

**United Nations Human Rights Council
Universal Periodic Review
China**

Submission of The Becket Fund for Religious Liberty

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1350 Connecticut Avenue NW

Suite 605

Washington, D.C. 20036

T: +1 (202) 955 0095

F: +1 (202) 955 0090

The Becket Fund is a nonprofit, interfaith, public interest law firm protecting the free expression of all religious traditions.



United Nations Human Rights Council Universal Periodic Review of Member-State China¹

The Becket Fund for Religious Liberty, in special consultative status with the United Nations Economic and Social Council, submits this analysis of the rule of law and law of religious freedom in China as a contribution to the Universal Period Review of United Nations member-state China.

1. Legal Framework

1.1. Historical Background

Since taking power in 1949, the Chinese Communist Party has controlled religious expression in a variety of ways. The Party's guiding objective has been "to actively guide religion so that it can be adapted to socialist society."² In the 1950s, the Government created state-controlled religious groups and attempted to suppress all other religious groups through imprisonment, murder, or exile. During the Cultural Revolution of the 1960s and 1970s, the Government attempted to close or destroy all places of worship and extinguish religion entirely. Since the late 1970s, the Government has limited its toleration of religious expression to state-registered religious organizations. Even as laws have emerged to accommodate limited religious expression in state-controlled environments, the ability to practice and express religious faith is hindered by inconsistent local enforcement of the laws.

1.2. Constitutional Guarantees of Religious Freedom

Article 36 of the Chinese Constitution guarantees Chinese citizens "freedom of religious belief."³ Protection of religious freedom, however, is limited to religious activities that the government officials deem "normal." The Government can restrict religious freedom in order to preserve "public order," the "health of citizens," or "the educational system of the state." Under Article 51, the exercise of religious freedom more generally "may not infringe upon the interests of the state."⁴

1.3. Other Laws Governing Religious Freedom

Chinese law requires all religious groups to register and affiliate with one of seven government-approved religious organizations. There are approved organizations for Protestantism, Catholicism, Buddhism, Taoism, and Islam. The State Administration for Religious Affairs registers and controls all religious groups and determines what religious activities are "normal" and therefore lawful.

¹ We are indebted to reports by the U.S. Commission on International Religious Freedom, the U.S. Department of State, and RELIGIOUS FREEDOM IN THE WORLD (Paul A. Marshall ed., 2008).

² RELIGIOUS FREEDOM IN THE WORLD 126 (Paul A. Marshall ed., 2008).

³ Article 36 provides:

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 to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. 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.

⁴ Article 51 provides:

The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens.



In March 2005, the Government issued new National Regulations on Religious Affairs. These regulations protect the rights of registered religious groups to possess property, train and approve clergy, publish literature, accept overseas donations, and provide social services. Protections for registered groups, however, extend only to activities the Government deems “normal” and not a threat to national security or unity. Moreover, unregistered religious groups are not protected under the new regulations and are technically illegal.

2. Implementation

2.1. Control of Registered Religious Groups

The Government tightly controls registered religious groups. Such groups must provide the Government with the names and contact information of their adherents, submit leadership decisions to government approval, and obtain government approval for all major religious activities and theological doctrines. In Hubei province, for example, the Government forced a registered Protestant church to close because it allowed a pastor from another province to lead services without prior government approval.⁵

2.2. Suppression of Unregistered Religious Groups

Unregistered religious groups face intense pressure to register, and suffer severe consequences if they refuse. Many groups refuse to register because they have theological differences with state-controlled, registered groups; because they object to Government control over leadership decisions and the content of teaching and doctrine; or because they fear adverse consequences if they reveal the names and addresses of their members.

Members of unregistered groups are subject to severe harassment at the hands of local officials, including threats, destruction of property, extortion, interrogation, detention, beatings, torture, and death. Many religious adherents have been beaten, and some killed, while in custody for their religious beliefs or practice. Although the Government denies jailing any person solely because of their religious beliefs, religious adherents are arrested and punished for a wide range of criminal charges related to religious activity, such as disturbing the social order, proselytizing, or violating restrictions on the ability of unregistered groups to assemble, travel, or publish literature. Such charges often result in sentences of imprisonment and “reeducation through labor.”

Protestants. Unregistered Protestant “house church” groups face some of the most severe coercion, including threats, detention, fines, confiscation of property, beatings, and imprisonment. In December 2007, police raided a leadership training session in Shandong Province and arrested 270 church leaders. Twenty-one of those leaders were recently sentenced to terms of one to three years of “re-education through labor.”⁶ Similarly, police in Xinjiang arrested dozens of house church leaders who met with Christians from the United States. At least two of the leaders were physically abused during interrogation, and six were accused of involvement in an illegal cult.⁷ And in 2007, the Government detained and interrogated members of the China House Church Alliance because of their ties with foreigners and accusations that they planned to disrupt the 2008 Olympic Games.⁸

Catholics. Unregistered Roman Catholics also face harsh repression. The Chinese Government does not have diplomatic relations with the Vatican and does not allow registered Catholics or

⁵ U.S. Commission on International Religious Freedom Report, 2008.

⁶ *Ibid.*

⁷ U.S. Department of State International Religious Freedom Report, 2007.

⁸ *Ibid.*

clergy to recognize the authority of the Pope over clerical appointments.⁹ Thus, there exists a large, unregistered Catholic church. Unregistered bishops and priests are frequently detained and harassed. In June 2007, authorities detained Bishop Jia Zhiguo for three weeks and beat him while in custody. At least 30 bishops or priests remain under arrest, imprisonment, or in detention.¹⁰

Muslims. Muslims, particularly those in the Xinjiang Uyghur Autonomous Region, face significant deprivations of religious liberty. Government authorities often justify religious repression as necessary to combat terrorism, separatism, and religious extremism. Authorities have arrested Muslim clerics and students for “illegal” religious activities and have shut down “illegal religious centers.” In February 2007, for example, the son of a prominent Muslim human rights activist was tried on charges of subverting state power and sentenced to nine years imprisonment.¹¹ The Government also requires imams to receive political training and to meet with government officials regarding the content of their sermons. The ability of Muslims to engage in religious conduct, such as reciting daily prayers, observing Ramadan, wearing head coverings, and distributing religious materials is severely limited.¹² And if Muslim adherents desire to go on a pilgrimage to Mecca, they must participate in a government-approved tour and pledge their loyalty to the Government.

Tibetan Buddhists. Since invading Tibet in 1949, China has vigorously suppressed religious belief and practice among Tibetan Buddhists. Government officials exercise tight control over monasteries and attempts to undermine the religious and political standing of the Dalai Lama. In January 2008, the Government issued new guidelines for implementing the National Regulations on Religious Affairs in Tibet. Those guidelines assert Government control over all aspects of Tibetan Buddhist belief and practice, including religious training, religious venues, religious gatherings, and the movement of monks and nuns. Official media reports indicated that the new guidelines were intended to suppress the “separatist activities” of followers of the Dalai Lama.¹³

Official registration is required for any individual seeking to enter a religious order and strictly controls the number of monks in major monasteries. Monks and nuns cannot travel without Government permission. This is a significant burden on religious practice because Tibetan Buddhism requires monks and nuns to travel to receive specialized training from theological experts. The Government has also increased its efforts to prevent Tibetans from leaving the country, and has encouraged Nepal and India to forcibly repatriate asylum seekers. In October 2007, for example, border guards fired on approximately 30 Tibetans who were attempting to flee to Nepal and detained three monks.

To increase loyalty to the state, the monasteries are required to engage in “patriotic education” and forbidden to distribute books, pictures, or other materials that are deemed detrimental to unity or state security—such as photos or books of the Dalai Lama. In March 2008, monks from Drepung monastery engaged in a peaceful protest of “patriotic education” and other religious freedom restrictions. The Government responded by sealing off the monastery and arresting the monks. This touched off other demonstrations that led to the destruction of property, arrests, and numerous deaths.¹⁴

⁹ In recent years, both the Government and the Vatican have agreed on the ordination of certain bishops, and approximately 90 percent of registered Catholic clergy have now reconciled with the Vatican.

¹⁰ U.S. Commission on International Religious Freedom Report, 2008.

¹¹ *Ibid.*

¹² According to General Comment No. 22 on Article 18 of the International Covenant on Civil and Political Rights (ICCPR), “[t]he observance and practice of religion or belief may include not only ceremonial acts but also such customs as... the wearing of distinctive clothing or headcoverings.”

¹³ U.S. Commission on International Religious Freedom Report, 2008.

¹⁴ *Ibid.*

Since 1995, the Government has detained Gedhun Choekyi Nyima, whom the Dalai Lama designated as the Panchen Lama (the second highest ranking Lama after the Dalai Lama). He has not been seen since he was detained at the age of six. The Government asserts that another boy is the “true” Panchen Lama and exercises tight control over the process of identifying and educating reincarnated lamas.¹⁵

Falun Gong. The Government deems Falun Gong to be a “cult” and, accordingly, harshly represses its members. Some members have been detained and tortured or killed in police custody. Many have been sentenced to reeducation-through-labor or other forms of administrative detention because of their beliefs. Some researchers estimate that Falun Gong members at one time constituted up to half of the officially recorded inmates in “re-education through labor” camps and up to two-thirds of victims of torture.¹⁶ Other organizations that the Government deems to be “cults,” including some long-established house church movements, face similar repression.

2.3. Restrictions on Religious Teaching, Minors, and Religious Literature

The Government forbids unregistered groups from offering theological training.¹⁷ Children, moreover, cannot receive any religious instruction until they have completed nine years of state schooling.¹⁸ For example, in August 2005, a woman in rural Xinjiang was arrested and detained for holding religious classes for 37 students in her home.¹⁹ Government officials in Xinjiang have also prevented minors from attending worship services in mosques or churches. And in Tibet, the Government forbids the traditional practice of sending young boys to monasteries for religious training.²⁰

The Government forbids the unauthorized publication or distribution of religious texts, including Bibles and Qur’ans.²¹ Some religious believers have been arrested and imprisoned for illegal publishing. Government officials typically use charges of “illegal business activity” to target unregistered religious leaders who print and distribute Bibles or other religious texts. However, the State-sanctioned printing presses do publish Bibles and other religious texts. These books can be found in bookstores in large cities.

2.4. Restrictions on Political Office

Although Chinese law does not prohibit religious adherents from holding public office, membership in the Communist Party is required for almost all high-level positions in government, state-owned businesses, and other official organizations.²² Because religious belief is deemed incom-

¹⁵ The Chinese Government in 2007 banned the reincarnation of Buddhas without government permission. See story here: <http://news.bbc.co.uk/2/hi/asia-pacific/6973605.stm>.

¹⁶ *Ibid.*

¹⁷ Article 18 of the ICCPR states that everyone shall have the “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and *teaching*.” (emphasis added).

¹⁸ RELIGIOUS FREEDOM IN THE WORLD 130 (Paul A. Marshall ed., 2008).

¹⁹ U.S. Commission on International Religious Freedom Report, 2008.

²⁰ Article 18(4) of the ICCPR states: “The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians *to ensure the religious and moral education of their children* in conformity with their own convictions.” Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires acceding states to “undertake to have respect for *the liberty of parents . . . to ensure the religious and moral education of their children in conformity with their own convictions*.” ICESCR, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, (Dec. 16, 1966).

²¹ According to General Comment No. 22 on Article 18 of the ICCPR, “[t]he practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as . . . *the freedom to prepare and distribute religious texts or publications*.”

²² U.S. Department of State International Religious Freedom Report, 2007.



patible with Party membership, religious believers are effectively excluded from these positions. Some employees must sign forms renouncing their religious beliefs or lose their positions.

2.5. Restrictions on Religious Buildings

Government regulations restrict worship meetings to government-approved venues. Although the Government has provided funds to build new places of worship for registered religious groups, unregistered groups cannot receive approval for a venue for worship. Local authorities frequently disrupt house church meetings, detaining worshippers, punishing leaders, and forbidding further worship in the house venue. The Government has also closed or destroyed religious venues constructed without government authorization.

2.6. Population Control Regulations

In many areas, the Government requires women to use contraception and have an abortion if a pregnancy violates population control regulations. Many Chinese Catholics and Protestants, however, consider contraception or abortion to violate their religious beliefs. Such population control measures thus constitute a significant violation of religious freedom.

2.7. Religious Freedom Surrounding the Olympics

In 2008, for the first time, the Government allowed Bibles to be distributed outside government-registered shops.²³ The Government allowed the Bibles to be distributed to athletes at the Olympic Village and in five other Olympic cities. About the same time, however, the Government also confiscated 315 Bibles belonging to a Christian group that had arrived at Kunming airport.²⁴ Moreover, during the Olympics, the Government arrested a prominent house church pastor who attempted to attend a registered church service attended by U.S. President George W. Bush.²⁵

3. Recommendations

During the Universal Periodic Review, the UNHRC should take care to consider religious freedom in its evaluation of China. We respectfully recommend that the UNHRC not only base its evaluation of China on constitutional and other legal assurances of religious freedom, but also on the enforcement, or lack thereof, of these assurances.

The UNHRC should pay particular attention to the Government's treatment of unregistered religious groups. The Government routinely denies unregistered religious adherents the "freedom, either individually or in community with others and in public or private, to manifest [their] religion or belief in worship, observance, practice and teaching."²⁶ The UNHRC should urge China to ratify the ICCPR (which it has signed) and provide the rights the ICCPR requires.

Finally, we encourage China to recognize that religious liberty is not a threat to, but an essential component of, a stable, free society.

²³ Ashling O'Connor, *The Times*, "China gives blessing to Olympic Bibles" (Jun. 20, 2008).

²⁴ The books were returned to them upon their exit from the country. Reuters, "Americans stopped, 300 bibles confiscated in China" (Aug. 18, 2008).

²⁵ Andres Jacobs, *The New York Times*, "Chinese Religious Dissident Escapes from Police Custody" (Aug. 12, 2008).

²⁶ ICCPR Article 18(1).