at the State party's explanation that the use of the so-called 'interrogation chair'<sup>10</sup> is justified 'as a protective measure to prevent suspects from escaping, committing self-injury or attacking personnel,' which is highly improbable during an interrogation (paragraph 26).

The report

urges the State party to ensure that all custodial deaths, disappearances, allegations of torture and ill-treatment and reported use of excessive force against persons in the autonomous region of Tibet and neighbouring Tibetan prefectures and counties, and in the Xinjiang Uyghur Autonomous Region, are promptly, impartially and effectively investigated by an independent mechanism (paragraph 41).

It also stipulates that China should

- (a) Ensure that no one is detained in any secret detention facility, as these are per se a breach of the Convention;
- (b) Abolish all forms of administrative detention, which confine individuals without due process and make them vulnerable to abuse;

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<sup>10</sup> <http://www.scmp.com/news/china/policies-politics/article/1880506/interrogation-chairs-padded-comfort-claims-chinese>

- (c) Prioritize the use of community-based or alternative social-care services for persons with psychosocial disabilities or drug addiction;
- (d) Avoid forced hospitalization or confinement for medical reasons, unless it is imposed as a last resort, for the minimum period required and only when accompanied by adequate procedural and substantive safeguards, such as prompt initial and periodic judicial review, unrestricted access to counsel and complaints mechanisms and an effective and independent monitoring and reporting system;
- (e) Ensure that all allegations of torture, ill-treatment or arbitrary detention in places of administrative detention, including in former “re-education through labour” facilities, are impartially investigated, the results made public, and any perpetrators responsible for breaches of the Convention held accountable;
- (f) Provide adequate redress to all persons who have been detained in secret detention facilities and their families (paragraph 43).

## **Conclusions**

No improvement in law or practice could be registered in 2016. The fundamental rights to freedom of religion or belief are still denied to Chinese citizens. This includes freedom of expression, freedom of association, freedom of assembly, and freedom of worship.

Five religious denominations are particularly persecuted: (Tibetan) Buddhists, Roman Catholics, Falun Gong practitioners, Evangelical and Pentecostal Protestants, and Uyghur Sunnis. Hundreds of Falun Gong practitioners, whose movement was banned in 1999, are massively imprisoned, while Evangelical and Pentecostal Protestants belonging to the mushrooming network of underground house churches outside of state control also pay a heavy toll. A dozen Roman Catholic priests and bishops who were arrested by police many years ago for their faithfulness to the Pope and failure to swear allegiance to the Communist Party remain missing. Uyghur Muslims and Tibetan Buddhists, systematically suspected of separatism and/or terrorism, are also particular targets of the regime.

The sheer size of the Chinese population inevitably accommodates a rich diversity of cultural and religious expression. Yet the ruling Chinese Communist Party remains steadfast in its refusal to acknowledge the diverse ways of the people it purports to serve. In the end, it is clear that the need for control is the principle driver behind the regime’s repressive policies toward the country’s religious minorities.

The Chinese confuse authority with authoritarianism. When authority is rightfully constituted and in the service of the people, it can be a source of stability and development. When it exacts

obedience at the expense of personal freedoms it becomes authoritarian, where any threat to the state power, real or perceived, is ruthlessly suppressed.

It is tragically ironic that the regime has invested such effort in combatting 'evil cults' which supposedly aim to undermine state authority and security. These have typically been Falun Gong practitioners and Protestants, groups which have never used or advocated violence, that hardly pose a threat to the stability of the People's Republic. It is chiefly the growth and popularity of such groups which have drawn down the wrath of the SARA and provoked harsh reactions from government authorities.

Party officials must acknowledge the toxicity of politics which are more aimed at enhancing the power and wealth of the political elite than at improving the lot of the Chinese body politic. They would do well to listen to the calls for reform before it becomes impossible.