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CHINA

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Cooperation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report presents China’s increasing restrictions on religious organizations and religious activities and calls on China to revise its laws and policies to guarantee freedom of worship to all. It also explains how the two-child policy continues to prevent Chinese couples from deciding for themselves how many children to have, in violation of international law, and calls for the rescission of the policy.

(a) Freedom of religion

Chinese law

1. Article 36 of the Constitution of China states that citizens have “freedom of religious belief.” It also provides, “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.” “Normal” is not defined.
2. China is not a Party to the International Covenant of Civil and Political Rights, but the right to freedom of religion is widely considered a fundamental human right that all States must guarantee.
3. China recognizes only five religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism.¹ Official Protestant organizations belong to the Three-Self Patriotic Movement, and official Catholic organizations to the Catholic Patriotic Association.² They are subject to the control of the State Administration for Religious Affairs (SARA) and the United Front Work Department of the Communist Party.³ Only organizations and churches belonging to the government-approved umbrella religious organizations may register with the government; all others operate without authorization.
4. Meanwhile, the Communist government aims to limit the practices of all religious people, especially Christians. As of 2011, there are an estimated 67 million Christians in China, at 5 percent of the overall population of almost 1.4 billion people,⁴ although

¹ FREEDOM HOUSE, THE BATTLE FOR CHINA’S SPIRIT (2017), *available at* https://freedomhouse.org/sites/default/files/FH_ChinasSprit2016_FULL_FINAL_140pages_compressed.pdf.

² *Id.*

³ *Id.*

⁴ PEW RES. CTR., GLOBAL CHRISTIANITY: A REPORT ON THE SIZE AND DISTRIBUTION OF THE WORLD’S CHRISTIAN POPULATION 59 (2011), *available at* <http://www.pewforum.org/2011/12/19/global-christianity->

a more recent estimate of the number of Christians in China is 93 million.⁵ 23 million of the 58 million Protestants are affiliated with the Three-Self Patriotic Movement.⁶ 35 million Protestants are independent, most of whom meet in house churches without government approval.⁷ Of the 9 million Catholics, 5.7 million belong to the Patriotic Catholic Association, while 3.3 million belong to unregistered Catholic congregations.⁸

5. While the government had often ignored the activities of underground Christian house churches for years, under the presidency of Xi Jinping the government has increased its control.⁹
6. In October 2017, Xi said that the Communist Party of China would “uphold the principle that religions in China must be Chinese in orientation, and provide active guidance to religions so that they can adapt themselves to socialist society.”¹⁰ A main goal of the Party is the sinicization of religions, which to Christians in China means making the Party the head of religions.¹¹
7. One component of the attempt to sinicize religions is the Regulations for Religious Affairs, which came into effect on February 1, 2018.¹² While the regulations claim “to ensure citizens’ freedom of religious belief, maintain harmony among and between religions, [and] maintain social harmony,”¹³ they increase restrictions on religious organizations, especially Protestant house churches, which refuse to be aligned with the Three-Self Patriotic Movement.¹⁴ They expand control of religious affairs to local governments, even townships.¹⁵
8. The regulations provide that the holding of unauthorized large-scale religious activities will result in fines of 100,000 to 300,000 yuan and, when the activities result in “unlawful

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⁵ Mimi Lau, *China’s religious groups brace for tighter scrutiny closer to home*, S. CHINA MORNING POST, Sept. 8, 2017, <http://www.scmp.com/news/china/policies-politics/article/2110358/chinas-religious-groups-brace-tighter-rules-curb>.

⁶ PEW RES. CTR., *supra* note 4, at 59.

⁷ *Id.*

⁸ *Id.*

⁹ Lau, *supra* note 5.

¹⁰ Li Yuan, *At the Congress Xi reaffirms: Sinicization of religions under the Communist Party*, ASIA NEWS, Oct. 19, 2017, <http://www.asianews.it/news-en/At-the-Congress-Xi-reaffirms:-Sinicization-of-religions-under-the-Communist-Party-42096.html>

¹¹ *Id.*

¹² *China’s new religion regulations expected to increase pressure on Christians*, WORLD WATCH MON., Feb. 1, 2018, <https://www.worldwatchmonitor.org/2018/02/chinas-new-religion-regulations-expected-increase-pressure-christians/>

¹³ Art. 1, Religious Affairs Regulations, available at <http://www.chinalawtranslate.com/%E5%AE%97%E6%95%99%E4%BA%8B%E5%8A%A1%E6%9D%A1%E4%BE%8B-2017/?lang=en>.

¹⁴ See Wang Yi, *Why Christians in China Must Prepare Themselves for the New Regulations on Religious Affairs*, CHINASOURCE, Jan. 30, 2018, <https://www.chinasource.org/resource-library/chinese-church-voices/why-christians-in-china-must-prepare-themselves-for-the-new-regulations-on-religious-affairs>.

¹⁵ Religious Affairs Regulations, *supra* note 13, art. 6.

gains or illegal assets,” confiscation thereof.¹⁶ The establishment of an unauthorized religious activities site, or church, or the revocation of a church’s registration will result in the church’s closing or “disposal” and the confiscation of its unlawful gains or illegal assets, or a fine of up to 50,000 yuan.¹⁷ When a non-religious group, non-religious school, or non-religious activity site holds religious activities, the government will confiscate the unlawful gains and levy a fine of one to three times the value of unlawful gains or up to 50,000 yuan.¹⁸ If “religious citizens” arrange to go abroad for religious trainings or meetings without authorization, they will be fined between 20,000 and 200,000 yuan.¹⁹ The construction of large-scale outdoor religious statues, such as crosses, will result in demolition and fines of 5-10 percent of the construction costs.²⁰

9. The “registration management organ” can revoke the registration certificate or establishment permit of a religious group, religious school, or religious activities site if it fails to follow the registration procedure, violates regulations on accepting donations, or fails to follow the instructions of administrative management organs.²¹ When religious professionals, or pastors, “accept[] domination by external forces, accept[] clergy from foreign religious groups or organizations without authorization, as well as otherwise go[] against the principle of religious independence and self-governance”—that is, go against the Communist Party’s order that religious groups be immune to foreign influence—their status as religious professionals may be revoked.²²
10. On January 1, 2017, a law regulating foreign NGOs, including religious organizations, took effect.²³ ChinaSource explained that the law impacts foreign funding of local Christian organizations in China: “In order to be legal, funding for humanitarian work would need to be channeled through an officially recognized local-partner organization and subject to oversight by government regulatory agencies.”²⁴ Foreign NGOs are not allowed to conduct religious activities in China, and violation of this law could lead to the seizure of financial assets and prosecution.²⁵

Government practices

11. Chinese authorities continue to target and arrest Christians, demolish churches, and

¹⁶ *Id.*, art. 64.

¹⁷ *Id.*, art. 69.

¹⁸ *Id.*

¹⁹ *Id.*, art. 70.

²⁰ *Id.*, art. 72.

²¹ *Id.*, art. 65.

²² *Id.*, art. 73.

²³ Kristin Shi-Kupfer & Bertram Lang, *Overseas NGOs in China: Left in Legal Limbo*, DIPLOMAT, Mar. 4, 2017, <http://thediplomat.com/2017/03/overseas-ngos-in-china-left-in-legal-limbo/>; *NGO law shows China’s ‘challenging environment’*, WORLD WATCH MONITOR, Jan. 4, 2017, <https://www.worldwatchmonitor.org/coe/ngo-law-shows-chinas-challenging-environment/>.

²⁴ Brent Fulton, *China’s Foreign NGO Law*, CHINASOURCE, July 6, 2016, <https://www.chinasource.org/blog/posts/chinas-foreign-ngo-law>.

²⁵ *Id.*

destroy crosses. Sources such as AsiaNews²⁶ and ChinaAid²⁷ regularly report on violations of Christians' right to religious freedom in China.

12. To name just a few recent examples of government targeting of Christians,²⁸ after the Regulations on Religious Affairs took effect on February 1, 2018, authorities in Henan increased pressure on house churches, hiring local gangs to break into churches and destroy property.²⁹ In January 2018, a court in Guizhou province ordered two house church pastors to pay a fine of over \$1 million, the sum that they had collected through offerings from members.³⁰ That same month, a court in Yunnan province sentenced six Christians to up to 13 years in prison for belonging to an "evil cult."³¹
13. On January 9, 2018, the government demolished the Golden Lampstand Church, a Christian megachurch of 50,000 attendees in Linfen in the Shanxi province.³² While the local government allowed the church to be built almost ten years earlier, it then fought the church over the years and ultimately ordered it demolished for not having the required permits.³³ On December 20, 2017, the government ordered the demolition of a Catholic church, even though it received the necessary permits to build.³⁴ The government ordered the removal of more than 1,500 crosses on church buildings in Zhejiang Province starting in 2013.³⁵
14. Further, China does not allow Chinese Christians or foreign missionaries to proselytize openly in the country. At various points, the government cracks down on people suspected of being missionaries, often by refusing to grant or renew visas.³⁶ For example, after the book *Jesus in Beijing* came out, China had increased suspicions about visa applications from potential English teachers and denied some applications.³⁷ It has also arrested, interrogated, and deported missionaries.³⁸

²⁶ Asia News, China, <http://www.asianews.it/theme-en/China-1.html>.

²⁷ ChinaAid, Latest News, <http://www.chinaaid.org/search/label/Latest%20News?&max-results=8>.

²⁸ For more examples, see CHINAID, 2017 ANNUAL REPORT (2018), available at <https://drive.google.com/file/d/0B6IXircRgkLWRW02ckxiNi1HRHJyWktmbHRIQ1NLMUFNT3ZZ/view>.

²⁹ *Henan cracks down on house churches*, CHINAID, Mar. 7, 2018, <http://www.chinaaid.org/2018/03/henan-cracks-down-on-house-churches.html>.

³⁰ *Pastors fined millions for collecting church offerings*, CHINAID, Jan. 17, 2018, <http://www.chinaaid.org/2018/01/pastors-fined-millions-for-collecting.html>.

³¹ *China Jails Six Protestants in Yunnan Amid Massive Crackdown on 'Evil' Cult*, RADIO FREE ASIA, Jan. 18, 2018, <https://www.rfa.org/english/news/china/protestants-01182018110902.html>.

³² Gerry Shih, *Chinese authorities demolish well-known evangelical church*, AP, Jan. 12, 2018, <https://apnews.com/6dd936f0500c40318f98260574ce0a68>.

³³ *Id.*

³⁴ *Catholic church in Xi'an diocese forcibly demolished*, ASIA NEWS, Dec. 28, 2017, <http://www.asianews.it/news-en/-Catholic-church-in-Xian-diocese-forcibly-demolished-42693.html>.

³⁵ Ian Johnson, *Decapitated Churches in China's Christian Heartland*, N.Y. TIMES, May 21, 2016, <https://www.nytimes.com/2016/05/22/world/asia/china-christians-zhejiang.html>; Christian Solidarity Worldwide, Zhejiang church demolitions: timeline of events, <http://www.csw.org.uk/zhejiangtimeline> (last visited Aug. 8, 2017).

³⁶ Tyler Vanderlippe, *China broadens crackdown on foreign missionaries*, GLOBE & MAIL, Aug. 24, 2014, <https://www.theglobeandmail.com/news/world/china-broadens-crackdown-on-foreign-missionaries/article20187253/?page=all>.

³⁷ Personal correspondence, June 30, 2017.

³⁸ For one story of deportation, see China Church Plant, Harbin Church Update: New Direction (Apr.

15. It has targeted South Korean missionaries because of their work with North Korean refugees as well.³⁹ In January 2017, China deported 32 South Korean missionaries, presumably in retaliation against South Korea for agreeing to host a missile defense system of the United States.⁴⁰ Although unclear what their visa status was, many had been in China ministering to North Koreans for over ten years.⁴¹
16. China is number 43 on the World Watch List, an Open Doors list of the top 50 countries where it is most difficult for Christians to live.⁴² Open Doors highlights government control as a problem for Christians, but also notes that Christians from Muslim or Tibetan Buddhist backgrounds experience the most persecution, given that conversion away from Islam or Buddhism is considered betrayal of family and community.⁴³

(b) The two-child policy

17. From 1979 to 2015, China officially had a one-child policy, although over the years certain populations were allowed to have two children.⁴⁴ The goal of the policy was to slow population growth.⁴⁵
18. As a result of the one-child policy, couples who had an unauthorized second child were often forced to pay a fine, with China allegedly collecting over \$314 billion between 1980 and 2012.⁴⁶ In some cases, local population workers forced mothers to undergo abortions, sometimes at full-term.⁴⁷ Forced sterilization was also common.⁴⁸
19. Many families in China prefer to have sons instead of daughters, so in the days before ultrasounds were readily available, baby girls were abandoned by their parents, and some were sold.⁴⁹ Once ultrasound machines became transportable and cheap, the

25, 2014), <https://chinachurchplant.com/2014/04/25/harbin-church-update-new-direction/>.

³⁹ *Christian missionaries 'forced out' in droves as China cracks down on North Korea border city*, REUTERS, Aug. 12, 2014, <http://www.scmp.com/news/china/article/1572017/christian-missionaries-forced-out-droves-china-cracks-down-n-korea-border>.

⁴⁰ *China expels 32 South Korea missionaries amid missile defense tension*, REUTERS, Feb. 10, 2017, <http://www.reuters.com/article/us-southkorea-china-idUSKBN15Q042>.

⁴¹ Chris Arsenault, *Brazil stops demarcating land for indigenous people: ex-government official*, REUTERS, Jan. 11, 2017, <http://www.reuters.com/article/us-brazil-landrights-politics-idUSKBN14V24R>.

⁴² Open Doors, China, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/china/> (last visited Mar. 24, 2018).

⁴³ *Id.*

⁴⁴ Tessa Berenson, *Here's How China's Old-Child Policy Started in the First Place*, TIME, Oct. 29, 2015, <http://time.com/4092689/china-one-child-policy-history/>.

⁴⁵ *Id.*

⁴⁶ *The brutal truth*, ECONOMIST, June 23, 2012, <https://www.economist.com/node/21557369>.

⁴⁷ Barbara Demick *China one-child policy leads to forced abortions, mothers' deaths*, L.A. TIMES, June 15, 2012, <http://articles.latimes.com/2012/jun/15/world/la-fg-china-abortions-20120616>.

⁴⁸ *Id.*

⁴⁹ Elisabeth Rosenthal, *Bias for Boys Leads to Sale of Baby Girls in China*, N.Y. TIMES, July 20, 2003, <https://www.nytimes.com/2003/07/20/world/bias-for-boys-leads-to-sale-of-baby-girls-in-china.html>.

abandonment and sale of baby girls continued, but some couples chose to abort any girls and wait for a son.⁵⁰

20. Largely because of preference for sons, by the end of 2017, there were 32.66 million more males than females in China.⁵¹ In 1990, the economist Amartya Sen famously estimated that the world was missing over 100 million girls due to sex-selective practices; he calculated a loss of 50 million girls in China alone,⁵² and that was 25 years before the end of the one-child policy. China estimated that the one-child policy prevented 400 million births overall.⁵³
21. In October 2015, China rescinded the one-child policy and instituted a two-child policy: all couples in China are now legally allowed to have two children.⁵⁴ The change in policy was not due to a newfound recognition of human rights but instead an acknowledgement of the need for young people—that is, workers—to offset the demands of the State’s caring for an increasingly aging population.⁵⁵
22. While a positive step, the two-child policy imposes the same burdens as the one-child policy. If a couple wants three or more children, it may be dissuaded by the potential fines or the possibility of forced abortion or sterilization. Family-planning officials may continue to zealously force women to abort their third pregnancies or beyond. The preference for boys may persist, such that a family that first has a daughter aborts a second daughter, or a family that wants only sons aborts any daughter, even if she is the first child.
23. Population data from after the implementation of the two-child policy suggest that many couples are choosing to have only one child despite the laxer policy, leading to calls for tax breaks and family subsidies to encourage couples to have more children.⁵⁶
24. Article 16(1)(e) of CEDAW, to which China is a Party, requires that States Parties give men and women “[t]he same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights. China’s intrusive restrictions on family size clearly violate the ability for couples to decide their family size themselves.

(d) Recommendations

⁵⁰ Nicholas D. Kristof, *The Chosen Sex—A special report; Chinese Turn to Ultrasound, Scorning Baby Girls for Boys*, N.Y. TIMES, July 21, 1993, <https://www.nytimes.com/1993/07/21/us/chosen-sex-special-report-chinese-turn-ultrasound-scorning-baby-girls-for-boys.html>.

⁵¹ *China’s gender imbalance reduces further in 2017*, XINHUA, Jan. 20, 2018, http://www.xinhuanet.com/english/2018-01/20/c_136910631.htm.

⁵² Amartya Sen, *More Than 100 Million Women Are Missing*, N.Y. REV. BOOKS, Dec. 20, 1990, <http://www.nybooks.com/articles/1990/12/20/more-than-100-million-women-are-missing/>.

⁵³ Justin Parkinson, *Five numbers that sum up China’s one-child policy*, BBC, Oct. 29, 2015, <http://www.bbc.com/news/magazine-34666440>.

⁵⁴ *China Headlines: China to allow two children for all couples*, XINHUA, Oct. 29, 2015, http://www.xinhuanet.com/english/2015-10/29/c_134764064.htm.

⁵⁵ *Id.*

⁵⁶ *China’s gender imbalance reduces further in 2017*, *supra* note 51.

25. In light of the aforementioned, ADF International suggests the following recommendations be made to China:

- a. Recognize and respect the right to freedom of religion or belief for all citizens and residents of China;
- b. Repeal the Restrictions on Religious Affairs in order to protect freedom of religion, and accordingly allow all religious organizations to operate freely within the country, including holding worship services openly, collecting donations, and establishing houses of worship without threat of demolition;
- c. Repeal or amend the foreign NGO law to allow religious organizations in China to receive funding from foreign organizations;
- d. Allow Chinese citizens and foreign missionaries to share their faith publicly; and
- e. Rescind the two-child policy and allow Chinese couples to determine for themselves the size of their families.



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