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Germany

Joint Comments by

Coordination des Associations et des Particuliers pour la Liberté de Conscience
(CAP LC);

CESNUR (Center for Studies on New Religions);

EIFRF (European Interreligious Forum for Religious Freedom),

ORLIR (International Observatory of Religious Liberty of Refugees),

CAP LC, the Coordination des Associations et des Particuliers pour la Liberté de Conscience, is a NGO with ECOSOC consultative status, specialized in combating religious intolerance and discrimination. CAP LC's Web site is: <http://www.coordiap.com/>.

CESNUR, the Center for Studies on New Religions, established in Italy in 1988 and recognized by the Italian administration as a not-for-profit association of "special cultural value," is the largest international association of scholars specialized in the study of new religious movements. Its yearly international conference is the main academic event in this field. CESNUR's Web sites are: www.cesnur.org, www.cesnur.com, and www.cesnur.net.

EIFRF, the European Interreligious Forum for Religious Freedom, is an association registered in France as a not-for profit association officially recognized by the French administration as being of "philanthropic general interest." Its aim is to promote religious freedom through inter-religious dialogue. EIFRF's Web site is: <https://www.eifrf-articles.org/>.

ORLIR, the International Observatory of Religious Liberty of Refugees, is a newly (2017) created organization, based in Torino, Italy, whose founders have a long experience in the fields of religion-based refugee claims. ORLIR's president,

Ms. Rosita Šorytė, worked as a Lithuanian diplomat for twenty-five years, and in 2012-2013 served as Chairperson of the European Union Working Group on Humanitarian Aid on behalf of the Lithuanian pro tempore presidency of the EU. ORLIR's Web site is at www.orlir.org.

Executive Summary

This submission addresses the following areas under section C of the Universal Periodic Review guidelines:

- Freedom of Religion and Belief
- Right to seeking and enjoying in another country asylum from persecution (Art. 14 UDHR)

0. Introduction

0.1. As NGOs specialized in religious liberty issues, and on religion-based refugee claims, we recognize that Germany has a good record in these fields. Indeed, Germany should be applauded for raising its voice on behalf of refugees within the framework of an international situation where too often xenophobia and anti-refugee feelings, fueled by extremist political forces, prevail.

0.2. We are, however, concerned with a very specific case. It concerns the religion-based refugee claims of members of The Church of Almighty God (CAG), a Chinese Christian new religious movement. 291 members of this Church sought asylum in Germany in recent years. But as of April 3, 2018, only 34 of them were accepted, and 243 were rejected (with one asylum seeker deported), while 14 cases are pending.

0.3. These figures are cause for concern, since it is somewhat obvious to NGOs and scholars that CAG members are severely persecuted in China, and that, should they be forced to return to China, these members of the Church who managed to escape to Germany would be arrested and imprisoned, or worse.

0.4. We recognize that problems of communication and translation between the asylum seekers, who rarely speak German or any language other than Chinese, and German authorities may be one of the reasons their cases are not fully understood.

As NGOs specialized in this field, we are ready to offer our help to solve these problems.

1. Historical Background

1.1. In China, in 1989, a religious revival involved both the House Churches (i.e. the Protestant Churches whose activity is not authorized by the government) and the religious movement known as the Shouters, originating from the Chinese preachers Watchman Nee (1903–1972) and Witness Lee (1905–1997). In the same year 1989, the person later identified as Almighty God by her followers began participating in meetings of the Shouters. In 1991, she began to utter words that followers compared, for authority and power, to those expressed by Jesus Christ. Many Christians started reading these utterances and believing they were “what the Spirit says to the Churches” (Rev 2:7, 17). Among these was Zhao Weishan, who would later become the administrative leader of the movement. Not until 1993 did the readers of the utterances start believing that their author was the incarnate God, the second coming of Jesus Christ and Almighty God, the unique God. The movement, born in 1991, became known as The Church of Almighty God (CAG, also known as Eastern Lightning). While stating that God incarnated in our time in a female human being, the CAG never mentions her name. Several scholars believe that she is Yang Xiangbin, a woman born in 1973 in northwestern China.

1.2 In the mid-1990s, a severe persecution targeted both the Shouters and the CAG. Since then the CAG has been continuously and severely persecuted in China. In 2000, Zhao and Yang went to the United States, and in 2001 they were granted political asylum. Since then, they have directed the movement from New York. In early 2009, He Zhexun, who used to oversee the work of the Church in Mainland China, was arrested and sentenced to 14 years in prison. He is still in custody. On July 17, 2009, Ma Suoping (female, 1969–2009), who took over He Zhexun’s role, was also arrested and died while in custody (Introvigne 2017b).

1.3 The CAG is a millenarian movement and believes that the appearance of Almighty God inaugurated the third age of sacred history, the Age of Kingdom, which follows the Age of Law, i.e. the time of the Old Testament, and the Age of Grace, which went from the birth of Jesus to the advent of Almighty God in the 20th century. When the ministry of Almighty God on Earth will be completed, the catastrophes prophesied in the *Book of Revelation* in the Bible and the Age of

Millennial Kingdom will follow, and those purified by Almighty God's work in the Age of Kingdom will live forever on a transformed Earth (Folk 2018).

1.4 China, according to the CAG, is both where Almighty God has appeared as the "Eastern Lightning" mentioned by the Bible (*Matthew*, 24:27) and where the evil "Great Red Dragon" of the *Book of Revelation* manifested itself in the semblance of the Chinese Communist Party (CCP) and its persecution of Christians. This criticism of the CCP is one of the causes of the persecution of the CAG in China.

2. Accusation of Crimes

2.1 Paradoxically, new impetus to the previously scarce academic study of CAG by Western specialists of new religious movements was given in 2017 by the Chinese authorities themselves. The Chinese Anti-*Xie-Jiao* Association, which has direct ties with the CCP, invited twice several leading Western scholars to seminars organized in Zhengzhou, Henan, in June, and in Hong Kong in September, devoted to exploring the notion of *xie jiao* and to offer critical perspectives on CAG. One of the scholar was Massimo Introvigne, managing director of one of the NGOs signing this submission (CESNUR). See the article published in the Web site of Chinese governmental media conglomerate *KKNews* (2017). It is a propaganda article, misrepresenting the position of Western scholars, but it does state that Introvigne was invited there as an internationally well-known expert of new religious movements in general and of CAG in particular.

2.2 During these academic exchanges, as they usually do, Chinese authorities tried to justify the persecution of the CAG by arguing that its members committed serious crimes. However, the documents supplied by the same Chinese authorities on the most famous of these crimes, the homicide of a woman in a McDonald's diner in Zhaoyuan in 2014, proved that the assassins were *not* members of the CAG. They belonged in fact to a different religious movement that, while using the words "Almighty God" in its name, regarded as Almighty God(s) returned to Earth persons different from the one the CAG recognizes as Almighty God, and had nothing to do with the CAG. In fact, the assassins themselves declared they were not members of the CAG that is led by Zhao Weishan and struck by the CCP authorities (Introvigne 2017a; Introvigne and Bromley 2017).

2.3 Another frequent accusation was that in 2013, in the Chinese province of Shanxi members of CAG gouged out the eyes of a six-year old boy. American academic Holly Folk (who was another of the scholars invited to the 2017 conferences against CAG in China) studied the related documents and concluded

that the crime was committed by the boy's aunt, CAG had nothing to do with it, and accusations against the church were spread by Chinese anti-cultists in the aftermath of the McDonald's homicide, several months after the police investigation had been closed (Folk 2017).

2.4 Opponents of the CAG also claim that in 2002 it kidnapped 34 pastors and lay leaders of a large Christian House Church, the China Gospel Fellowship (CGF). Again, Introvigne collected and studied the available documents, and concluded that the violence that would justify the label of "kidnapping" was absent, and the story as told by CGF and other hostile sources was largely unbelievable (Introvigne 2018).

2.5 The CAG has also been accused of predicting the end of the world for 2012, within the global framework of the 2012 phenomenon, based on prophecies attributed to the Maya civilization, causing riots and even crimes around China. This was another justification used by Chinese authorities to arrest a great number of members of the CAG, though in fact they just preached the Gospel peacefully. Australian scholar Emily Dunn, in what was the first scholarly book devoted to the CAG in 2015, noted that, like many Chinese, some "members of Eastern Lightning embraced the Mayan prophecy" but they "appear to have done so without sanction from the group's self-proclaimed authorities," who in fact declared "Mayan" and other theories about the end of the world as theologically and factually "mistaken" (Dunn 2015, 95). The Church also maintains that some flyers and brochures depicted in Chinese anti-*xie-jiao* Web sites as evidence of its 2012 prophecies were in fact either fabricated or derived from alterations of existing materials of the CAG (Introvigne 2017b).

2.6 It is also important to note that China started persecuting the CAG several years before the alleged crimes, confirming that the persecution was not motivated by accusations of crimes but by the CAG's doctrine, regarded as incompatible with CCP's ideology.

2.7 Another reason for the persecution of the CAG is its phenomenal expansion, which made the CCP literally panic. In 2014, Chinese authorities estimated that it had four million members in China (Ma 2014). Some scholars regard this figure as possibly exaggerated, but admit that the situation in China makes statistics difficult to collect.

3. Legal Framework

3.1 Particularly relevant for the case of The Church of Almighty God are the provisions of Chinese law concerning the *xie jiao*. Chinese governmental documents in English translate *xie jiao* as “evil cults,” but this is not completely accurate and reflects a strategy aimed at eliciting the sympathy of those opposed to “cults” in the West. The words *xie jiao* were used since the Ming Dynasty era to identify “heterodox teachings,” or teachings not approved by the government, and the Emperor “decided on the basis of his own judgement” which religions and movements should be listed as *xie jiao* (Goossaert and Palmer 2011, 27). Groups were listed, or not listed, as *xie jiao* based on both theological and political evaluations. Christianity as a whole, including Catholicism, was listed by Chinese authorities as *xie jiao* and exposed to persecution in 1725, and Christians were routinely tortured and executed, but went out of the list in 1842, because of Western military pressure (Goossaert and Palmer 2011, 31). This policy was continued by the Chinese Republic and by the CCP regime.

3.2 An official English translation of the Chinese Criminal Code has been published by the Permanent Mission of the People’s Republic of China to the United Nations and Other International Organizations in Vienna (n.d.). Article 300, in that translation, reads as follows: “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.” “Utilizes” means in fact “is active in.” Not only do the Chinese media often report that somebody has been arrested and sentenced for the mere fact of being a member of a *xie jiao* (see e.g. Chinanews.com 2013) but, during the Zhengzhou and Hong Kong conferences, leading police officers explained to the invited Western academics that it is enough to be identified as a member of a *xie jiao*, and particularly of the CAG, in order to be arrested and kept in jail for the time needed for what they called a “re-education process.” They also explained that the mention of “particularly serious circumstances” allows much harsher penalties to be imposed. This information came from the Chinese authorities, but it confirmed what the NGOs signing this submission were told in interviews with several members of the CAG in South Korea, the United States, and Europe.

3.3 But how does the CCP define *xie jiao*? The most recent attempt to date resulted in Rule 1 of the Interpretations on the Issues Concerning the Application of Laws in Criminal Cases Relating to Organizing and Utilizing Evil Organizations to Destroy Law Enforcement, issued on January 25, 2017, by the People’s Supreme Court and the Office of the People’s Supreme Attorney, interpreting Article 300 of the Criminal Code. *Xie jiao* were defined as “illegal organizations, which, through fraudulent use of religion, qi gong, or any other name, by deifying and promoting their ringleaders, or by fabricating and spreading superstitious fallacies and other means to confuse and deceive others (...), control group members and harm society” (The Supreme People’s Procuratorate of the People’s Republic of China 2017). Previous definitions were similar to the one of 2017 (Irons 2018). Such a vague definition perpetuates the possibility for the power to list as *xie jiao* any group the CCP does not like.

3.4 In practice, in China, the groups regarded as *xie jiao* are those included in the lists published since 1995 and periodically updated. The CAG has consistently appeared in all these lists of *xie jiao* (Irons 2018).

3.5 Chinese authorities have declared repeatedly that destroying *xie jiao*, and the CAG in particular, is among their priorities, and that they should be “completely eradicated as a tumor.” Monetary rewards have been offered to those who report to the police members of the CAG (see Pingtan County 2015 and Shandong Anti-Cult Association 2017; Taiyuan News 2017).

3.6 Chinese government-controlled media have reported often that CAG devotees have been arrested for the only reason that they belong to the CAG, even if they are not accused of any further crime (see e.g. *Chinanews.com* 2013). The well-known NGO Freedom House reported that eighty percent of those arrested between 2014 and 2016 as members of “heterodox religions” (i.e. *xie jiao*) were members of the CAG (Cook 2017, 48).

3.7. CAG has also denounced several cases where its members died in custody in highly suspicious circumstances or were tortured (The Church of Almighty God 2017). We regard these testimonies as believable and, at any rate, the number of cases mentioned warrant at least a serious independent investigation. Summing up, there can be no reasonable doubt that the mere fact of being a member of CAG in China means to be exposed to a serious risk of imprisonment for several years, if not worse. This should mean that CAG members who reached Germany are entitled to the status of refugees for reasons of religious persecution.

4. Reasons for Not Granting Refugee Status

4.1. A cursory examination of the reasons why in most cases asylum has not been granted in Germany led us to the conclusion that this is based on six main reasons, which we believe are based on misunderstandings.

4.2. First, CAG is accused of serious crimes. The issue is discussed in number 2 above. We believe these accusations to be unproven or false. At any rate, the individual asylum seekers in Germany are not personally accused of any crime.

4.3 Second, German authorities require evidence that the individual member of CAG has been personally persecuted in China. The 2004 UNHCR *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees* explicitly affirms that states cannot require evidence that the asylum seeker has been individually persecuted. Although mere membership in a persecuted group is not sufficient, it is enough to prove that the individual has a “well-founded **fear of persecution.**” It should be abundantly clear that a member of CAG in China has a very well-founded fear of persecution, for the mere fact of being a member of CAG. If detected as such, every member of CAG faces arrests and imprisonment.

4.4. Third, some German decisions claim that only leaders, or those having an “exposed position” within CAG, are in danger of being persecuted. This is not the case. Article 300 does not distinguish between leaders and common members of groups banned as *xie jiao* and Chinese case law, as many examples published by Chinese governmental sources show, offers several examples of common CAG believers sentenced under Article 300 without having any position of leadership in the CAG (see e.g. *Chinanews.com* 2013).

4.5. Fourth, some German authorities have objected that the fact that CAG members were able to avoid capture for several years by moving from one city or village to another is evidence that they were not persecuted. We disagree. As mentioned earlier, CAG has several million members in China and, just as other persecuted religions, has built strong networks of believers capable of operating underground and hiding those brothers and sisters who have already been identified as CAG members by the authorities. But having to move constantly, without a home and in constant fear of being captured constitutes precisely the “fear of persecution” mentioned by the international conventions.

4.6. Fifth, frequent objection is that, as former convicts and/or members of a banned organization, CAG devotees should not have been able to obtain a passport, and should have been stopped at the border without being able to leave China. The fact that they did leave China and enter Germany with a passport was constructed as evidence that they were not persecuted. This objection may seem reasonable, but it ignores the practical realities of the Chinese situation. The control system of the police is not infallible, data are not necessarily transmitted from one administration to another, and there are always alternative ways to obtain passports and other documents, with one's own real or with an assumed name, obviously not all of them legal (there is much more corruption in China than it is generally believed in the West). We enclose an affidavit by an Italian academic, Professor PierLuigi Zoccatelli, an expert of both Chinese immigration and new religions, exploring this issue in more detail.

4.7. Sixth, in some cases asylum seekers were accused of not knowing enough their religion, and their very identity as CAG members was cast in doubt. Paragraph 30 of the 2004 UNHCR Guidelines states that: "Individuals may be persecuted on the basis of their religion even though they have little or no substantive knowledge of its tenets or practices. A lack of knowledge may be explained by further research into the particular practices of that religion in the area in question or by an understanding of the subjective and personal aspects of the claimant's case." In some specific German cases, we also have the impression that asylum seekers did not conform to the tenets of the religion as depicted "in the sources available" to the German authorities. The "sources" mentioned, however, are not CAG's normative sacred texts, nor are they part of the scholarly literature. The authorities sometimes rely on media articles, which simply translate or repeat Chinese governmental sources, and on a report from the Immigration and Refugee Board of Canada that, although it is not a UNHCR document, is available on the UNHCR data base (<http://www.refworld.org/docid/546492804.html>). The Canadian Board did a considerable homework, but the report is dated 2014, and at that time only journalistic sources or Chinese governmental sources were available. Scholars started paying attention to CAG in 2015, with the publication of the book by Emily Dunn *Lightning from the East* (Leiden: Brill), and further studies followed in 2016 and 2017. These scholarly studies were not available to the Canadian Board in 2014, and its report (and two parallel documents) include significant factual mistakes. We enclose herewith a criticism of these Canadian COI by four well-known international scholars. It is also interesting to note that

Canadian COI do not seem to play any significant role in Canada, where the large majority of asylum applications by members of CAG (indeed, more than 100) have been accepted.

5. Conclusion and Recommendations

5.1. In conclusion, we believe that CAG members face an obvious risk of persecution if compelled to return to China, that their “fear of persecution” is very much real, and that they have a right to receive asylum in Germany under Article 14 UDHR.

5.2. We recommend that German authorities, at all level, seriously consider the situation of CAG asylum seekers and the real history and features of The Church of Almighty God, consulting the academic works now available on CAG. Authorities should also take into account that a number of information about CAG and its asylum seekers available on the Web is the result of a campaign of fake news instigated by the Chinese government and the CCP.

Respectfully submitted.

Geneva, 12 April 2018.

Enclosures

Affidavit by Professor PierLuigi Zoccatelli

Criticism of the Canadian COI by four scholars

Endnotes

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