

**Universal Periodic Review – 17<sup>th</sup> Session**  
**CSW – Stakeholder Submission**  
**CHINA**

### Introduction

1. Christian Solidarity Worldwide (CSW) wishes to draw attention to China's domestic human rights situation over the period 2007-2011 with respect to its international obligations.

### Scope of International Obligations

2. China is party to a number of international human rights treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). While China has signed the International Covenant on Civil and Political Rights (ICCPR), it has yet to ratify the treaty. China is also not currently a party to the Rome Statute of the International Criminal Court.
3. **Recommendations: That China ratifies the ICCPR;**
4. **That China ratifies the Rome Statute of the International Criminal Court.**

### Constitutional and Legislative Framework

5. Chinese officials have often stated that there are no arrests in China for religious belief, only for breaking the law. However, it is clear that when the law itself does not protect human rights and makes the exercise of some rights illegal, then arrests under such laws are still breaches of human rights. The policy and approach to religious activities by the Chinese authorities reveal severe discrepancies with internationally defined standards.

#### *"Normal" and "other" religions*

6. There are five officially recognised religions in China: Buddhism, Catholicism, Taoism, Islam and Protestantism. Yet only citizens engaging in "normal" religious activities are guaranteed liberty to practise their religion, leading to arbitrary definition of what constitutes "normal" activities. Each official religion has a state-sanctioned body under which it is governed. For Protestants this is the Three-Self Patriotic Movement (TSPM); for Catholics, the Catholic Patriotic Association (CPA) and for Muslims the Islamic Association of China (IAC). The official bodies are subject to varying restrictions, including the selection and training of religious personnel; the location, purchase and renovation of venues; publications; finances; teaching on certain topics and relationships with co-religionists abroad. Restrictions are placed on working with certain classes of persons, including those aged under 18.

#### *Evil cults*

7. The existing evil cult legislation, entitled *Resolution on Banning Heretic Cult Organizations, Preventing and Punishing Evil Cult Activities* was adopted by the National People's Congress Standing Committee on 30 October 1999, in direct response to the classification of Falun Gong as an "illegal organisation" by the Ministry of Civil Administration on 22 July 1999. This classification effectively banned Falun Gong for the first time since its inception in 1991, and a campaign began to eradicate the practice, its followers and any promulgation of the practice

through literature. Around the same time the Supreme People's Court and the Supreme People's Procuratorate issued a joint statement interpreting Article 300 of the Criminal Law, which provided for a legal definition of an "evil cult organization". The definition of "evil cult" has been used primarily against Falun Gong, but also against other religious groups such as the Eastern Lightning, and some Christian house churches.

### *Registration*

8. There have been contradictory statements regarding the need for religious groups to register over the years. The State Council's 1997 White Paper on Freedom of Religious Belief in China states "There is no registration requirement for, to quote from Chinese Christians, "house services," which are mainly attended by relatives and friends for religious activities such as praying and Bible reading". In addition, at various points over the past five years or so, a statement has occasionally appeared on the SARA website in Chinese stating that "Groups of up to twelve Christians made up of family and friends are able to meet together for worship and Bible reading in private homes without informing the authorities". However, these statements are difficult to find and interpret.
9. The Registration System has been the primary vehicle for state control and oppression of religious activities and has resulted in severe violations of religious freedom. Since 1991, all sites of religious activities must be registered under it. In addition, on 30 November 2004, Premier Wen Jiabao signed Decree of the State Council No.426 entitled "Regulations on Religious Affairs", which took effect on 1 March 2005. This signified the first comprehensive national regulation devoted to religious issues.
10. **Recommendations: That China extend protection of the right to freedom of religion or belief to believers outside the five state-sanctioned religious bodies; to not distinguish between "normal" and other religions;**
11. **That China provides an explicit guarantee of the right to "manifest" religion or belief in line with international standards, and, accordingly, amend the pertinent legal texts, including Article 36 of the Constitution, to provide constitutional guarantees of freedom of religion or belief;**
12. **That China ensures that practices around registration of religious bodies and activities are non-discriminative and in line with recognised international standards;**
13. **That China ensures that means of official registration for religious activities are not used in any way as a means for curtailing the right to freedom of religion or belief of any individual or group;**
14. **That China adopts a specific provision clearly stating that persons under the age of eighteen have the right to freedom of belief, in accordance with China's obligations under the 1989 UN Convention on the Rights of the Child, particularly those arising under Article 14.**

### Institutional and Human Rights Infrastructure

15. The China Human Rights Action Plan 2012-2015 follows the first “Plan”, which was launched in 2009. The first plan included the acknowledgement that “all kinds of human rights are interdependent and inseparable”; however, it was criticised for failing to set concrete benchmarks by which to measure its implementation and progress.
16. The 2012 Plan has also been criticised for including ambiguous language and for failing to ensure that it is implemented accurately and consistently. The Plan devotes one subsection to “Freedom of religious belief”. It states: “China fully implements the policy of freedom of religious belief, and, in accordance with the law, manages religious affairs and protects citizens’ freedom of religious belief”. However, protection is limited to “normal religious activities”.
17. The Plan addresses several key issues of importance relating to freedom of religion or belief, including the facilitation of pilgrimage, ethnic minorities’ religious beliefs and religious cultural heritage, and problems with the construction of buildings for use by religious groups. China also pledged to support friendly exchanges between Chinese religious circles and foreign religious organisations. However, all of these activities are tightly controlled by the state, and at the local level much is left to the discretion of administrative officials. Therefore one of the main criticisms of the Plan is that there are no measures to ensure that these provisions are implemented at the local level. In addition, since protection of religious freedom only extends to “normal” religious activities, non-registered or unrecognised religious groups cannot benefit from these provisions.
18. **Recommendations: That China, in relation to the Action Plan, include benchmarks for progress and measures for implementing the contents of the plans;**
19. **That China provides training throughout its various branches of state to ensure that officials can competently implement the Action Plan.**

### Interaction with International Human Rights Mechanisms

20. In the international arena, China is now a party to 25 international human rights instruments, and has conducted human rights dialogues with nearly twenty UN Member States and the European Union.
21. To cite one example, in recent years the UK-China human rights dialogue has been criticised for being ineffective and lacking in concrete results. The dialogue presents an important opportunity to engage with human rights problems bilaterally. However there is also criticism that the dialogue is used to cover for lack of action on specific human rights issues which demand individual attention. A human rights dialogue should be seen as a starting point rather than a solution.
22. China has also received a number of visit requests from the Human Rights Council’s Special Procedures which it has yet to officially respond to.
23. **Recommendations: For China to ensure that its various international human rights dialogues have clear benchmarks for measuring ongoing progress;**
24. **For China to issue a “standing invitation” to the Human Rights Council’s Special Procedures.**

### Right to Freedom of Religion or Belief

25. Chinese officials have often stated that there are no arrests in China for religious belief, only for breaking the law. However, it is clear that when the law itself does not protect human rights and makes the exercise of some rights illegal, then arrests under such laws are still breaches of human rights. The policy and approach to religious activities by the Chinese authorities reveal severe discrepancies with internationally defined standards.
26. Rather than prosecuting actual criminal activity that occurs under the guise of religion (such as kidnapping) under existing criminal law, China has specific legislation and various task forces to deal with what are called “evil cults”. The existing evil cult legislation, entitled Resolution on Banning Heretic Cult Organizations, Preventing and Punishing Evil Cult Activities was adopted by the National People’s Congress Standing Committee on 30 October 1999. Around the same time the Supreme People’s Court and the Supreme People’s Procureate issued a joint statement interpreting Article 300 of the Criminal Law, which provided for a legal definition of an “evil cult organization”.
27. The definition of “evil cult” has been used primarily against Falun Gong, but also against other religious groups such as the Eastern Lightning, and some Christian house churches. A specific task force, the “610 Office” was set up to deal with Falun Gong. Despite multiple arrests, RTL sentences, prison sentences and public education campaigns denouncing the practice, Falun Gong is still practised in China. In 2012 several sources told CSW that the mandate of the 610 Office had been extended to include unregistered church groups and human rights defenders.
28. The distinction between “normal” religions and “cults” or other unregistered religious groups is one of the greatest obstacles to freedom of religion or belief in China. As long as protection is limited to registered groups under control of the state-sanctioned religious bodies, it is impossible to envisage genuine freedom of religion or belief as defined in the UDHR.
29. **Recommendation: That China ensures that limitations on those groups it classifies as “cults” are only in-so-far as proscribed by international law and by guidelines issued by the Special Procedures of the UN’s Human Rights Council and the Human Rights Committee;**
30. **That China seeks to ensure that all its policy, legislation and practice is carried out in accordance with international human rights standards relating to freedom of religion or belief, and that these standards are adequately disseminated and reinforced in all branches of the state.**

### Equality before the Law

31. Articles 6 and 7 of the UDHR guarantee the right to recognition and equality before the law. However, in China there is considerable variation between regions and ethnic groups when it comes to the application of rule of law and access to justice. The three regions of Inner Mongolia, Xinjiang and Tibet are considered rule of law “blind spots” where enforced disappearance and arbitrary detention are used to remove religious and community leaders perceived as presenting a threat to Chinese rule. Freedom of religion or belief, often an indicator of the general level of respect for other fundamental freedoms, is routinely violated in these

regions. Improvements to the law and the legal system in China, for example through the abolition of re-education through labour, will only be of value if they are implemented throughout the country.

32. **Recommendation: China should seek to ensure the fair application of the rule of law across its country and in a non-discriminatory fashion.**

### **The Right to Marry and Found a Family**

33. Article 16 of the UDHR guarantees all men and women of full age the right to found a family, while Article 12 protects people from arbitrary interference with their family. In China, however, the practice of forced abortion in order to enforce the one-child policy has been well-documented. In some cases, this also constitutes a violation of the right to freedom of conscience.
34. In June 2012, local authorities in Zhenping City, Shanxi Province, reportedly forced a woman named Feng Jianmei to have an abortion. She was seven months pregnant at the time. News of Feng's forced abortion started to spread throughout the activist community within China and beyond its borders. Xinhua News Agency ran a short account of her story. A response on the Zhenping Population and Family Planning Board website said that the woman's pregnancy was outside the rules of the one-child policy.
35. Forced abortion is a form of sexual/reproductive violence against Chinese women and an unacceptable violation of a person's freedom of conscience for families who believe abortion to be wrong. This brutal practice is a violation of human rights and represents a complete failure to protect and promote the health of pregnant women.
36. **Recommendation: For China to ensure that all its legislation is in accordance with its international obligations and accepted international human rights standards, including legislation relating to family planning matters, and that those who carry out forced abortions are publically condemned and prosecuted and that victims are provided with necessary support.**