

Religion in the Social Transition of Contemporary China:

SINO-AMERICAN PERSPECTIVES



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Preface

Commentary on China's reemergence as a world power tends to focus on the country's unprecedented economic growth and implications for global security. A crucial yet often neglected dimension is the explosive growth in the number of religious believers in the People's Republic of China (PRC) since its establishment in 1949. For example, at the time of the PRC's formation, it is estimated that there were around 700,000 Christians living in China; by 1982 this figure had increased to about 2.2 million. Today, China is home to the world's seventh-largest Christian population, or about 60–70 million Christians. This means that Christianity has grown in China at an average rate of about 13–15 percent annually, higher than China's average annual economic growth rate over the last thirty years of about 10 percent.

According to a survey conducted by the Pew Research Center in 2010, approximately 640 million people in China claim affiliation with some religion. Of the five recognized religious groups in China—Buddhism, Taoism, Islam, Catholicism, and Protestantism—Buddhism claims the most adherents at about 244 million, or about half of the world's Buddhists. In the case of Islam, although the percentage of Chinese who consider themselves Muslim is relatively low, at about 2 percent, the sheer size of China's population means it is home to the 17th largest Muslim population (about 25 million Muslims), following Saudi Arabia (16th) and just ahead of Yemen (18th). These numbers would have been inconceivable five decades ago, when the Communist Party of China (CPC), under the stewardship of Chairman Mao Zedong, launched the Great Cultural Revolution and systematically suppressed all varieties of religion within China.

Since the beginning of the period of "Reform and Opening" in 1979, China has made great strides in advancing religious plurality by developing a legal framework designed to "ensure citizens' freedom of religious belief," as provided for in Article 36 of the 1982 Constitution of the People's Republic of China. Implementing measures are contained in the PRC State

Council's *Regulations on Religious Affairs* (RRA). Under the RRA, religious groups are permitted to own property and facilities used for religious purposes, to accept donations from organizations and individuals at home or abroad, and to establish institutes for religious education. These activities are closely regulated by the state, but this has not prevented the rapid rise in the number of professed religious believers.

While Chinese citizens now have expanded opportunities to engage in religious practices, as compared to earlier decades, according to a 2011 Pew survey, the level of government restrictions on religion in China remains high. Moreover, social hostilities involving religion (i.e., acts of religious hostility carried out by private individuals), increased considerably between 2006 and 2009, when Buddhists and Muslims in the Tibet and Xinjiang Autonomous Regions protested what they perceived to be religious, cultural and economic discrimination by ethnic Han Chinese.

This illustrates the contradictions that continue to mark religious practices in the PRC. Article 1 of the Regulations on Religious Affairs explicitly states that the regulations are for the purpose of ensuring citizens' freedom of religious belief and maintaining harmony among and between religions. Officials handling religious affairs contend that both provisions are equally important in shaping the religious landscape in China. As the papers in this compilation illustrate, China's religious landscape is as nuanced and fraught with incongruities as its economic and political scene.

Such nuances and contradictions are not unique to China. For instance, among the 25 most populous countries surveyed by the Pew Research Center, the majority demonstrated moderate to high levels of social hostility towards religion. According to this survey, China's level of social hostility toward religion is relatively low, e.g., lower than France, Germany, and the United Kingdom, all of which have levels of social hostility on a par with Myanmar and Iran. On the other hand, China ranks with Myanmar and Iran in terms of the restrictiveness of government regulation of religion. Nevertheless, the fact remains that religion is flourishing in China today because it is being re-embedded into Chinese society after an earlier period of strong government interference and suppression. Every country's religious landscape is unique as it is shaped by

the historical, political, and societal conditions within which religious practices must function.

Such considerations underline the importance of the papers that follow. This compilation* contains a wealth of material that can contribute to improved understanding and constructive dialogue on the status of religion in China.

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* The Kissinger Institute and the Asia Research Center Foundation convened 20 scholars and public figures from China and the United States on October 13–14, 2011 in Washington, DC to discuss the role of religion in a changing China. The result was an insightful collection of papers that spurred interesting and enlightening discussion.

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PART ONE:

Religion and Religious Policy in China: A 21st Century Update

Thinking Thrice of the Sinicization of Christianity

ZHIGANG ZHANG

INTRODUCTION

By employing the idea of “the Sinicization of Christianity” in this essay, the author aims, based on a “purely academic standpoint,” to be fully objective and rational in analyzing the reasons for Christianity melding with Chinese culture, spreading among the Chinese people, and especially being recognized as part of contemporary Chinese society. Through examining such topics as “a comparison of the histories of Christianity in China and in South Korea,” “the ecology of religions in contemporary China,” and “the trend of international religious dialogues,” the author has reached the following conclusions: social practice is the sole criterion for testing religion and faith and, applying this principal to China’s actual conditions, the only way to “Sinicize” Christianity is to emphasize its positive and important contributions to the reform and opening-up and progressive development of contemporary China.

The title of this essay expresses the following two approaches: first, the Sinicization of Christianity is different from such usual phrases as indigenization, localization or contextualization, concepts which are mainly, in my opinion, “church concepts.” That is to say, they are used by “church scholars” to discuss how Christianity adapts to the cultural or social backgrounds of the places where it is introduced. For instance, how is the Bible translated and commented on in Chinese? Can its doctrines be explained by means of ideas or concepts found in Chinese traditional culture? And how are preaching and missions done in a way that fits Chinese social conditions?

Second, “thinking thrice” comes from an old Chinese saying, “think thrice before you go.” The straight-forward philosophy expressed in this old saying is applicable to our thinking about whether Christianity should

meld with Chinese culture, spread among the Chinese people, and be recognized as a part of Chinese society. This is surely an important and complicated project, which can never be completed by the author himself, but rather needs the joint efforts of scholars both at home and abroad—scholars in various fields interested in Christianity in China.

The author of this essay, following his original intention mentioned above, has arranged his recent studies to “think thrice,” and presents his findings in this essay in order to highlight the issue and encourage further discussions in the future.

“A Foreign Religion:” A Comparison of the History of Christianity in China and in South Korea

A sharp contrast is evident when examining the history of the introduction of Christianity into China and into South Korea in a comparative perspective, and in rethinking the main social role that Christianity has played in modern China and modern South Korea: Christianity’s social impact. The sharpness of the contrast is very clear from an historical review.

Luo Guanzong, former president of the Chinese National Christian Three-Self Patriotic Movement Committee, pointed out that:

Modern Christianity was introduced to China in the 19th century. It made certain contributions to Chinese society; but unfortunately, its introduction was profoundly intertwined with the imperialist invasions of China, and to some extent exploited by colonialists and imperialists.

As early as the anti-Christian movement in 1922, the anti-Christian young students and intellectuals attacked Christianity, sharply criticizing it as the vanguard of the imperialist aggression against China.

In May of the same year, in the “National Christian Conference” controlled by the foreign missionary societies, the Chinese Christian representatives pointed out that the history of Christianity in China was deeply connected to the national shame of China. The Western countries which called themselves “Christian nations” in fact violated

Christian doctrines and invaded and bullied China, actions which proved a great hindrance to the spreading of Christianity in China. They also raised the criticism that the Chinese Church, since it was “disciplined” by the foreign missionary societies, was in fact a “foreign church.”

During the May Thirtieth Movement in 1925, when the Chinese people were outraged over the imperialists’ killing of their compatriots, some patriotic Christians also accused the “Christian countries” of selling opium, starting aggressive wars, forcing China to sign unequal treaties, cede territory, and pay indemnities, and claimed that those Christian countries were “up to their necks” in crime in China. Meanwhile some missionaries violated Christian doctrine and duplicitously shielded their governments’ crimes of aggression. All this historical evidence proves that both the Chinese Christian and anti-Christian patriots denounced the imperialist crime of exploiting Christianity to aid their invasion of China.¹

The historical stages of the development of Christianity in China are summarized by Professor Xu Rulei as follows:

The development of Christianity in China can be divided into two historical stages, with the foundation of New China in 1949 as the dividing line.

Before 1949, Christianity was exotic and more than 130 foreign branches undertook active missionary duties in China. So-called Chinese Christianity was one of the dots on the missionary map of foreign missionary societies. In 1907, the Centennial Conference of Missionary Work in China was held in Shanghai by foreign missionaries. The form of address of “中国教会” was debated and finally put to a vote at the conference.

The result was that although both the two English versions—“Church in China” and “Chinese Church”—can be translated as

“中国教会”into Chinese, only the former could be used as the official form of address. This version reflected the fact that at that time there was no real “Chinese Church,” nor Chinese Christianity, in China. What existed was only a foreign “church in China.” China was only a missionary area of foreign churches.²

Precisely because of this prolonged failure before 1949 in getting rid of its identity as “a foreign religion,” the Chinese Church regards the “Three-Self Patriotic Movement” as a landmark event in its contemporary history:

The most important event of Chinese Christianity in the 20th Century is the Three-Self Patriotic Movement, initiated after the foundation of New China. Its greatest achievement was to enable Christianity to sever the relationship with imperialism and extricate itself from the control of foreign missionary societies. The result was that a “foreign religion” utilized as a tool of imperialist aggression changed into a Christianity independently initiated and operated, self-governing and self-supported by Chinese Christianity. Thus this Christianity began to be compatible with socialist society and the idea of operating the Church and promoting the construction of theology in the socialist motherland according to the three-self principles came into being.³

In sharp contrast, a number of academic works on the history of Christianity in South Korea read as follows:

The “March 1st movement” not only shows South Korean Christians’ confrontation against oppression and their pursuit of independence and advancement of South Korean nationalism, but also the development of missionary progress in South Korea. That is to say, Christian belief had the color of modern nationalism, and under such particular historical circumstances, Christianity gradually became a national religion capable of saving the country and its people. In short, South Koreans no longer considered Christianity as a “Western religion.”

The South Korean nationalist movement was based on the idea of liberty, of natural rights and of civil rights grounded in Christian theology. In other words, South Korea’s ethnic movement was inseparable from Christianity. At different times when facing national crises, South Korean Christianity played an important role. South Korean Christians fought in the front lines in the cause of national liberation and the anti-Japanese patriotic movement.

On the very day that the “Declaration of Independence” of South Korea was announced, among the 33 signatories were 15 Christians. Therefore, in the national independence movement of South Korea, the Christian leaders were enshrined as national heroes by the South Koreans.⁴

I cite the above quotations without any intention of “belittling Chinese Christianity while praising South Korean Christianity.” Moreover, although the historical accounts in the above quotations can hardly reflect the comprehensive modern history of Chinese Christianity and South Korean Christianity and inevitably contain some emotional elements and intellectual tendencies, as long as they do not violate basic facts, the contrast between Chinese Christianity and South Korean Christianity is sharp enough to make us rethink a historical sociological issue: as China and South Korea have similar historical and cultural traditions, and also have similar modern histories, how could Christianity, the same religion from abroad, play such different social roles in China and in South Korea? In searching for reasons, researchers with different backgrounds will naturally reach different conclusions. In my opinion, the main reason is probably not located in Christian scriptures, doctrines, and theology, but in the effects of social practice by missionaries and local believers. That is to say, in the places where Christianity was introduced, it either mainly played a positive, active social and historical role in the survival and development of the nation or it mainly had a negative and passive impact upon social history.

While the reason above seems plain and simple, in fact it prompts many theoretical issues. For example, what is the standard for the acceptance or approval of a “foreign religion” in a society, a nation or a country? Other

possibilities are so-called “naturalization,” “localization” or “contextualization” of foreign religions. What factors determine which will occur? Another example with regard to any religious tradition, whether local or foreign, is: what is its main function and purpose? These questions will lead us to the next discussion: the “real or practical concerns” in China’s academic and political circles caused by the rapid development of Christianity since China’s reform and opening up.

“A Dominant Religion:” On the Religious Ecology of Contemporary China

The 30 years since the beginning of reform and opening up may be described as “the golden age of China’s religious policy.” With the gradual implementation of the policy of free religious belief, major traditional religions—Buddhism, Daoism, Islam, Catholicism, and Protestantism—have again become active, and the number of believers has significantly increased. Most remarkable is the “rapid development” of Christianity.⁵ According to a survey released by the CASS Institute of World Religions in 2010, the current number of Christians in China is about 23,050,000. How could Christianity have developed so fast in China? What impact will the rapid development of Christianity have on the whole religious situation in China? This is an issue of great concern to Chinese scholars of religion. In recent years, discussions of the “Ecological Problems of Chinese Religious Cultures” have spurred many worthwhile ideas. I think that international academic circles will share a common interest in objectively exploring these ideas. At the “Senior Forum on Ethnic and Religious Issues—Chinese Religions in Global Perspective 2008,” Professor Duan Qi, an expert on the history of Chinese Christianity, gave a speech that evoked a strong reaction, entitled “The Ecological Imbalance of Religions is Responsible for the Rapid Development of Today’s Major Christian Churches in China.”⁶ According to field survey data, she pointed out that the term “ecology of religions” refers to the existing social status of various religions. Similar to natural ecosystems whose normal status should be an overall balance with each other through self-imposed limitations, each religion should be in its proper place and occupy its own market to meet the faith needs of

different groups of people. But undue artificial interference would destroy the balance and result in the rapid development of some religions and the dying out of others. The reason why Christianity in China has developed rapidly after reform and opening up is related to the ecological imbalance of religions.⁷

Duan Qi’s view was shared by many experts and scholars. For example, Professor Mou Zhongjian, an expert on Chinese religious history, concluded that the rapid development of Christianity since reform and opening up is due to four main reasons:

(1) The series of “left-leaning” criticism movements in the ideological and political fields and the Cultural Revolution repeatedly raided the core of traditional Chinese beliefs—Confucianism, Buddhism, Daoism, and various folk religions and beliefs. Moreover, belief in socialism suffered heavy damages from the “decade-long calamity,” so a crisis of faith and a “belief vacuum” emerged in China. Reform and opening up facilitated fulfillment of the “belief needs” of the Chinese people and a luxuriant market of religions resulted. To meet this demand, Buddhism and Daoism recovered slowly, while Christianity with strong international backing immediately revived and filled the gaps once conditions permitted.

(2) Reform and opening up changed the Chinese people’s previous negative view of Western civilization, and many Chinese absorbed Christianity as an integral part of the spirit of Western civilization when learning Western science, technology, economic management, and material civilization. This weakened the historical portrait of Christianity as a tool of imperialist aggression, and linked it with modern Western civilization as a “foreign religion.”

(3) Protestantism abandoned the Roman Catholicism’s tedious rituals and strict rank system, and small decentralized churches have enabled missionary efforts to become more flexible, simple, and easily dispersed through grassroots groups. Christianity is very good at community welfare work, and has combined the spread of the Gospel with poverty relief, providing people with spiritual and material benefits. This is far beyond other religions.

(4) The rapid spread of Christianity in China has been based on the implementation of the Western churches' Christianization strategy. Western churches have offered strong political and economic support for missionary works to ensure that missionaries are economically capable of charity and winning popularity. On the other hand, Chinese folk believers usually have a utilitarian and arbitrary tradition. They seldom care about the difference between sects and the authenticity of doctrines, and just convert as long as Christianity contains good will and offers support to those in need and in difficult circumstances. In this way Christianity satisfies Chinese folk believers.⁸

Based on the above analyses, Mou Zhongjian displays his thought-provoking ideas: China is a socialist country with multiple ethnic groups and religions. From the perspective of both history and current real conditions, multiple beliefs represent a civilization's development direction, and it is impossible for China to allow any one of the existing religions to be a dominant religion. This would imply a civilizational retrogression. The overdevelopment of Christianity in China would cause a series of negative consequences: first, hostile forces from abroad would ambitiously try to promote peaceful evolution towards capitalism in China so as to speed up their strategy of evangelizing China. In this case, a struggle would occur between control and anti-control, and antagonism or even conflict against the socialist faith and other traditional faiths in China would grow, thus jeopardizing China's social stability and harmony. Second, massive underground activities are apt to occur, in which the pure quality of believers' faith cannot be ensured, so they would fail in communicating true faith to society. Hence there would appear many church organizations which do not look like Christian ones, and such organizations would be susceptible to use by evil social forces and would thus be detrimental to the healthy development of Chinese Christianity under the banner of loving the country. Third, the overdevelopment of Christianity in China would destroy the national integrity and identity of Chinese culture, thus damaging China's national spirit, which has been formed jointly by Confucianism, Buddhism, and Daoism, all known for such good qualities as people-oriented humanity, self-discipline, social commitment, charity, and harmony. Some aspects integral to monotheistic religion, such as exclusiveness and aggressiveness,

would soar, inimical to China's peaceful rise and the establishment of a harmonious world.⁹

Let us look at another point of view. It is thought-provoking because it was proposed by Ma Hucheng, a scholar official and former vice minister of the United Front Work Department of the Gansu Provincial Party Committee. It also has both differences from and similarities with the above mentioned idea from "The Ecological Imbalance of Religions in China." Ma, on one hand, sharply criticizes the ecological imbalance theory of religions in China, claiming that its main point of ecological imbalance of religions in China has been due to the long-term failure of the government's religious policy not only provides a "theory umbrella" (basis for legitimacy) for "abnormal development of Christianity," but also leads to a policy of "religion vs. religion" (for example, to support Confucianism, Buddhism, Daoism, and folk beliefs to achieve a balance with Christianity) and eventually results in unfair and discordant relations among religions or even conflicts and other negative repercussions. On the other hand, he basically shares the view of other well-known experts like Mou Zhongjian on the external reasons for the rapid development of Christianity (international factors) and its consequences.

On the external reasons for the rapid development of Christianity (international factors) and its consequences, Ma proposes the following main points:

(1) Some western forces have long been implementing their penetration into China by utilizing Christianity as their established strategy, and have long spared no effort to impose on the Chinese people their ideas of values, human rights, and culture based on Christian doctrine, wishing to change China's social system and the Chinese people's world view, values, and religious beliefs.

(2) Some western countries, especially through various church organizations outside China, have regarded China as a "virgin land of religion" and taken missionary work in China as their great task. They have tried to export Christianity to China purposefully in a well-organized and planned way, and have worked out many projects such as "the scarification project" (missionary work among grassroots), "the pyramid project" (missionary

work at high social levels), “the gospel westward plan” (especially in ethnic minority areas in western regions) to evangelize and proselytize.

(3) The aforementioned missionary activities are characterized by aggressiveness, expansiveness, and invisibility. Aggressiveness means that they are culturally aggressive, accompanied by an onslaught of Western culture to establish cultural hegemony. Expansiveness means that they carry a strong political, economic, and military shield and regard expanding their sphere of influence and the number of followers as a priority. Invisibility means that under the guise of charitable programs and other forms of economic cooperation and cultural exchange they circumvent China’s legal system and conduct illegal missionary activities.

(4) In sharp contrast, Buddhism and Islam, also world religions, objectively have not such a strong international background and subjectively have not such a strong missionary desire. Therefore, this kind of an ecological phenomenon of religions begins to appear: Christian forces from abroad invade on a large scale, and Buddhists and Muslims from abroad hesitate and lag behind, while domestic religions lose ground and retreat ceaselessly.

(5) If Christianity became a “dominant religion” in China, even “an autocratic religion,” it would be followed by a series of negative consequences, which would worsen China’s religious ecology, jeopardize China’s national security, batter the image of Christianity, and violate the Chinese Christianity’s independent principle of self-administration, self-support, and self-propagation.¹⁰

It is indisputable that humanities and social sciences contain ethnic consciousness and national interests. As for the above ideas and controversies around the “Ecological Imbalance of Religions in China,” scholars of different cultural backgrounds or beliefs will naturally have different views, but I would like to make as objectively as possible the following two points for scholars to reconsider:

First, by comparing the two views quoted above we can find the obvious difference between them. On one hand, the ecological imbalance of

religions could be attributed to the failure of the government’s religious policy, and on the other Confucianism, Buddhism, Daoism, and folk beliefs could be supported to balance Christianity. These two views, however, make the same judgment on the external reasons for Christianity’s rapid development and its consequences. The judgment consists of the following striking words: international background or international backing; Western hostile forces; ambition to bring peaceful evolution in China; a strategy to evangelize China; illegality, exclusiveness, and aggressiveness to violate Chinese Christianity’s independent principle of self-administration, self-support and self-propagation; to spoil the diversity and integrity of Chinese national culture; and to harm social harmony and even national security.

Second, connecting the above judgment with historical research, we not only can understand the historical origin of the judgment—the origin that is often difficult for foreign academics to fully understand and is easily effaced and underestimated by some younger Chinese scholars—but can also feel “a grave anxiety about reality,” seeing that Christianity which had been “the invasive tool of imperialist powers” in modern Chinese history has now become “the penetrating tool of Western hostile forces” while China is growing prosperous and powerful with its reform and opening policy.

Some scholars may not agree with this judgment,¹¹ but it is worth pondering why the Sinicization of Christianity is said to “have a long way to go” from both academic and political circles? Does this mean that Christianity in Chinese society has not yet rid itself of its historical burden, i. e., its identity as a foreign religion not yet blended with Chinese culture and people as Buddhism and Islam have? Does this mean that the above judgment has practical significance to learning from history as a guide for today?

Think Thrice before You Go: On the Trend of International Religious Dialogues

As we all know, “interreligious dialogue” is a hot topic in international religious circles, as well as a new frontier in the field of religious studies. The objective is to explore ways to understand correctly relations among religions and an active promotion of religious harmony. I would like to discuss religious pragmatism, which is said to be a new trend in religious theories.

However, although the concept of religious pragmatism is my theoretical generalization, the original idea is “a correlational and globally responsible model for dialogue” put forward by Paul Knitter (1934–), a well-known American Catholic theologian and active promoter of religious dialogue. He interprets this new model for dialogue as follows:

First, the reason why interreligious dialogues are “relative to each other” is that global religious beliefs are numerous. This fact cannot be neglected, and it is “where the essence of the question of religious relations lies.” Therefore, so-called interreligious dialogues are not looking for “unification” or “identification,” but for a “friendly dialogue partnership” on the premise of acknowledged differences so that dialogue partners from different backgrounds may honestly communicate with each other, learn from each other, and testify for each other.

Second, religious dialogue partners should bear a collective “globally ethical responsibility” because today’s religious exchanges have to face “human suffering” and “ecological disasters” in terms of globalization. If believers of respective religions are indifferent to existing suffering or do not try their best to ameliorate these sufferings, they are apt to talk loftily and distance themselves from reality and immediate needs, to the point of generating more dissension, contradictions, and conflicts. Believers of respective religions are obligated to work jointly for social equality, environmental protection, and human happiness. Only on such a basis can various religions improve mutual understanding and conduct effective dialogues.¹²

In Knitter’s opinion, an obvious shortcoming of the declaration toward a global ethic is its generalized character, even though it has its own theoretical value and practical significance that cannot be underestimated. Therefore, through an analysis of practical philosophy beginning with the Greeks, Knitter introduced the following “truth-views of practical theory:” truth is used to change the world, and people know the truth through practical activities. It is the same for the relationship between interreligious dialogues and religious truth. Thus, Knitter thinks that if we want to have effective religious dialogues, we should suspend seeking things like “common essence, common experience, and common purposes of all kinds of religions.” Rather, we should take the “reality of suffering” that human society and the environment are now facing as the “common context” and the

“urgent topic,” and take social practice as the “primitive principle” and “central task.” Facing many problems or crises in a globalized world, especially injustices and unjust phenomenon to the international community, various religions should assume a common responsibility, take actions together, and practice more effectively. Otherwise not only would interreligious dialogues be meaningless, but also religious beliefs would have no way out. Knitter points out that whatever religious beliefs are, they must face “the reality of suffering.” Whatever redemption, awakening and relief aim at, they must all respond to “human suffering.” Regardless of whether believers are Hindus, Christians, Jews, Muslims or Buddhists, if any of their doctrines can be taken as the reason for neglecting or tolerating “the sufferings of human beings and of the earth,” such beliefs will lose their credibility.¹³

The aforementioned religious pragmatism will easily evoke academic resonance in contemporary Chinese academic circles, and may even receive a more concise and stronger logical explanation by Chinese religious studies scholars. From the view of the history of ideas, the reform and opening up policy started with a movement of mind liberation—“the discussion of the criterion of truth.” It made the whole country accept the logic of uniting knowledge with practice—social practice as the sole criterion for testing truth. According to the same logic, after some 30 years of reform and opening up, social practice is still the sole criterion for testing religious beliefs. Why? Chinese society has undergone profound changes and made considerable progress in economic, political, and cultural fields. With the increase in comprehensive national strength and international influence, China as a civilization of over 5,000 years is shouldering a historical mission of inheriting the profound cultural traditions of “merging while keeping diversity, seeking common grounds while reserving differences, tolerant to diversity, and embracing diversity,” and striving to build a “harmonious society and harmonious world.” Therefore, in the new era when China is seeking its own prosperity as well as world peace through the reform and opening up, why should Chinese Christian leaders and believers, as Chinese descendants and citizens of the country, not give top priority to the overall interests of the country and the people and reexamine the relationship between faith and social responsibility to make positive and important contributions to the development and progress of Chinese society? I think an affirmative

answer to this question is evident not only in the recent research trends of interreligious dialogues and relationships between religions in the international academic circles—a new enlightenment that religious pragmatism has brought us—but also in the inevitable “Sinicization of Christianity:” the way in which Christianity is blending with Chinese culture and society and spreading among the Chinese people.

NOTES

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2. Rulei Xu, “The Theology Research of Chinese Christianity,” *Christianity and Modern Culture*, ed. Weizheng Zhu (Shanghai: Shanghai People’s Press, 1994), 126–127.
3. Guanzong Luo, *Guide for the Future—A Review of the Historical Facts of the Imperialist Invasions of China by Utilizing Christianity* (Beijing: China Religious Culture Press, 2003), Preface, 2.
4. Shin Ki Young, *Christianity and Nation-Building in Korea: 1885–1945* (Phoenix: Arizona State University, 1993), 9–26.
5. Many scholars think that the rapid development of Christianity in the years since the reform and opening up is not a “normal phenomenon,” so conceptions like “flourishing development,” “flooding development,” “over-scaled development,” “bombing development,” and “overspread development” have appeared. To describe objectively, I choose the phrase “rapid development.” For further research, see Jialin Liang, “The Chinese Rural Churches since the Opening and Reform,” *Alliance Bible Seminary* (1999); Xiangping Li, “The National Imagination of Religious Belief—On the Ecology of Religions,” *China Minzu Newspaper, Religion Weekly* (July 27, 2010); Daji Lu, “Some Ideas on the Accidence and Reconstruction of the Traditional Ethnic and Religious Culture,” Zhongjian Mou, “Rethinking on Christianity and the Ecology of Chinese Religious Cultures,” Hucheng Ma, “Discriminating the Rapid Development of Christianity in China’s Mainland—Rethinking the Idea of Ecological Imbalance of Religions,” Qi Duan, “The Ecological Imbalance of Religions and the Development of Chinese Christianity,” *Research on Modern China’s Ethnicities and Religions*, ed. The Secretariat of the Ethnic and Religious Theory of the United Front Theory Gansu Research Base (Lanzhou: Gansu Minzu Press, 2009).
6. The title of this essay was changed to “The Ecological Imbalance of Religions and the Development of Chinese Christianity” when it was selected for *Research on Modern China’s Ethnicities and Religions*, the essay collection of the forum.
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8. Zhongjian Mou, “Rethinking on Christianity and the Ecology of Chinese Religion Culture,” *Research on Modern China’s Ethnicities and Religions*, ed. The Secretariat of the Ethnic and Religious Theory of the United Front Theory Gansu Research Base (Lanzhou: Gansu Minzu Press, 2009), 22–3.
9. Zhongjian Mou, “Rethinking on Christianity and the Ecology of Chinese Religion Culture,” *Research on Modern China’s Ethnicities and Religions*, ed. The Secretariat of the Ethnic and Religious Theory of the United Front Theory Gansu Research Base (Lanzhou: Gansu Minzu Press, 2009), 23.
10. Chenghu Ma, “Analyses of the Reasons for Christianity’s Rapid Development Nowadays in the Chinese Mainland,” *Research on Modern China’s Ethnicities and Religions*, ed. The Secretariat of the Ethnic and Religious Theory of the United Front Theory Gansu Research Base (Lanzhou: Gansu Minzu Press, 2009), 112–121.
11. As for academic debates on this, see Zhigang Zhang, “Some Opinions about the Religious Relations in Contemporary China—Discussions on Theories and Policies Based on the Current Researches both at Home and Abroad,” *Journal of Peking University* (2011): 2.
12. Paul F. Knitter, *One Earth Many Religions: Multifaith Dialogue and Global Responsibility* (New York: Orbis Books, 1996), 15–17.
13. Paul F. Knitter, *One Earth Many Religions: Multifaith Dialogue and Global Responsibility* (New York: Orbis Books, 1996), 60.

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Counting Religion in China Today¹

BRIAN J. GRIMM

Abstract:

Survey data as well as Chinese government reports show that relatively large numbers of the Chinese public are affiliated with religion and consider religion to be at least somewhat important in their lives. This is somewhat surprising given that China has strictly adhered to a secular and even atheistic national philosophy for nearly six decades. As China's influence on the world stage continues to grow, many people inside and outside China will be interested to see whether Chinese communism will adjust to religious market forces just as it has to economic market forces. Given the wide range of findings from the public opinion surveys in the years between 2005 and 2007, indicating that reported religious affiliation ranges anywhere between 14 percent and 31 percent but between 31 percent to 56 percent consider religion at least somewhat important, these survey findings need further scrutiny in order to arrive at a numerical estimate of religious affiliation in China today. Straightforward religious affiliation questions on surveys generally undercount religion in China due to three unique factors related to the context in the People's Republic of China. First, traditional religious faith and practice in China tends to be diffuse and informal rather than institutionalized and membership-based. Second, religion is geographically concentrated in ways that are often missed by or inaccessible to surveys. And third, the substantial numbers of people involved in unregistered religious groups are less likely to divulge their membership or even participate in a public opinion survey. For these reasons, this study takes into account multiple sources of data and estimates that while the majority of people in China have no religious attachments (53 percent), a substantial minority have some affiliation to religious faith or practice.

On August 8, 2008—the eighth day of the eighth month of the year 2008—at exactly 08:08:08 p.m., the Summer Olympics began in Beijing. The day and hour for the start of the opening ceremony of the Olympics was chosen for its good fortune—a widely held belief in Confucianism and Chinese folk religions. Indeed, the official English website of the 2008 Beijing Olympics highlighted officially approved Buddhist, Protestant, Catholic, and Muslim places of worship, complete with addresses and descriptions.² Compared with 30 years ago when religion was just beginning to re-establish a public presence after the draconian suppression of all religious activity during the Cultural Revolution, the growing presence and ambitions of religious groups in China are much more visible to a watching world.

According to a 2006 survey by the Pew Global Attitudes Project, 31 percent of the Chinese public considers religion to be very or somewhat important in their lives, compared with only 11 percent who say religion is not at all important. When asked a somewhat different question in a 2005 Pew poll, an even greater percentage of the Chinese public (56 percent) considered religion to be very or somewhat important in their lives.

Other survey data, as well as Chinese government reports, have also shown that relatively large numbers of the Chinese public consider religion to be important in their lives. This is somewhat surprising given that China has strictly adhered to a secular and even atheistic national philosophy

Importance of Religion among Chinese Public

	%
Very important	12
Somewhat important	19
Not too important	44
Not at all important	11
DK	13
Refused	1

Source: 2006 Pew Global Attitudes Project

Total respondents 2,180;
Sampling error +/- 2.3

Question wording: How important is religion in your life—very important, somewhat important, not too important, or not at all important? (Horizon Research Consultancy Group survey reported by the Pew Global Attitudes Project)

for nearly six decades. As China's influence on the world stage continues to grow, many people inside and outside China will be interested to see whether Chinese communism will adjust to religious market forces just as it has to economic market forces.

Giving to Religion

	%
Yes, I have made donations	21
No	78
DK	1
Refused	<1

Source: 2007 Spiritual Life Study of Chinese Residents

Total respondents 7,021;
Sampling error +/- 1.2

Total made not add to 100 due to rounding.

Question wording: How important is religion in your life—very important, somewhat important, not too important, or not at all important? (Horizon Research Consultancy Group survey reported by the Pew Global Attitudes Project)

One concrete indicator of religious importance is religious giving. More than one-in-five Chinese (21 percent) report having donated money or goods to religious organizations such as Buddhist temples or Christian churches, according to the 2007 Spiritual Life Study of Chinese Residents. It should be noted, however, that the survey had an AAPOR RRI response rate of 28.1 percent. The actual level of religious giving might be higher than indicated by these results if actively religious Chinese were less likely to have participated in the poll. (See the discussion in the section below on Christianity for indication of the challenge of measuring religious participation through public opinion surveys.)

REPORTED RELIGIOUS AFFILIATION IN CHINA ACCORDING TO SURVEYS

While there are no fully nationally representative surveys of the religious affiliation of the Chinese public, four recent surveys provide some sense of the number of people who acknowledged to researchers that they belong to one of China's five main recognized religious groups—Buddhism, Protestantism, Catholicism, Islam, and Daoism.

A Chinese public opinion polling firm, Horizon Research Consultancy Group, sponsored and carried out the surveys, which were reported in 2005 and 2006 by Pew, and in 2007a by the Association of Religion Data Archives (ARDA) as the Spiritual Life Study of Chinese Residents (SLSC) and again in 2007b by the Committee of 100 (C100), a nonpartisan organization composed of American citizens of Chinese descent. The surveys are disproportionately urban and representative of slightly more than half of China's adult population. Six cities and their surrounding areas were surveyed in 2005 and 2006 (of the six cities in each survey, three were the same), while seven cities and their surrounding areas were surveyed in 2007.³

Three of the four surveys found that less than one-in-five Chinese adults (ranging from 14 percent to 22 percent) say they are religiously

affiliated. This would make China one of the least religiously affiliated countries in the world. In the United States, by contrast, more than eight-in-ten adults (83 percent) say they are religiously affiliated, according to the U.S. Religious Landscape Survey conducted by the Pew Forum on Religion & Public Life in 2007.

But, although the total percentage of Chinese identifying as religiously affiliated may not be high, the sheer number of people who say they belong to any particular religion is quite large. If the findings from these surveys were translated into actual numbers, they would equal or surpass the estimated number of religiously affiliated adults in the United States.

A recent survey reported by researchers at Shanghai's East China Normal University, which was cited in the state-approved *China Daily*, found that "31.4% of Chinese aged 16 and above, or about 300 million, are religious." While the actual survey data are not available, the fact that the number was reported by state-run media is perhaps an indication of the large number of people the government believes may be religious (independent of whether these individuals actually consider themselves *affiliated* with a particular religion).

Reported Formal Religious Affiliation from Surveys in China

	2007a %	2007b %	2006 %	2005 %
Total Religious Believers	22	14	18	16
Buddhist	18	12	16	11
Christian	3	2	1	4
Protestant	3	1	1	2
Catholic	<1	1	<1	2
Muslim	<1	<1	1	1
Daoist	<1	<1	<1	<1
Other	<1	—	<1	<1
None	77	81	77	77
Refused or DK	<1	5	5	7
Total respondents	7,021	4,104	2,180	2,191
Sampling error	+/- 1.2	+/- 1.6	+/- 2.3	+/- 2.3

Question wording: What is your religious faith? (2005, 2006, 2007b) Regardless of whether you have been to churches or temples, do you believe in any of the following? First mention (2007b)

Note: The differences in the four estimates may be due to sampling error and the cities sampled rather than significant shifts in religious adherence among years.

Source for 2007a is Horizon Spiritual Life Study of Chinese Residents (SLSC) is downloaded from the Association of Religion Data Archives, and the 2007b is Horizon survey reported by C100; source for 2006 and 2005 is Horizon survey reported by the Pew Global Attitudes Project.

TOWARD A NUMERICAL ESTIMATE OF RELIGION

Given the wide range of findings from the public opinion surveys just discussed in the years between 2005 and 2007, indicating that religious affiliation ranges anywhere between 14 percent and 31 percent, and between 31 percent to 56 percent consider religion at least somewhat important, these survey findings need further scrutiny in order to arrive at a numerical estimate of religious affiliation in China today.

CHINESE FOLK OR TRADITIONAL RELIGION

Somewhat distinct from the religious groups discussed thus far, there is a more diffuse category of religion that is widely practiced in China, often referred to as Chinese folk (or traditional) religion. People in this category

perhaps have the least recognized connection to religion because, by definition, they have no single institutional identity, but instead hold traditional religious beliefs and/or engage in various religious rituals without claiming adherence to any one of the five recognized religious groups. People associated with Chinese folk religion do not overtly identify as Buddhist, Daoist, Protestant, Catholic or Muslim, but instead engage in certain religious practices and hold a variety of religious beliefs. Those who practice and hold such beliefs do not all share a systematic doctrine or authoritative scripture, but instead pray at temples, offer incense, venerate their ancestors, and believe in powerful spirits and gods that may be unique to a local area of China, or they may be centered on veneration of selected spirits or ancestors. While such practices are widely recognized by scholars,⁴ assessing the relative proportion of folk religionists in China poses unique challenges. Since religious affiliation is customarily measured through survey instruments designed to capture adherence to an institutionalized religion *as reported by the respondent* and not based on practices or beliefs, survey research does not usually capture this diffused religious identity.

Indeed, there is even some high level acknowledgement of such practices. The *Blue Book of Religions* (2010), a publication of the Chinese Academy of Social Sciences, suggests that observing the Spring Festival, the Qingming holiday (also called Ancestors Day or Tomb Sweeping Day) or the Duanwu Festival could be a folk religious aspect of Confucianism. Additionally, the authors argue that folk beliefs are more than simply superstition and constitute a part of Chinese religious culture that should be held in the same regard as Islam, Christianity, and Buddhism.

To provide a modest estimate of folk religionists in China, a mix of various beliefs and practices from questions that were asked in the 2007 Spiritual Life Study of Chinese Residents (Horizon survey reported by the ARDA) are used. Respondents reporting a religious affiliation (as a Christian, Muslim, Hindu, Buddhist or Daoist) were not considered traditional religionists regardless of answers to other questions. The table details measures that could be used to indicate belief or practice. Only responses marked with an asterisk were included in the constructed measure for folk religionists. The items excluded were those that either highly overlapped with one of the five official religions, such as belief in Buddha,

or that were considered too general, such as any veneration of ancestral spirits or a belief in fate/fortune.

Based on this analysis, folk religionists make up 22 percent of China (this includes less than one percent of the population who self-identify as Confucianists). Traditional religion is widespread in China—more than four-fifths of respondents affirmed belief in the supernatural or engaged in at least one of the practices that could be indicative of adherence to folk religion. Of the 77 percent of respondents who did not report a religious identity when asked, more than a quarter were considered traditional religionists.

Similarly, the 2005 Pew poll found that approximately three-in-five Chinese express a personal belief in the possible existence of one or more supernatural phenomena, religious figures or supernatural beings that are often associated with Confucianism and popular forms of Chinese folk religion. These beliefs range from fortune and fate, to the Jade Emperor (associated with Daoism) and Tathagata (a manifestation of Buddha) to immortal souls and ghosts. While this is not necessarily a measure of the extent to which Chinese self-consciously identify with folk or popular religion, it does suggest that popular religious beliefs may be more prevalent than is suggested by religious affiliation alone.

BUDDHISM AND DAOISM

In the four Horizon surveys reported here, Buddhists represent the largest religious group in China, making up between 11 percent and 18 percent of the adult population. This seems a plausible range given that *Xinhua*, a state-approved news agency, recently put the total number of Chinese Buddhists at “approximately 100 million.” If the most figure of 18 percent from the Horizon survey with the largest sample size is correct, then more than 240 million people in China are Buddhist.

Ethnic Tibetans, who are predominantly Buddhist, make up only a small portion of China’s overall population and thus only a small proportion of the overall number of Buddhists. The number of ethnic Tibetans, however, is growing. Between the 1990 and 2000 censuses, for instance, their numbers increased by nearly 18 percent to approximately 5.4 million,

compared with China's overall population growth of almost 12 percent during those same years. One reason for the more rapid growth among the ethnic Tibetan population may be that, as one of 55 officially recognized ethnic minorities in China, they receive an exception from the government's strict one-child-per-family policy. Less than half of ethnic Tibetans live in the Tibet Autonomous Region, which helps explain why the unrest in 2008 was spread over several provinces.

All four Horizon surveys also indicate that adherents of Daoism, an indigenous Chinese religion, make up less than one percent of the Chinese adult population. No government estimates either corroborate or question this estimate.

CHRISTIANITY

Because of the large unregistered Christian "house church" or "independent" Christian population, estimates of the total Christian population are probably the most difficult to make. However, since Christianity is the largest religion in the United States, it is perhaps the estimate that attracts the greatest attention among those in the United States

Estimated Christians in China

	% or 2010 Population	Estimated Population
Independents	2.61%	35,000,000
Protestants	1.71%	23,000,000
Catholics	0.67%	9,000,000
Orthodox	<0.01%	15,000
Other	<0.01%	<1,000
Total	5.00%	67,015,500

* Estimates include all residents; they do not, however, include Hong Kong, Macau or Taiwan.

** Figures may not add exactly due to rounding.

Sources: Total China Population—U.N. Population Prospects, 2010 revision (an update from previous U.N. figure); Religious Affiliation—best estimates based on a review of multiple sources describe in this paper.

interested in the religious situation in China today. Various efforts that seem to have to done a fairly thoughtful assessment have come up with numbers that range between nearly 60 million, or nearly five percent,⁵ and nearly 102 million,⁶ or almost eight percent.

Out of an abundance of caution, this study estimates that the Christian share of the Chinese population to be 5 percent, or approximately 67 million, with the Catholic population inclusive of government and independent churches estimated to be 9 million, or 0.7 percent of China's total population of 1.34 billion in 2010, the official three-self Protestant Church to be 23 million, or 1.7 percent of China's population, and independent Christians associated with the house church movement to be 35 million, or 2.6 percent of the country. Additionally, there are an estimated 15,000 Orthodox Christians and 500 who are associated with groups, such as the Church of Jesus Christ of Latter Day Saints (Mormons).

Arriving at this approximation required taking into account multiple sources of information due to the particular situation of China, where the census does report personal religious affiliation. Additionally, social and political considerations may make people reluctant to participate in public opinion surveys. For instance, Janise Vickery reports that one of the authors of the *Blue Book of Religions* (2010), published by the Chinese Academy of Social Sciences (CASS), has said that the lower estimate of the total number of Chinese Christians from a survey they conducted (28.7 million) may be somewhat conservative for three reasons:

(1) It is a sensitive subject for local officials and they do not want to facilitate the poll or have large numbers reported.

(2) It is a sensitive subject for some Christians and churches who do not want to admit their true numbers.

(3) Some 'Christians' who have not yet been baptized do not want to say that they are Christians because according to the churches they are not.⁷ Indeed, surveys indicate that less than five percent of the adult population identifies as Christian, but there is indirect evidence that suggests this number could be low.

In the four Horizon surveys, Protestants outnumber Catholics, which is generally in line with the government figures for the ratio of Christians associated with state-approved Protestant and Catholic Church associations. These associations represent only the churches registered as government-approved places of worship.

Chinese government figures indicate dramatic growth among Protestants and Catholics, as is seen by comparing the numbers reported in the government's 1997 White Paper on religion with an updated 2006 "Background Brief" provided to the Pew Forum by the Chinese Embassy in Washington, D.C. The officially reported number of Christians increased from 14 million to 21 million, or 50 percent, in less than 10 years. During this time, Protestants increased from 10 million to 16 million—a 60 percent increase—and Catholics from 4 million to 5 million—a 25 percent increase. While some of this growth may be due to independent Christians registering with the official Protestant and Catholic associations, the new background brief goes so far as to say that Protestantism, in particular, has increased "by more than 20 times" since it "was first brought to China in the early 19th century."

As already noted, the *Blue Book of Religions* mentions the estimated Christians in China to number about 28.7 million, 37 percent more than were officially recognized in the 2006 Background Brief. This includes 23 million Protestants, or 1.8 percent of the total population, and 5.7 million Catholics. There is some evidence that this growth is through conversion rather than unregistered groups becoming registered based on a Chinese Academy of Social Science (CASS) 2008–2009 survey,⁸ which attempted to measure the official Protestant Church and was reported to be administered in 54,360 households with 211,750 persons in 2,718 villages and 321 districts. Of the Protestants who were surveyed, 44 percent converted to Christianity between the ages of 35 and 44. On closer examination, there seem to be significant regional differences in the timing of conversion—while more than 54 percent who converted did so between the ages of 35 and 54 in the northeastern region of the country, 47 percent of Protestants in southern China converted before the age of 35. The CASS survey suggests that the overwhelming majority of Protestants in mainland China are converts. This estimate is supported by the 2007 Horizon survey

(Spiritual Life Study of Chinese Residents), which found that only about 22 percent of self-identified Protestants said they were raised Christians. This study accepts the government reported number for the official three-self Protestant Church to be 23 million, or 1.7 percent of China's population.

While the Chinese Academy's *Blue Book* also suggests that official numbers for Catholics are around 6 million, the number of Catholics in China might be higher. The *Blue Book* mentions that this may be an undercount, presumably because it only includes Catholics attending churches affiliated with the state-approved Catholic Patriotic Association. The Holy Spirit Study Centre in Hong Kong, which monitors Catholics worshipping in congregations that do not affiliate with the state-approved Catholic association, estimates that there are at least 12 million Catholics in China, 7 million more than acknowledged by the government. Conservatively, this study estimates the Catholic population inclusive of government and independent churches estimated to be 9 million, or 0.7 percent of China's total population.

The number of independent Protestants, who on principle have not affiliated with state-approved associations, is more difficult to determine. Religious demographers and researchers generally agree that at least as many Chinese are associated with independent Christian groups, widely known as "house churches," as with the officially recognized bodies. Although the 2006 background brief provided by the Chinese Embassy reports only a small number of these groups, the document does state that "There are no [government] data available on the number of 'house meetings' that exist."

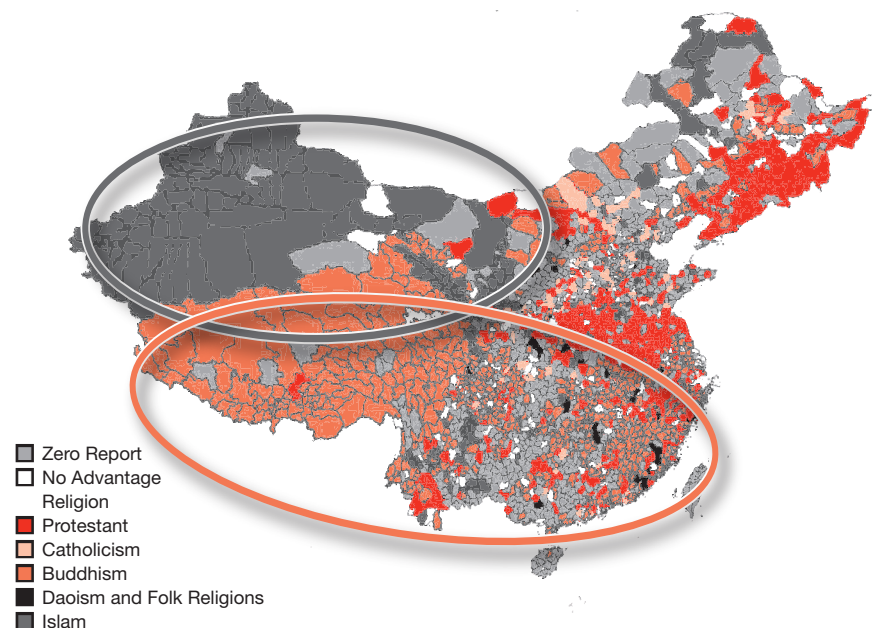
The best available data on the number of independent or unaffiliated Christians come from religious demographers and researchers who have direct connections with these networks. The World Christian Database, for instance, estimates that among the Han majority there are approximately 70 million Chinese associated with more than 300 house church networks. A separate review of house church estimates by a senior researcher at the Global China Center, an academic and research institution based in the United States and devoted to the study of China, puts the number at more than 50 million.

There is some indirect survey evidence that suggests the existence of a potentially large number of unaffiliated, independent Christians. For example, the 2005 Pew survey found that six percent of the Chinese public

expresses belief in the possible existence of “God/Jesus” (in Chinese *Shangdi/Yesu*), a rough equivalent of saying the “Christian God.” This is more than 50 percent higher than the number of people who self-identify as a Christian in the same poll. Similar findings are also found when analyzing the 2007 Spiritual Life Study of Chinese Residents. This study conservatively estimates that five percent of China’s total population to be Christian, and independent Christians associated with the house church movement to number 35 million (2.6 percent of the country), or approximately half of all Chinese Christians.

Finally, public opinion surveys to date have not been able to base sampling frames on the existing evidence that Christians and other religious groups are concentrated in certain geographical regions. One rough indication of geographic religious concentrations is a 2006 Chinese government “census” of formally registered religious organizations shown in the map below. In the analysis performed by the Center on Religion and

County Denomination Map of Religious Organizations in China



Chinese Society at Purdue University directed by Professor Yang Fenggang, each Chinese county is colored by the religion that has the largest number of registered places of worship or religious institutions. Protestants are concentrated in the east, Muslims in the west, Catholics in the north-central, and Buddhists in the south.

ISLAM

There is also a large number of Muslims in China. The Horizon surveys found that some one percent or less of the adult population say they are Muslim. This falls short of the number suggested by government statistics. According to the 2000 census, for example, ethnic groups closely associated with Islam numbered 20.3 million, or approximately 1.5 percent of the total population.

The lower survey estimates likely are due in large part to the fact that the Horizon surveys were not conducted in autonomous regions with predominantly Muslim ethnic groups, such as the Ningxia Hui Autonomous Region, which has a large Hui Muslim population, and the Xinjiang Uygur Autonomous Region, where most Uygur Muslims live. According to the 2000 census, Hui, who live in many of China’s provinces, number nearly 10 million, followed by the Uygurs, who number more than 8 million.

In 2011, the Pew Forum demographically projected the Muslim population in the 2000 census forward and estimated that Muslims now make up about two percent of the population in China. However, because the country is so populous, its Muslim population is expected to be the 19th largest in the world in 2030. The Muslim population in China is projected to increase from more than 23 million in 2010 to nearly 30 million in 2030. Of all the countries in the world where Muslims live as religious minorities, only three others—India, Nigeria, and Ethiopia—have more than 20 million Muslims.¹⁰

The number of Muslims in China is expected to grow at a slower rate in the next 20 years than it did in the past two decades. From 1990 to 2010, the number of Muslims in China increased by 6.5 million, a 38.4 percent increase. The country is expected to add a similar number of Muslims from 2010 to 2030, but because the base number in 2010 is larger than it was in 1990, the projected percentage increase is smaller (28.5 percent).

The fertility rate for Muslims in China is higher than the fertility rate for non-Muslims. Muslim women in China have an average of 1.7 children, compared with a national average of 1.4 children.¹¹ This is one reason the Muslim share of China's total population is expected to increase slightly in the next 20 years, from 1.8 percent in 2010 to 2.1 percent in 2030. Muslims in China are somewhat less urbanized and less educated than the general population. These characteristics are often associated with higher fertility rates. At the time of the 2000 census, 31.2 percent of Chinese Muslims lived in urban areas, compared with 36.9 percent of the country's population as a whole. In the same year, Muslims in China attended school an average of 6.8 years, compared with a national average of 7.6 years.

Muslims are not a new presence in China. Most of China's Muslim communities, including the Hui, Uygurs, and Kazakhs, have lived in China for more than 1,000 years. The largest concentrations of Muslims today are in the Western provinces of Xinjiang, Ningxia, Qinghai, and Gansu. A substantial number of Muslims live in the cities of Beijing, Tianjin, and Shanghai.

ATHEISM

The secular, or the unaffiliated, are the majority of the population in China. There are no reliable numbers for atheists in China. While government reports and sources do not provide an estimate for atheists, a majority of Chinese are widely reported as not belonging to any religious tradition. Based on an analysis of the 2007 Horizon survey, nine percent or about 120 million Chinese are atheists. Since the survey does not ask respondents to self-identify atheists and belief in the existence of God is a uniquely atheist characteristic, our estimate, in part, reflects answers to a question in the 2007 survey on belief in the supernatural. Respondents were asked, "Here are some items I will ask you about one by one. Do you think any of them actually exists?" and presented with 16 supernatural beings, gods, and spirits from virtually every religious group. We include, in constructing our estimate, only those who reported having no religious affiliation and also did not believe in the existence of *any* supernatural power or being as atheists.

A NUMERICAL ESTIMATE OF RELIGIOUS AFFILIATION IN CHINA

Taking into account multiple sources of data, this paper estimates that while the majority of people in China have no religious attachments (53 percent), a substantial minority have some affiliation to religious faith or practice. Nine percent of Chinese hold no beliefs in any god or spirit whatsoever, meaning atheists (strictly defined) make up only a portion of the nonreligious population. The largest of the religious groups—traditional Chinese or folk religionists—accounts for approximately one-in-five Chinese (23 percent). Buddhism is the largest organized religious group, accounting for more than one-in-six Chinese (18 percent). An estimated one-in-twenty Chinese adhere to one of the branches of Christianity (5 percent). While Muslims make only 1.8 percent of the Chinese population, they are the 18th largest Muslim population in the world. Daoists account for less than one percent of the overall population. Hindus and Jews, as well as members of other smaller religious groups, tend to be expatriates more than local citizens, though some Chinese have adhered to Judaism for centuries.¹²

Religious Affiliation in China, 2010*

	%	Estimated Population (millions)**
No Religious Attachments, including no belief in god(s) at all (9%)	52.6%	705
Some Religious Attachment	47.4%	636
<i>Traditional/Folk Religion Practitioners including Confucianists (<.2%)</i>	22.0%	295
<i>Buddhists</i>	18.1%	242
<i>Christians (Protestants, Catholics, Independents and smaller groups)</i>	5.0%	67
<i>Muslims (by ethnicity)</i>	1.8%	23
<i>Other Religious Groups (Daoists, .65% other new religionists)</i>	0.7%	9
<i>Hindus</i>	<0.1%	—
<i>Jews</i>	<0.1%	—
Total	100.0%	1,341

* Estimates include all residents; they do not, however, include Hong Kong, Macau or Taiwan.

** Figures may not add exactly due to rounding. ~ Smaller population including expatriate workers is difficult to accurately estimate.

Sources: Total Population—U.N. Population Prospects, 2010 revision (an update from previous U.N. figure); Religious Affiliation—best estimates based on a review of multiple sources describe in this paper.

GOVERNMENT OFFICIALS INTERESTED IN HEARING ABOUT RELIGION

A final intriguing finding regarding religion in China today comes from an analysis by the Pew Forum of a 2005 survey¹³ conducted by InterMedia, an international research and consulting organization specializing in media and communications. The Forum's analysis of this unprecedented survey, which included more than 10,000 adults across 21 of China's 31 mainland provinces, municipal districts, and autonomous regions, finds that 33 percent of Communist Party officials and government employees are very or somewhat interested in having media access to information on the topic of religion. This makes them the most interested occupational group among the dozen or so groups reported.

There are other signs that the Communist Party is taking note of the growing interest in religion in the country. For instance, Hu Jintao, President and General Secretary of the Communist Party of China, broke with former practice and included a formal discussion of religion at last October's National Congress. In January 2008, Hu stated to the Chinese Politburo, "We must strive to closely unite religious figures and believers... to build an all-around...prosperous society while quickening the pace toward the modernization of socialism."

The relatively high level of interest in having reports/features/programs on radio, TV, the press, and the Internet the topic of religion by Communist Party and government employees, in particular, may indicate that the government is seeking to come to terms with the interest in religion on the part of many people in China.

Interest in the Topic of Religion by Occupational Group

	Very or somewhat interested %	Not very interested %	Not at all interested %	DK %	N
Government or Communist Party	33	37	22	8	241
Teacher or professor	24	44	23	8	313
Retired	24	39	30	7	699
Service worker	23	36	31	9	496
Full-time Student	22	40	28	10	718
Business	22	40	28	10	1776
Skilled labor	21	42	28	9	319
Unemployed	21	42	26	10	553
Labor	18	38	29	14	1922
Housewife	17	38	34	11	287
Professional	16	43	32	9	345
DK or other					75
Total	21	40	29	11	7744

The religious interest question was only asked of those who had access to some form of media and who also expressed at least some interest in national or international events; 74% of the respondents fit these criteria. No question was asked about religious affiliation or the personal importance of religion in this 2005 InterMedia survey.

Question wording: Please tell me how interested you would be in hearing the topic of ___ in reports/features/programs on radio, TV, the press, and the internet? How interested are you in the topic of ___? Very interested, somewhat interested, not very interested, or not at all interested? (2005 InterMedia survey).

NOTES

1. This paper updates and expands the previous analysis by senior researcher and director of cross-national data Brian J. Grimm, *Religion in China on the Eve of the 2008 Beijing Olympics*, © 2008, Pew Research Center's Forum on Religion & Public Life, and includes material from *The Future of the Global Muslim Population: Projections for 2010–2030*, © 2011, Pew Research Center, used with permission. The numerical estimates are those offered by the author and are not necessarily those of the Pew Research Center. The help of Pew Forum Research Assistant Noble Kuriakose and Research Associate Anne Shi contributed to this new and updated study.

2. "Religion—the Official Website of the Beijing 2008 Olympic Games August 8–24, 2008," accessed September 24, 2011 <http://en.beijing2008.cn/spectators/beijing/religion/>.
3. The Pew Global Attitudes Project, the Committee of 100 (C100), and Baylor University purchased data from the Horizon Research Consultancy Group's self-sponsored survey "Chinese People View the World." (1) The 2005 Pew Global Attitudes Project survey was a multistage random sample of 2,191 Chinese adults in six major cities and their surrounding rural areas (Beijing, Chengdu, Guangzhou, Shanghai, Shenyang, and Wuhan). The sample was disproportionately urban and not representative of the entire country. Interviews were conducted in person, in the appropriate Chinese dialect, with adults ages 18–60, with a sampling error of plus or minus 2.3 percent. (2) The 2006 Pew Global Attitudes Project survey was also a multistage random sample of 2,180 Chinese adults in six cities and surrounding rural areas (Beijing, Guangzhou, Jinzhong, Luzhou, Shanghai, and Xinxiang). The sample was disproportionately urban and representative of 52 percent of the adult population, with a sampling error of plus or minus 2.3 percent. (3) The C100 survey of 2007 was a multistage random sample of 4,104 Chinese adults ages 18–60 in seven cities, seven towns and ten villages, using a multistage random sample that was drawn to generally reflect the overall population. The survey has a sampling error of plus or minus 1.6 percent. Further details can be found at <http://www.survey.committee100.org/2007/files/C100SurveyFullReport.pdf>. And (4) the Spiritual Life Study of Chinese Residents (data archived at the Association of Religion Data Archives) was a multistage random survey of mainland China administered in 3 municipal cities (Beijing, Shanghai, Chongqing), 6 provincial capitals (Guangzhou, Nanjing, Wuhan, Hefei, Xi'an, and Chengdu), 11 regional cities, 16 small towns, and 20 administrative villages. The study was conducted with face-to-face interviews of 7,021 Chinese adults aged 16 and older and had an AAPOR response rate of 28.1 percent.
4. For a fuller discussion of Chinese Folk Religion, see Wai Yip Wong, "Defining Chinese Folk Religion: A Methodological Interpretation," *Asian Philosophy*, Vol. 21, No. 2 (2011), 153–170. Yiyuan Li, *Zongjiao Yu Shenhua Lunji (A Treatise on Religion and Myth)* (Taipei: New Century Publishing, 1998). Z. Z. Feng and F.H. Li, *History of Chinese Folk Religion*, (Taipei: Wenchin, 1994).
5. Werner Burklin, founder of China Partner, estimated the number of Christians based on a nonprobability sample survey of Chinese citizens aged 15 and over. Burklin's survey team interviewed 7,409 individuals in every province and municipality in China. China Partner reported a 0.46 percent margin of error for their estimate of 40 million Protestants.
6. Paul Hattaway, director of Asia Harvest, based his estimate of Christians on secondary analysis of published material as well as interviews with house church leaders. Hattaway also reported that he had access to statistics on church membership maintained by large house church networks.
7. Janice Wickeri, "Chinese Protestant Christians: Who, What, Where, Why—Findings of A Questionnaire Survey of Chinese Protestant Christian Households by the Institute of World Religions Research Group," *Amity News Service*, Vol. 28, No. 10–12 (2010): 8.
8. As mentioned by the *Amity News Service* editor at the very end of the piece, (<http://www.amitynewsservice.org/page.php?page=2007&pointer=>), the survey conducted by CASS, while problematic, could be the most comprehensive survey of Protestants in China to date. And, apparently, the report seems to suggest that official estimates might be low.
9. Map is used with permission.
10. The Pew Forum report estimates that Nigeria will become a Muslim-majority country by 2030.
11. There is some debate about the total fertility rate for China as a whole. The United Nations estimates that the rate is 1.8 children per woman. Others, however, including the Pew Forum's demographic consultants in China, put the figure between 1.4 and 1.5 children per woman. The Pew Forum's consultants also estimated that Muslim women in China have an average of 0.3 more children than the general population. For more information, see "Fertility Estimates for the Provinces of China, 1975–2000," National Bureau of Statistics of China and the East-West Center, July 2007, and Baochang Gu and Yong Cai, "Fertility Prospects in China," United Nations Expert Group Meeting on Recent and Future Trends in Fertility, Population Division, United Nations Department of Social and Economic Affairs (Nov. 17, 2009).
12. Donald Leslie, *The Survival of the Chinese Jews: the Jewish Community of Kaifeng* (Leiden: Brill, 1972).
13. The Pew Forum purchased selected data from InterMedia's "Survey on the Lifestyle of Chinese Residents," which was conducted April–May 2005 (N=10,451). Of the 31 provinces (including regions and municipalities) that constitute mainland China, the InterMedia survey covered 21, making it one of the most extensive surveys of China reported to date. Cities within the provinces and municipalities were selected via simple random selection. For rural areas, the survey selected counties (which include an urban center denoted as county city and rural areas). InterMedia randomly selected counties from the list of "county cities." Within these selected rural areas, villages were selected via simple random selection. Respondents were asked a battery of questions in the 2005 InterMedia survey, with the stem: "Please tell me how interested you would be in hearing the topic of ____ in reports/features/programs on radio, TV, the press, and the internet? How interested are you in the topic of ____? Very interested, somewhat interested, not very interested, or not at all interested?" The fourteenth item in that series is reported here: "Are you interested in the topic of religion?" Respondents qualified for the question if they have access to media and have an interest in national and international affairs. 7,744 qualified. Visit <http://www.intermedia.org/> for more information on the survey.

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Investigating China's Church-State Relations through a Comparison of the Chinese Classical I-Ching Concept of "Religion Installed by the State" and the Western Concept of "Separation of Church and State"

LING (DANIEL) LI

The Chinese economic reform in the last 30 years has stimulated rapid growth overall. With the decline of standard ideological norms, a more tolerant social environment has been created for religions to thrive. Since the Christian Church exhibits a more well-defined group composition and the characteristics of an "institutionalized religion," in comparison to Daoism and Buddhism, its existence undoubtedly calls for the Chinese government to establish "non-government organizations" (NGOs). This is a challenge for the Chinese government in terms of an alternative approach from what is currently implemented by non-government societies.

With more and more "non-institutional (non-"Three-Self") churches" applying for registration in China in recent years, how the government accommodates the existence of religion and interprets the citizens' right of "freedom of religion" becomes a subject of intense study among "Church-State" scholars.

What kind of "church-state relation" does China currently practice? Can the "separation of church and state" as understood and practiced in the

United States be carried out in China through its own form of “church-state relations”? What is the real difference between the “separation of church and state” of the First Amendment and the Chinese understanding of it? Is it possible or necessary to “separate religion from the state” in China as the United States does, given the historical concept of “religion installed by the state,” expressed in the *I-Ching*, and China’s actual societal and religious conditions? This paper will attempt to explore these questions.

1. The United States’ “separation of church and state” statement is mainly based on the First Amendment of the United States Constitution (“The First Amendment”), which is a part of the Bill of Rights, which was sent to be ratified by the states on September 25, 1789 and went into effect on December 15, 1791. Its main purpose was to prohibit the enactment of any law “respecting an establishment of religion” to secure citizens’ freedom of religion, freedom of speech, freedom of the press, freedom to assemble, and freedom from being prohibited the right to petition the government for a redress of grievances. In Western history, even when the influence of the church was not paramount to a state, it was a social power that rivaled that of a sovereign state. Such a phenomenon, if continued, was bound to impact the implementation of laws in that government, and in turn, compromise the authority of that government. Some states in early American history still had “state churches” even when the First Amendment went into effect. This “state church” phenomenon lasted in certain states until the early 19th century.
2. Chinese history does not consist of theocracies, religious wars, the Reformation or an evolution of “separation of church and state” as Western history does. It does not have societies from such historical developments, and can hardly associate with the notion of “church-state separation” as the West sees it. China’s course of history is completely different from that of the West. One great factor that has to be taken into consideration in modern China is that China has not had a history of structured “social institutions.” Although the traditional ancestral halls in rural

communities resemble some kind of social adhesion, they are “family-centered,” independent communities, and have no institutional dealings with each other. There have been absolutely no social institutions similar to those in the West. The result of thousands of years of imperial autocratic rule is that subconsciously, “politics” is to the Chinese “all thoughts and behaviors related to the regime.” They do not understand “religion” from the view of a “social institution” at all, but rather from the perspective of a simple personal belief. For some, they cannot understand why the “state” needs to be separated from “religion” if the latter is but a belief. Furthermore, they do not understand why American political leaders and legislators advocating the “separation of church and state” still talk so much about their personal beliefs and even interfere with the beliefs of other countries. The Chinese expression for “church-state” is *zhengjiao* (政教), *zheng* for state, and *jiao* for religion. However, the word *zheng* can mean “the government” *zhengfu* (政府) or “politics” *zhengzhi* (政治). This has caused further misunderstanding as some Chinese wonder how politics and the state can be separated since politics is invariably tied to one’s belief system. They are not aware that when the West talks about separation of *zhengjiao*, they are not referring to *zheng* as in *zhengzhi* (politics), but *zheng* as in *zhengfu* (government).

3. The historical absence of a theocratic state or a state-rivaling religious force in China may be both the cause and the effect of its “religion installed by the State according to the Way of God” version of “church-state relations.” Here the “Way of God” means the “Way of Heaven,” the order of nature, such as that shown in the cycle of seasons. The sages instituted Heaven-honoring and ancestry-venerating ceremonies with the purpose that the “Way of the God of Heaven” may be made manifest and humanity may be cultivated. For this reason, there has been no independent “religion” outside the Chinese state. The state by definition exercises supervision over all religions; it teaches humanity according to the “Way of Nature (Way of Heaven),” and thus humanity is cultivated and perfected. Therefore, “religion installed by

the state according to the Way of God” is a process that endeavors to conform “humanity” to “the Way of Heaven.”

4. The tradition of “religion installed by the State” and the Protestant house churches’ attempts to legalize their existence through “registration” puts the Chinese government in a dilemma. On the one hand, China is moving toward being a “modern state,” and nothing for now will change that determination. But this requires China to give up the concept and measures of “religion installed by the State,” i.e. patronizing religions. On the other hand, once independent churches like the “Shouwang Church” are allowed to register and have their own church buildings, it will cause at least two chain reactions. First, it is equal to the legalization of “non-government sponsored organizations,” which can open the door to the undesirable call for the establishment of private political parties. Second, it is equal to the negation of a set of orthodox (official) “ideology” and a declaration that the state will no longer interfere with the spiritual life of society and individuals.
5. China’s past traditions and current political system hardly allow room for its citizens to have legal “institutional” religious activities apart from the government. Yet the development of a modernized state requires the continual broadening of public social life and fulfilling citizens’ legal rights, both of which are basic indicators of a “modern state.” How shall the Chinese government solve this dilemma: by continuing with the traditional concept of “religion installed by the State” or by practicing the Western “separation of church and state”?

Religious issues besetting the Chinese government for thirty years have not been “ultimately” resolved, as illustrated by Beijing Shouwang Church’s intermittent outdoor meetings these two years. Fortunately, such “issues” have caused people to think more deeply of “religion,” reflected in academia mainly as a focus on how “church-state relations” is regarded and handled. Indeed, China’s religious issue is essentially the issue of “*zhengjiao* relations.”

In Chinese, *jiao* (教) refers to “religion” as well as “various thoughts, ideology, or even ethical, moral teachings;” it is the very *jiao* we speak often of in “*san jiao jiu liu*,” (the three religions and nine schools of thought). In this context, *zheng* (政) means “politics” (*zhengzhi*, 政治), “government” (*zhengfu*, 政府), and “regime” (*zhengquan*, 政权). These terms are differentiated to show as clearly as possible the Chinese and English terminological distinctions.

THE ORIGIN AND DEVELOPMENT OF THE “SEPARATION OF CHURCH AND STATE”

In academia the current consensus is that “separation of church and state” is the best measure for “church-state relations.” The latter is one of the most intractable issues any state with a religious tradition must face and handle. Islamic states aside, among the traditionally Christian states in the world, church-state relations is best handled by the United States of America. The First Amendment of the United States Constitution is a part of the Bill of Rights. The original text says, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The Bill was sent to be ratified by the states on September 25, 1789, and went into effect on December 15, 1791. Originally, the First Amendment applied only to the federal government or pertinent laws enacted by the United States Congress; hence, by the time the First Amendment went into effect, some states had already established state churches, some lasting until the early 19th century. Afterward, through *Everson v. Board of Education* in 1947, the Religion Clause of the Bill of Rights was applied to state governments. However, it was not until the late 20th century, through the Supreme Court’s judicial interpretation of the Establishment Clause and Free Exercise Clause, that states were officially prohibited from promoting religious activities. In the majority opinion of *Board of Education of Kiryas Joel Village School District v. Grumet* in 1994, Justice David Souter wrote, “Government should not prefer one religion to another, or religion to irreligion.”¹ Thenceforth, the First Amendment became universally effective

in every state without exception, although the “separation of church and state” was not highlighted. Thus, the Establishment Clause has been a topic of ceaseless debate among various American groups. Liberals generally interpret this using a personal letter Thomas Jefferson, the third president of the United States, written to members of the Connecticut Danbury Baptist Association in January 1802. The Baptists wrote Jefferson on October 7, 1801, expressing their concern for possible future federal government interference in their normal religious activities. Jefferson articulated the following promise in his response in January 1802:

I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church and State.

It is based on this that liberals expound on the essence of the Establishment Clause as the “separation of church and state.”² Although the “separation of church and state” does not appear in the First Amendment, conservatives also agree with this interpretation. They believe the “wall of separation between Church and State” opposes only the establishment of a state religion, not the government’s acknowledgment of the existence of “God” or its participation in religious activities. According to a Pew Research Center report, some radical conservatives even point out that the majority of the Americans identify with the latter view, and even 67 percent of Americans consider the United States a “Christian nation.”³ Despite some disagreements, the First Amendment has undoubtedly established the principle of the “separation of church and state.”

THE DIFFICULTY WITH EXPRESSING “SEPARATION OF CHURCH AND STATE” IN CHINESE

In Western history, society went from a “theocracy” to a “church-state division.” In 392 CE, the Roman Emperor Theodosius I issued edicts that abolished all old religions, closed all phratric temples, banned all pagan

activities, and made Christianity the only legitimate religion. Thereafter, Christianity was the state religion of the Roman Empire, and the Roman Empire became Caesaropapist. The Church’s power reached the climax between 1198CE and 1216CE under Pope Innocent III. He had lofty ideals for the papacy and hoped to manage the Church well, gain the respect of the emperor, and become an influential pope. During the papacy of Pope Innocent III, the majority of kings in the Christian world were vassals of the Roman Church. Hence, Church power was at its peak. For the entire 13th century, from Innocent III to Boniface VIII, popes maintained the Church’s authority in the temporal world with the power to control Christian states. But papal power began to decline rapidly during the papacy of Boniface VIII (1294–1303), primarily due to his conflict with King Philip of France (Philip the Fair) over clergy taxation. The king of France levied heavy taxes on the clergy in France. The pope forbade taxation on the clergy. Then the king of France forbade the export of gold, silver, and gemstones as retaliation. This affected the pope’s revenue from France, and he issued bulls excommunicating the King Philip. By then society had taken on a different form, after the Crusades consumed the power and wealth of the nobility. That loss of power resulted in the rise of strong nationalism, especially in France. In becoming more united, the French people supported King Philip, who was strengthened to contend with the pope. This became a prelude to “church-state division,” followed throughout history by temporal regimes challenging papal theocracy and nation states challenging the Roman Curia. After the Reformation sparked by Martin Luther, temporal regimes continued to part ways with religious theocracy, with nation states breaking away from the rule of the Roman Curia one after another. On April 13, 1598, King Henry IV of France issued the Edict of Nantes at the Nantes Cathedral, which recognized the religious freedom of the Huguenots (Protestants) in France and gave them the same legal rights as other citizens. This was the first edict concerning religious tolerance in modern world history. Even though King Louis XIV, a grandson of Henry IV, issued the Edict of Fontainebleau in 1685, revoking the Edict of Nantes, religious tolerance from the Edict of Nantes had become an unstoppable current in history, directly impacting the history of European social development. In England, John Locke not

only expounded in his letters concerning toleration the importance and necessity of “religious tolerance,” but also laid the foundation for eliminating a state’s religious intervention through “legislation.” He pointed out that legislative power ought to be directed to the end of “temporal good and outward prosperity of the society,” not the eternal salvation of souls. Government intervention only worsens Man’s endeavor for eternal life with God: “for obedience is due, in the first place, to God and, afterwards to the laws.”⁴ This is the so-called “Lockean separation of church and state.” Apparently, Locke placed law under God (under natural law); yet “limited government” gained more power than it did in the Middle Ages and more independence as a nation state. As divine authority and temporal power separated, the “freedom of religion,” along with the right to “life” and property, was written into law to become the main content of basic human rights. Religion left the realm of political power, entered the private life of the people, and with medieval guilds constituted a “society” that correlated to the “state.” “Church” became the basic rallying unit for believers in the traditionally Christian (especially the new Protestant) states and the strongest social power that paralleled the “state.” American history began with “societies” that contracted into “state governments” that further formed “united states.” Hence, there existed a certain “tension” between “church” and “state.” Furthermore, the handling of relations between “church” and “state” involved the “religious” rights of myriads of individuals as well as the authority and security of the “state.” Whether in the “Lockean separation of church and state” or the “Jeffersonian separation of church and state,” the essence is the “legal” separation of two great powers in society and not the separation between religion as a “belief” and politics as a “concept.” This is the “consensus” that Western Christian states have come to realize from their painful lessons in history.

China has no such history or society that is relatable, given its own realistic conditions, to the same Western “consensus.” China’s course of history is completely different from that of the West. One great factor that has to be taken into consideration in modern China is that China lacks a history of structured “social institutions.” While the traditional ancestral halls in rural communities resemble some kind of social cohesion, they are family-centered, independent communities, with no institutional

dealings with each other. There have been absolutely no social institutions similar to those in the West. Moreover, China has not produced trade organizations like guilds. In the West, a church was built around a common faith, while a guild, which is a “norm system” for the quality of a product’s processing, sales, pricing, and industry, was built on common belief and product production. In Europe, guilds preceded churches in their independence from the state. The two are characterized by breaking through the confines of “family” to become “social institutions,” which is absent from Chinese history. Thus, China faced only the challenges of “powerful families” instead of the challenges of any powerful “social organization.” To this day, China has only “state” (*guo*, 国) and “family” (*jia*, 家) [together *guojia* means “country”]—“state” outside the doors and “family” behind the doors—with no “social institution” in between. The result of thousands of years of imperial autocratic rule is that sub-consciously Chinese consider “politics” to be “all thoughts and behaviors related to the regime.” They do not understand “religion” in terms of a “social institution” at all, but rather as a simple personal belief. For some, they cannot understand why the “state” needs to be separated from “religion” if the latter is but a belief. Furthermore, they do not understand why American political leaders and legislators advocating “separation of church and state” still talk so much about their personal beliefs, and even interfere with the beliefs of other countries. Chinese are not aware that to Westerners, military, law, police, and so forth are “state,” not politics; whereas elections, political parties, and so forth belong to politics, not “state.” Westerners practice the “separation of church and state.” An individual’s religious beliefs cannot be separated from his or her political stance and appeal; this is vastly different from the Chinese understanding.

THE SIGNIFICANCE AND INFLUENCE OF “RELIGION INSTALLED BY THE STATE”

The historical absence of a theocratic state or state-rivaling religious force in China may be both the cause and the effect of the “religion installed by the State according to the Way of God” version of “church-state relations.” The

wording “religion installed by the State according to the Way of God” (神道设教), or “religion installed by the State,” hereafter, comes from a commentary in Zhou-Yi on judging the *Guan1* divination:

This person is in the central position and his correct place, and thus exhibits his teachings to the world. He appears to his subjects as a worshipper who has poured out libation but not yet presented his offering. Sincere and dignified, his appearance commands reverent regard. All beneath look to him and are thus cultivated. The Way of the God of Heaven must be observed that the four seasons may not fail. If sages install religion according to the Way of God, then the world is brought to submission. (中正以观天下。观，盥而不荐，有孚颙若，下观而化也。观天之神道，而四时不忒，圣人以神道设教，而天下服矣。)

The part, “He appears to his subjects as a worshipper who has poured out libation (*guan4*) but not yet presented his offering (*jian*)” is an explanation of the *Guan1* divination. *Guan4* is a wine offering ritual to a deity done by pouring libation to the ground; it was the height of sacrificial ceremonies.⁵ In comparison, *jian* is merely a small produce offering ceremony to a deity.⁶ According to the commentator’s understanding of the *Guan1* divination, when the people see the king hold a grand libation in his ancestry-venerating ceremony in the temple, they revere and believe in the Way of God.⁷ When ancestry-venerating ceremonies in the temple are in accordance with the Way of God, the four seasons are peaceful. Thus, the sages installed religion (*jiao*) and laws according to the Way of God so that the people may wholeheartedly believe them and be ruled and cultivated.

Here the “Way of God” means the “Way of Heaven” or the order of nature, such that is shown in the cycle of seasons. The sages instituted Heaven-honoring and ancestry-venerating ceremonies with the purpose of manifesting the Way of the God of Heaven⁸ and realizing the cultivation of humanity. Indeed, it is as *bi*, a subsequent divination, which went on to say, “Observe celestial phenomena to ascertain the changes of times; observe human ceremonies to cultivate the world.” (观乎天文，以察时变；观乎人文，以化成天下。)

That parallel of celestial phenomena and human ceremonies is a sign of the manifestation of the Way of Heaven and the Way of Man. Through these signs, we may not only comprehend the remote Way of God and the Way of Man, but also turn metaphysical practices into physical ceremonies with the purpose of cultivating good customs. Thus, human ceremonies are the path by which the Way cultivates good customs among the people.

The “successful cultivation of humanity through ceremonies” (人文化成) was realized through the sacrifice-oriented ceremonial system before the Spring and Autumn Period and the Warring States Period. “The Thirteenth Year of Duke Cheng” is described in *Zuo Zhuan* as “the great affairs of the state are sacrifices and war.” (国之大事，在祀与戎。) Sacrifices in ancestral temples and sacrifices for war were considered primary matters in culture and the military. “Jitong” in the *Book of Rites* says, “Of all the methods for the good ordering of men, there is none more urgent than the use of ceremonies. Ceremonies are of five kinds, and none is more important than sacrifices.” (凡治人之道，莫急於礼。礼有五经，莫重於祭。) There is an outstanding point here. The main difference between Chinese and Western social histories is the relations between “state” (*zheng*) and “religion” (*jiao*). There has been no independent “religion” (*jiao*) outside of the “state” (*zheng*) in China, and the state (*zheng*) exercises supervision over all religions (*jiao*). This is to say that the state teaches humanity according to the “Way of Nature (Way of Heaven)” so that humanity is cultivated and perfected. Therefore, “religion installed by the State” is a process that endeavors to conform “humanity” to “the Way of Heaven,” with “sacrificial ceremony” as its most important link. The text later says, “Therefore, the teachings of a superior ought to proceed from the foundation of all duty, and he should pursue what is natural and right to the highest degree. Is this not what is seen in sacrifices? Hence, we have the saying that ‘The first and greatest teaching is to be found in sacrifices.’” (是故君子之教也，必由其本，顺之至也，祭其是与？故曰：祭者，教之本也已。)⁹

Sacrifice (*ji*, 祭) is the first among five ancient ceremonies. Ancestry-venerating sacrificial ceremony as a religious activity had a significant role in the large system of ceremonial culture because it was fully integrated with politics (*zheng*), religion (*jiao*), and customs. According to Xiu Ouyang, ceremony, music, as well as political (*zheng*) and religious (*jiao*) codes

were present in the customs and folk traditions of societies before the Xia, Shang, and Zhou dynasties. Folk traditions became customs, and customs naturally formed ceremonies and codes. Therefore, even though ceremony, music, politics (*zheng*), and religion (*jiao*) were rather simple, they brought a highly harmonious and orderly state.¹⁰ Such a political system was neither theocracy nor “Caesaropapism,” for this “religion” (*jiao*) was not “religion” in Western vocabulary or Christian monotheism. Functionally, it does play the social role of Western “religions” for strengthening ethnic identity, providing moral resources, and manifesting ultimate concern; but morphologically, it is actually atheistic or pantheistic. It is based on this characteristic that I propose that the “religion” (*jiao*) in the “religion installed by the State” tradition be regarded as an “atheistic religion,” which is beyond the scope of discussion of this paper.

Since Chinese society functionally met the needs of “religion” and allowed for the unity of “politics” (*zheng*) and “religion” (*jiao*) and the unity of belief and ethics, the possible emergence of another “religion” (*jiao*) or any state-rivaling religious (*jiao*) power was basically eliminated. That social phenomenon in return reinforced the concept of “religion installed by the State.” This cause-and-effect course of history bred a societal form completely different from that of the West.

At this point readers will raise this question: why did all peasant revolts after the Han Dynasty employ secret “religious” organizations, such as the “Yellow Turban Rebellion” in the Eastern Han, when myriads of peasants rallied under the guise of the “Way of the Five Pecks of Rice”? It was because the way the Qin Dynasty unified China lacked a “legitimate” spiritual source. Such unification by force increased the concern in Chinese politics for power—the highest value of politics was power ideology, not political ideology. It was as Zhao Tingyang said, “Two thousand years of governance was the governance of Qin, the governance of great robbers.” (二千年之政，秦政也，皆大盜也。) Henceforth, Imperial China forsook the world, and went from world-rule to empire-rule. It then forsook the latter and turned to empire-administration. This means that to prevent the imperium from being questioned and challenged, emperors established a system that could disintegrate any political cohesion of any organization that belonged to and was subject to the imperium to control all society. That organization was

bureaucracy. Bureaucratic politics turned politics into governance and ended politics; hence, “The governance of Imperial China was fundamentally anti-political or apolitical.”¹¹ Although Emperor Wu of the Han Dynasty promoted Confucianism uniquely to enhance his “legitimacy” and his empire’s cohesion, there remained a lack in foundation for unifying the people because Confucianism served the purpose of “governance” and not “people’s livelihood” and had become over-rationalized as being “ideologized.” For this reason, people have been seeking spiritual resources since the Han Dynasty, which accounts for the quick conversion from philosophical Daoism to religious Daoism and the foundation of the introduction of Buddhism in China. Thus, whenever a crisis arose in society, the bottom rung used traditional religion, especially Daoism, as a cohesive spiritual force to contend with the imperial government. Regrettably, after every dynastic change, the newly enthroned ruler would then reinforce the ideology of his authority, not of politics, and be even more averse and sensitive to social “powers” rallied by religion. Besides stifling and exterminating them with an ever-expanding bureaucratic system, the ruler would integrate all popular folk “heresies” into the official ideology so that with it the imperial government may “cultivate” the people and solidify his rule. “Religion installed by the State” was passed down as a form of “politics” that turned into a “political maneuver.”

“RELIGION INSTALLED BY THE STATE” OR “SEPARATION OF CHURCH AND STATE”?

In terms of the significance of Western religious traditions and nation states history, China does not seem to need “a wall” between “state” and “church (religious organizations),” for “state” is an entity while religious organizations (like Buddhism) have long been non-substantialized. The current situation of Christianity in China is that the “Three-Self” Church has been incorporated into the governmental system; as for “house churches,” Cao Zhi has a more appropriate description for them. He said,

Due to a lack of theological establishment and education, or the immaturity thereof, the theology of the urban house church is more

affected by the leaders' personality traits, structure of professional knowledge, and thought patterns. Therefore, on the one hand, although house churches did not join 'Three-Self' sixty years ago because of their faith and still take that stand, shaped by a world view under the traditional Chinese culture, they fixate the 'house' in 'house churches' spatially and interpret the private, hidden meeting places as the best mode still for the church's existence and development. I call these churches 'house churches.' Such churches are extremely prone to nurturing believers whose beliefs are distant or isolated from the outside. I call these believers 'house believers.' On the other hand, with the hard-fought democratic movement continuing on and the rising tide of the rights defense movement, some Christians directly link the spread of the gospel with the establishment of a democratic (constitutional) state, equate the powerful corporation—civil society relations with anti-spiritual power, and observe and judge the government—house church relations by the political science state-society relations thought process. Though house churches composed of these Christians are few, they are quite attractive to the democrat and legalist members of the church and have definite influence on civil society and the international community through a combination of rights defense, civil diplomacy, and international media. Of the two, the thought processes and behaviors of urban house churches are influenced more by the 'house church' model.¹²

Even though "churches" in this condition cannot compare with the "churches" Jefferson faced, it does not mean there is no need to "build" such "a wall." The establishment of this "wall" is an important indicator of a "modern state:" a state that does not interfere with the religious activities (spiritual life) of society and individuals, and where society and individuals may not interfere with the authority and governance of the state in the name of religion. This point is wholly different from the Chinese "religion installed by the State" tradition and its "Marxism-Leninism ideology" for a realistic state. Indeed, the current religious policy of the Chinese government follows the thought process of "religion installed by the State."

For instance, the Chinese government always demanded that all religions further socialism, benefit socialistic economic development, and build a harmonious society. It is to fit the religions of a vast people into the frame of mainstream ideology for the "cultivation" of the people. This "tradition" is still operating today. The Shouwang Church's objective series of behavior—registering, purchasing a church building, and participating in the Lausanne Congress—show that it is unwilling to be incorporated into the "system (Three-Self)" and become a "house church" isolated from the world or be in political hot water through "rights defense" involvement. Objectively, it endeavors to broaden a "public social life" outside the "state," subsequently becoming the "church" Jefferson faced that contends directly with "religion installed by the State." This puts the Chinese government in a dilemma. On the one hand, China is moving toward becoming a "modern state," and nothing for now will change that determination. But this requires the government to give up the concept and measures of "religion installed by the State," like patronizing religions. On the other hand, once independent churches like the Shouwang Church are allowed to register and have their own church building, it will cause at least two chain reactions. First, it is equal to the legalization of "non-government-sponsored organizations," which can soon open the door to the undesirable call for the establishment of private political parties. Second, it is equal to the negation of a set of orthodox (official) "ideology" and a declaration that the state will no longer interfere with the spiritual life of society and individuals. If the government intends to "reform," we do not see it ready to take that step now. Perhaps it is precisely this dilemma that has kept the government from employing "state" forces as it has done in the past in dealing with the Shouwang Church, but rather adopting soft coercive ways to force it to "quit upon insurmountable difficulties." The current standoff cannot last for long; after all, the Shouwang Church prematurely pulled out the "umbilical cord" connecting the "traditional state" to the "modern state" and now being "cut, it won't sever; be ruled, it will never."

THE DILEMMA OF THE CHINESE GOVERNMENT AND THE PROSPECTS OF CHURCH-STATE RELATIONS

Even though we are very clear that the Chinese government endeavors to steer the country onto the modernization track, we are not clear whether it is gradually moving toward the American “separation of church and state” on the issue of religion because the Chinese government is currently in a dilemma. On the one hand, it has tasted sweet fruit in the “capitalist market economy development model” after three decades of “economic reform,” but such an outcome challenges and impacts the “existing Communist Party ideology,” which directly threatens the legitimacy of the rule of the Communist Party. The issue of religion directly clashes with China’s “politics” raising two questions: whether state ideology may be “diversified” and whether citizens possess the freedom of “association” in its true meaning (namely, as NGOs). In the opening of “Global Religion and Contemporary China,” Zhuo Xinping realized that “undoubtedly, contemporary China’s perception of religion is determined first by the research and interpretation of its relations with politics.” Upon examining three types of church-state relations—“opposition,” “cooperation,” and “coordination”—he believed that “China’s contemporary religious policy theory is basically ‘unite and cooperate politically’ and ‘respect all beliefs mutually.’” On how to solve the religion-ideology issue, he even said that although “the traditional understanding is that this is a deadlock, for it is generally believed that Marxism criticizes religion, and atheism fundamentally takes on the attitude and stance of denying theism,” “dialogue” may ease mutual “hostility.” Professor Zhuo’s book could be called the most thorough and comprehensive analysis of China’s church-state relations to date, as well as the most optimistic book on the future of China’s church-state relations.

On the other hand, religion’s realistic relations with Chinese “politics” deal with the issue of a citizen’s right to the freedom of association. Since the Chinese Communist Party came to rule in 1949, religious groups have been classified as social organizations under the jurisdiction of the governmental administrative system. The first method the government employed to classify and manage social organizations was to establish a registration system through legislation, such as “Interim Measures for the Registration of Social Organizations” (社会团体登记暂行办法) promulgated on September

29, 1950 and “Detailed Rules on Implementing Interim Measures for the Registration of Social Organizations” (社会团体登记暂行办法施行细则) promulgated on March 23, 1951.¹³ Other legislation included, toward Christianity in particular, “Regulations on the Registration of Accepting Foreign Subsidy, Foreign-funded Cultural Educational Relief Institutions, and Religious Organizations” (接受外国津贴及外资经营之文化教育救济机关及宗教团体登记条例), enacted on December 29, 1950, “Implementation Measures for the Registration of Accepting Foreign Subsidy, Foreign-funded Cultural Educational Relief Institutions, and Religious Organizations” (接受外国津贴及外资经营之文化教育救济机关及宗教团体登记实施办法), on January 11, 1951, and “Measures for Handling Christian Organizations Accepting American Subsidy” (對於接受美国津贴的基督教团体处理办法), promulgated on July 24, 1951.¹⁴ The central government of communist China strongly promoted anti-imperialistic, patriotic education at that time, and the Government Administration Council demanded accordingly that churches be established on the ground of self-governance, self-support, and self-propagation. This was the so-called “Three-Self Patriotic Movement,” and the church established on that ground was called the “Three-Self Church,” with Wu Yao-Tsung as the actual promoter of this movement.¹⁵ Thus, religious organizations were incorporated step by step through the “anti-imperialistic patriotism” political movement into the trajectory of political operations, and have lost their significance in existing independently of “politics.” They exist as “social organizations” in name only. Politics became the politics of the government, and government became a government that implemented its politics; thus, the “legitimacy” or “illegitimacy” of a social organization was measured by the standard of its incorporation into the political (governmental) operations trajectory. This is the real reason and history behind the “illegitimacy” of a large number of house churches.

The “political” appeal in social administration gradually gave way to the establishment of “rule by law” (法制) in the 1990s. The State Administration for Religious Affairs first enacted the administrative regulation “Implementing Measures for the Registration and Administration of Religious Social Organizations” (宗教社会团体登记管理实施办法) on May 6, 1991, which was later abolished by the implementation of “Regulations on the Registration and Administration of Social Organizations” (社会团体登

记管理条例), promulgated on October 25, 1998.¹⁶ Then administrative regulations, such as “Regulations on the Administration of Places for Religious Activities” (宗教活动场所管理条例) and “Measures for the Registration of Places for Religious Activities” (宗教活动场所登记办法), were promulgated on January 31 and April 13, 1994, respectively, requiring managers in charge of religious organization activity centers to register with religion administrations at the county level or above. Thus, no comprehensive law or regulation was enacted for religion at the National People's Congress legislative level or the State Council's administrative regulative level before the 21st century. But there were administrative rules and administrative regulations dedicated to the registration and administration of religious organizations and places for religious activities. The importance of “Regulations on Religious Affairs” (宗教事务条例),¹⁷ issued in 2004 and implemented in 2005, was noted by a special article in *The People's Daily* as “China's first comprehensive administrative regulation concerning religion.”¹⁸ The government considered it “an indicator of significant progress in building China's legal system in the religious aspect.”¹⁹ Former vice chairman of the Standing Committee of the National People's Congress, member of the Standing Committee of the National Political Consultative Conference, and chairman of the Catholic Patriotic Association, Fu Tieshan, believed it to be “a milestone in building a legal system for religion.”²⁰ Actually, its significance goes far beyond the realm of “a legal system for religion.” It indicates that China is taking a historical step of protecting by law its citizens' rights and interests of the freedom of association. Regrettably, to this day there is hesitation in taking this step.

Can the current “ideology” practically accommodate “diversity”? From Chairman of the National People's Congress Wu Bangguo's repeated emphasis on no “diversity” this March and China's nationwide “red song chorus” commemoration of the 90th anniversary of the Chinese Communist Party, it seemed that the country would not tolerate “diversity” in “ideology” anytime soon. Had the United States not forsaken “state religion” (ideology) at the federal level back then, there would have been no First Amendment to specify the principle of “separation of church and state,” and the right of its citizens to assemble would certainly not have been protected by law. China's current “religious issue” has long become not only an issue of “belief” but of citizens' “rights and interests,” namely, the issue of

whether citizens have the right to freely “associate” with “religious organizations” besides the freedom to choose their “belief.”

I do not believe China can enact the “separation of church and state” constitutional clauses of the United States for now. China's “religion installed by the State” tradition and the status quo “ideology” have already shaped a society and culture distinct from the American versions in form and structure. More importantly, the history dependent value systems of the peoples of these two states are completely different, such that even if pertinent “legal” clauses appear in China, they may not be seriously enforced. My point is that when the “house church” phenomenon (particularly that of the Shouwang Church) prematurely (once again actually) pulled out the “umbilical cord” connecting the traditional state to the modern state, it actually pulled out this century-old unsettling question of China's: can China sever this “umbilical cord” by thoroughly implementing “constitutional reform”? This year marks the centennial anniversary of the Xinhai Revolution, which occurred because of failed “constitutional reforms.” Regardless of being either “reform” or “revolution,” the past century of Chinese history attempted to replace monarchism with constitutionalism so that the transformation of China from a “traditional state” to a “modern state” might be realized.

Issues with fundamental civil rights, cultural diversity of society, state ideology, and social public sphere triggered by religion are basic issues that a “modern state” must face. The solution of which has become a basic indicator of its “modernity.” It is our hope that China's religious issues may be resolved, as a “modern state” would, according to this basic indicator of “modernity.”

NOTES

1. *Board of Education of Kiryas Joel Village School District v. Grumet*, 512 U.S. 687 (1994), 703 <http://supreme.justia.com/cases/federal/us/512/687/case.html>.
2. Supreme Court Justice Hugo Black wrote in the Opinion of the Court, “In the words of Jefferson, the clause against establishment of religion by law was intended to erect ‘a wall of separation between church and State.’” *Everson v. Board of Education*, 330 U.S. 1 (1947), 16 <http://supreme.justia.com/cases/federal/us/330/1/case.html>.
3. “Americans overwhelmingly consider the U.S. a Christian nation: Two-in-three (67%) characterize the country this way.” “Many Americans Uneasy with Mix of Religion and Politics,” *The Pew Forum* (Washington, D.C.: Pew Research Center for

- the People & the Press, 2006), 5 http://www.pewforum.org/uploadedfiles/Topics/Issues/Politics_and_Elections/religion-politics-06.pdf.
4. John Locke, *A Letter Concerning Toleration*, trans. William Popple (London, 1689) <http://www.constitution.org/jl/tolerati.htm>.
 5. “盥者，进爵灌地以降神也，此是祭祀盛时，及神降荐牲，其礼简略，不足观也。”Rong Ma [马融], quoted in “Tang-Li Dingzuo” [唐-李鼎祚], *Zhouyi jijie* [周易集解].
 6. “荐者，谓既灌之后陈荐筯豆之事。”“Tang-Sun Yingda” [唐-孔颖达], *Zhouyi zhengyi* [周易正义].
 7. 唐孔颖达训为信，颀若学颀然。颀然是敬慕之状。
 8. “祭又在于察知所不可见之天命鬼神，证于‘祭者察也，以善逮鬼神之谓也。善乃逮不可闻见者，故谓之察。若以名之所享，故祭之不虚。安所不察哉？祭之为言祭也与，祭然后能见不见。见不见之见者，然后知天帝鬼神。知天命鬼神，然后明祭之意。” Zhongshu Dong [董仲舒], “Jiyi” [祭义], *Chunqiu fanlu* [春秋繁露].
 9. “Jitong” [祭统], *Book of Rites* [礼记].
 10. “Lilezhiyi” [礼乐志一], *Xintangshu* [新唐书].
 11. Tingyang Zhao [赵汀阳], “Fanzhengzhi de zhengzhi” [反政治的政治], *Zhexue yanjiu* [哲学研究] (Beijing, December 2007), 30–41.
 12. Zhi Cao [曹志], “Luosang shijianhou shouwang jiaohui yu zhengfu guanxi zouxiang” [洛桑事件后守望教会与政府关系走向], *Xinghua* [杏花], 14:4 (Shouwang jiaohui, 2010), 82–93.
 13. This was promulgated by the 52nd Government Administration Council of the Central People's Government on September 29, 1950 and the Ministry of Internal Affairs of the Central People's Government on March 23, 1951, respectively.
 14. Nai Chi [赤耐], *Dangdai zhongguo de zongjiao gongzuo*, Vol. 1 [当代中国的宗教工作 (上)] (Contemporary China Publishing House, 1999), 84–86.
 15. Nai Chi [赤耐], *Dangdai zhongguo de zongjiao gongzuo*, Vol. 1 [当代中国的宗教工作 (上)] (Contemporary China Publishing House, 1999), 80–84.
 16. Feng Shuai and Jian Li [帅峰, 李建], “*Zongjiao shiwu tiaoli*” fanyi [“宗教事务条例”释义] (Religion and Culture Press, 2005), 40–41.
 17. “Zongjiao shiwu tiaoli” [宗教事务条例], Order No. 426 of the State Council of the People's Republic of China, passed at the 57th session of the Standing Committee on July 7, 2004, promulgated on November 30, and implemented on March 1, 2005.
 18. “Yifa baohu gongmin zongjiaoxin yi ziyou quanli” [依法保护公民宗教信仰自由权利], *The People's Daily* (December 19, 2004).
 19. Feng Shuai and Jian Li [帅峰, 李建], “Guojia zongjiao shiwuju zhence faguisi fuzeren jiu ‘Zongjiao shiwu tiaoli’ da ‘Zhongguo zongjiao’ zazhi jizhe wen” [国家宗教事务局政策法规司负责人就《宗教事务条例》答《中国宗教》杂志记者问], “*Zongjiao shiwu tiaoli*” fanyi [“宗教事务条例”释义] (Religion and Culture Press, 2005), 205.
 20. Tieshan Fu [傅铁山], “Zongjiao Fazhi Jianshe de Lichengbei” [宗教法制建设的里程碑], the National Committee of the Chinese People's Political Consultative Conference website <http://www.cppcc.gov.cn/>.

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From Crisis of Beliefs to Crisis of Religions—the Basic Transformations of Religious Beliefs in Contemporary China

XIANGPING LI

Abstract:

Based on the theory of “sociology of religion,” this essay examines religious study as a means to explore social transformation, generalizes the features of religious development in contemporary China since the 1980s, and predicts the tendency for socialization and diversification.

Although development of religion in contemporary China grew from a crisis of beliefs in the 1980s, it has not yet walked out of these shadows. We can say that, in the past three decades, the most important Chinese religions and beliefs changed from a crisis of beliefs into a crisis of religions. It has only changed the type of crisis.

The arguments of this essay will follow these issues: dual socialization of religion and belief; social identification concerning the relationship between state and religion; freedom of belief and the freedom of religion; social significance of religious crisis, private belief, and China’s legal system; influence of religious consumption; rise of religious nationalism; and construction and identification of belief of the ruling party.

This essay holds that the transformation of China’s religion and beliefs over the past three decades indicates the developmental tendency for civil society and political democratization in China. As for the formation of this trend, it is undoubtedly based on the fostering of civil society, political democratization, and cultural diversification of China. Finally, it will change the crisis of religions into a favorable opportunity for Chinese religions.

THE DUAL SOCIALIZATION OF RELIGION AND BELIEF

From the perspective of religion management in contemporary China, the socialization of religion includes authorities gradually turning religious work into social management, a general term used by the Chinese government’s management of religion. In accordance with the “Regulations of Religious Affairs” of China, religious affairs refer to the public affairs between religion and other social departments. Therefore, religious work can be defined as the management of public affairs between religion and other social departments.

With the development of society, the administrative characteristics of religious management have faded, while the social characteristics have increased, making it possible for religious management to change into public social management. The debate about and solution to this issue will help change the administrative characteristics of religious work and promote its socialization.

As religious work is socialized, it will become a less sensitive social issue, and the Chinese government will manage religious affairs in accordance with existing laws and separate religious issues from politics, nationality, public peace, and security at the institutional level.

Therefore, the socialization of religion can be viewed from two perspectives. First, the socialization of religion is a process where religion returns to society from the superstructure. With the fading of its ideological features, religion becomes a spiritual asset that can be shared by society and citizens. As far as the Chinese status quo of religion is concerned, the purpose of socialization is to separate religion from the state power and market economy so as to develop into an independent social branch.

The other aspect of the socialization refers to the socialization of religious beliefs of the Chinese people. Historically, most religions in China have displayed the basic features of diffused religions;¹ therefore, most Chinese have their own religious beliefs, but not all belong to one religious institution or organization. Instead Chinese people tend to choose the religion and belief themselves, making religious beliefs private and mysterious; consequentially, they lack a sense of religious identification.² Therefore, the call for the socialization of religion aims

to turn religious beliefs into a value system that can be shared by the community and the society.

Generally speaking, after China adopted the reform and opening-up policy, religion in China has evolved to some extent from “spiritual opium” to “social capital,”³ which has laid a foundation for the dual socialization of religion and belief.

THE SOCIAL IDENTIFICATION WITH THE RELATIONSHIP BETWEEN STATE AND RELIGION

The relationship between state and religion in China has not been specified by law for a long time. At the institutional level, state and religion are both under the United Front Work Department, meaning leaders from various religious groups are under the leadership of the United Front Work Department at all levels of government. As a rule, they are elected as deputies to members of the People's Congress or Chinese People's Political Consultative Conference (CPPCC), forming a state and religion tie that is dominated by the state, which separates religions' function and responsibility.⁴

At the practical level, different religious schools maintain different relationships with the state, which turns an abstract relationship into an applied concept. Comparatively speaking, the institutionalization of religions in China varies. As a result, the tension between the state and religion is weak for some popular religions like Buddhism and Daoism, while tension is strong for Christianity. As for institutional religions, the relationship between state and religion calls for relatively advanced institutionalization, while the relationship at the grassroots level depends on the individual's identity, social status, and power. In practice, this mixes with the relationship of state and religion, blurring the distinction between them.

In reality, the relationship between state and religion can be viewed as interactions between state and religion, religion and society, and state and society. In English, “政教关系,” usually refers to the relationship between the state and the church, emphasizing the relationship between state and church, instead of state and religion. However, since not all religions in China are institutionalized, this relationship is more complicated than that

of the state and institutional religion at the institutional level. Therefore, this relationship has been interfered with and penetrated by relations between state and society, religion and state, religion and society. If this hypothesis is correct, the intervention of certain social relationships will transform the binary opposition of state and religion into a triangular interaction and will stabilize the relationship rather than break it. Thus the complicated relationship of politics, religion, and society can be represented by the social practice of the relationship of state and religion. Even though the relationship of state and religion is interwoven and complicated, the socialization of the relationship will likely form a state and religion model with Chinese characteristics.

As a result, the methods of handling this relationship not only include religious identification, but also political identification, closely related to religious identity. By the identity model and its logic, we can further sort out the structural tension between state and society, society and individual, state and religion, public relations, and individual belief.

In other words, religious identification and political identification should be the basis for the relationship of state and religion. This is because identification with the state by existing religions will impact and restraint the relationship of state and religion. Or in another way, the type of religious identification determines the belief structure and the type of political identification. It is this special and common way of religion and state identification that leads to religion's socialization. Thus socialization draws a line between religious identification and state identification at the institutional level, and is involved in its place in civil society.

For this reason, the socialization of this relationship between state identification and religious identification is in fact the socialization of religious identification⁵ or the mutual identification of the relationship between state and religion. The focus is on the socialization of various religious groups in China, their methods of socialization, and the people who choose their religion and belief as a citizen free of the state and market influences.

THE FREEDOM OF BELIEF AND THE FREEDOM OF RELIGION

Yang Qingkun pointed out that diffused religions, similar to the concept of “invisible religion” put forward by Thomas Luhrmann, still exist in contemporary China. However, while Yang points to the belief habits of the Chinese, such as the preference of personal religious beliefs as a way to share beliefs with others, Luhrmann’s “invisible religion” emphasizes the transformation of institutional religion in modern society as a way to private religion.

At the early stages of China’s reform and opening to the outside world, Chinese people’s beliefs were split by a highly integrated society and a cult of personality. At that time, the phrase “belief crisis” was widely used, meaning what the meaning of life was. With the reform and openness policy and the freedom of belief ensured by the constitution, most Chinese people gained the freedom of religious belief.

However, a subtlety should be noted. Freedom of belief has, to some extent, solved the belief crisis of the individual, but not of freedom of religion. In fact, this kind of personal freedom of belief, in particular what is thriving outside institutional religions, lacks the sense of belonging and identification with a certain religion. Their main characteristic is that belief stays outside of religious institutions and institutional religions. Religions cannot attract believers, and the need of belief cannot be fully met by religions. Actually, it is common in China for religious beliefs to exist without any ties to religious organizations or religious sites. For example, some people believe in Buddhism, but never go to temple; some believe in God, but attend church services. There is another phenomenon in religious belief. Because of their identity and social status, some people cannot publically practice their beliefs even though they believe in a certain religion, which leads to a kind of “spiritual smuggling.” This belief practice is self-sufficient and self-complacent.

It should be noted that the fading of the belief crisis does not mean a solution to belief problems in contemporary China. Instead, these problems are shelved for the time being. The analysis and debate about the belief crisis in the 1980s are mainly from a humanity perspective, while the acceptance and solution to belief problems result from the diversification of social

ownership, the diversification of dealing with religious issues, the rational choices of social science, and the people’s diversified choices of beliefs.

Therefore, the recent revival of religion cannot be viewed as the final solution to the belief problem because freedom of belief can be viewed as freedom of religion. The difference between them is that belief is a private matter, while religion is needed by a group of people or a different social stratum. For this reason, the future social concern of Chinese people is not whether they have beliefs but how to express and practice their beliefs. From this viewpoint, which is more appropriate and insightful than the simple religious perspective, we should focus on the practice of religious beliefs instead of superficial factors like the increase of the religious population and sites from the religious revival over the past three decades. How to put one’s belief into action not only has a bearing on the religious revival, but also on the social construction of belief.

It should be noted that individual freedom of belief in China will not necessarily lead to a society shared belief, socialization of belief, and function of belief in social development. On the contrary, individualized beliefs will likely cause a severe lack of public character and sociality of belief, eventually causing a religious crisis.

THE SOCIAL SIGNIFICANCE OF A “RELIGIOUS CRISIS”

Zhou Xinping classified contemporary religions in China into three categories: the core part dominated by the five great religions; the independent religions in addition to the five great religions; and the other religions not clearly defined.

Among these three categories, Zhou points out that the changes of the ratio of religious population to inner social structure within said population show clearly the tendency for social transformation and development. With the tendency toward democracy, freedom, and equality in contemporary society, the relationship between state and religion becomes more and more diversified and complicated; the situation of politics governing and dominating religion faces challenges and tests.

On the one hand, traditional institutional religions are changing. First, the pattern dominated by the five leading religions has been broken; various

schools of religious thought have arisen within and without the leading religions. Undoubtedly, there are many other religions besides the leading five. Second, with the opening and reform policies, domestic and foreign religions exist side-by-side, and influence each other, making it difficult to understand and analyze the religious phenomenon. Third, the centralized form and organization of the five leading religions have been challenged because their decentralization and disorganization has been brought to light. Various schools also compete against one another.

On the other hand, there is a pursuit of spirituality in contemporary China, going beyond institutional religion. People's religious needs and awareness display this tendency in various ways, making more feel the existence of a soul and spirituality apart from institutional religion, which expands and enriches people's knowledge of religion. In addition, the homogeneity of globalization and the mobility of the market economy lead to the dynamic feature of religious development.⁶

It is this religious trend and presentation that makes the religious presentation more confusing in contemporary China, displaying a complicated transformation of religious belief within and without the institution, which I call "religious crisis."

According to the "Regulations of Religious Affairs" by the Chinese government, normal religious activities should be conducted at a fixed religious site. However, with the limited number of religious sites, the contradiction between institutional religion and people's religious beliefs will occur with the diversified need for religious beliefs. In this case, traditional religious visions or expressions cannot meet this need, and traditional theories and methods of religious study are inadequate to explain this new trend. The most important questions are as follows. How will the relationship between belief practice and religious development change? Is there an unbridgeable gap between religion and belief?

In China, many religious beliefs have developed without legal religious sites and management of such sites, such as independent churches, "Third Churches," churches at work, churches set up by corporations, and temples built by corporations and non-government organizations, which co-exist alongside the main churches. In particular, some private companies use their corporate institutions to hold religious activities; some even view

certain regulations as the doctrine for religious practice and followers. They resemble an extension of the church or ministry in the workplace, a social method where belief challenges religion, which shows that religion fails to attract believers in China.

All these phenomena suggest that new methods of religious development and dissemination have occurred in China, and religious diversification has become a threat against China's five leading religions.

Unlike the belief crisis, the religious crisis means that some people with beliefs do not seek related spiritual belonging, and others have religious beliefs but do not necessarily believe in religion. In particular, they doubt the beliefs designated by religious institutions. During Europe's modernization, there occurred the same religious problem of "believing but not belonging."

As far as its sociality is concerned, the religious crisis simultaneously opened the door for distrust in politics and institutions because religious beliefs used to protect political organizations and ruling classes, endowing rulers with a sacred legitimacy.⁷ Therefore, the change from belief crisis to religious crisis indicates people's estrangement from a common belief and distrust of the institution in contemporary China. As a result, belief is strengthening while the institution is fading and social care is weakening. Rising personal beliefs that maintain an individual's integrity will curb the formation of social beliefs and belief in the community.⁸

PRIVATE BELIEF AND CHINA'S LEGAL SYSTEM

From the above-mentioned arguments, we can see that the relationship between beliefs and the legal system is also an important issue. Chinese people usually choose, interpret, and express their religious beliefs privately. So when people say that Chinese people have no religious beliefs, they actually mean Chinese beliefs lack religious institutions or organizations. In terms of religious beliefs, Chinese seem to prefer a private, loose and casual way to an institutional or organized one.

However, if beliefs are viewed as a private matter, the personal right to believe does not call for institutionalization. The freedom of belief would be threatened if people stayed away from religious institutions. Although

having private beliefs is legal, it cannot have its voice heard by society, just as an individual cannot make his or her words heard. As a result, the relationship between belief and the legal system begins.

What the Chinese people lack is not belief, but a path leading to a belief shared by the community, a “social belief.” Chinese people need a community of belief that is independent of the state and market economy, and serves society as well as represents its spiritual needs. Due to the lack of social factors and structures, numerous private beliefs cannot be part of the legal system, limiting beliefs to personal identity and interests. In this case, “the religion without the protection of laws will lose its sociality and historical value, and simply becomes a mysterious experience of individual.”⁹

Harold Berman’s words can be interpreted in the following ways: religion must ally itself with the legal system otherwise it will have no social or historical characteristic. Without the rule of law, religion will be reduced to a private matter as private belief; as a mysterious experience of the individual, religion (private belief) has no social or historical characteristic.

It can be concluded that religion and beliefs must concurrently have social, legal, and public features. Although laws and government policy define private belief, the concept inevitably loses its social and historical characteristics and becomes a mysterious experience of the individual, a presentation of personal interests and a compensation of spiritual concern. Therefore, although Chinese people have private beliefs, their beliefs do not boast religious sociality and historical characteristics. On the contrary, private belief is likely to lead to the severe lack of social and public features of China’s religions, which does not benefit the building of China’s legal system.

In modern society, personal freedom of belief cannot be viewed as the right of belief protected by the institution. The institutional right of belief can be defined as the freedom of religious or belief associations. Without the institutional right of belief and the social field for its expression and practice, the freedom of private belief cannot be realized.

For this reason, the freedom of belief can be viewed as a system of personal rights, which includes the freedom to believe in one’s heart, to conduct religious activities, to attend religious services and pray, to hold or attend religious ceremonies and missions, and to organize religious associations. All of these are external practices of belief that represent religious beliefs in the real

world. When the inner belief is represented by an external action, it will likely cause conflicts with the rights of other peoples and public interests. In this case, religious beliefs are neither a private matter nor an absolute freedom, but are restrained by the objective boundary of rights and freedom.¹⁰

In regard to China’s social management, belief is not treated as equal to religion, but rather as a basic means of social management. This relates belief closely to various methods for the management of society, state, politics, corporations, markets, and folk societies, causing a contradiction between institutional reliance and spiritual smuggling. Those that rely on public ceremonies are usually justified religions accepted by the government. In contrast, those that rely on non-governmental organizations, academia, and religious groups mainly provide belief. With this classification comes the unreasonable allocation of religious resources that is closely related to belief and cannot afford to be neglected. This unreasonable allocation of resources will certainly unbalance the demand for belief and the supply of religion, causing a special phenomenon of unfairness and distrust in belief. The imbalance between demand and supply also leads to a discrepancy between belief and the legal system. In short, a religion’s existence does not necessarily ensure religious followers the freedom to practice.

If people can “successfully establish an organization by themselves without the form of religion,”¹¹ various groups should have their own rules and boundaries, which will further redefine modern society as where “religious belief is a personal right for spiritual life and the basis of other rights...and the absolute and sacred basis on which people struggle for their political freedom.”¹²

In conclusion, the relation between religion and the legal system depends not only on the relationship of state and religion and its transformation, but also on the relationship of politics and beliefs. When the constitutional government is able to provide institutional protection for the religious practices of its citizens and ensure institutional rights to express private beliefs, real and specific interaction is possible between belief and the legal system, making beliefs the spiritual basis of making, following, and enforcing the law. In this case, beliefs support the legal system, while the legal system embodies beliefs.

THE INFLUENCE OF RELIGIOUS CONSUMPTION METHODS ON RELIGIOUS BELIEF IN CHINA

Either religious events set the stage and trade activities play the main role or trade activities set the stage and religious events play the main role, which is the shortcut for the religious revival since China adopted the reform and opening-up policy. Chinese people typically turn to fortunetellers while they are poor, and pray to Buddha for help when they are rich, bonding the types of religious consumption with the future development of China's religions.

Over the past three decades, Buddhism, Daoism, and other folk religions benefited from these religious consumption methods, and kept pace with economic development. Under the current social warfare system, the property of religious groups has increased substantially. The gains and expenditures of religious property will directly impact the development of religion itself.

As the old saying goes, "it is easier to gain the fortune than to spend it properly," this is also true of religion. Worrisome outcomes include the economic strength of religious groups increasing unevenly, religious property increasingly mixing with social property, and religious property integrating with the crony capital condemned in China. If so, then the religious economic structure will likely create a religious interest group. This group will then get involved with various kinds of Chinese interest groups, making an economy from religion more complicated.

The involvement of local governments and economic organizations in religious development of religions and religious economy has formed a vested interest in religious economy. Although these complicated economic relations have promoted the revival and development of religion in contemporary China, they have also intertwined religions with politics and commerce. This not only leads to the utilitarianism and commercialization of religion, but also influences some important issues, such as the position of religion and the legal interpretation of the relationship between state and religion.

The religious capital and the capitalization of religion will inevitably affect the future development of China's religions, which is closely related to the above-mentioned religious crisis. Since religious law and the corporate system of religious syndicates have not yet been created, this crisis will become a future part of China's political and economic reform.

Closely related to religious economy is religious consumption. As religious practices, both have affected and even determined the direction and tendency of China's religions.

Economy and consumption are not just united by materials, but also economic entities, consumers and other international social groups. The relationship between religious economy and religious consumption has also affected the interaction between religion and society in China, plus the relationship between religious beliefs and social strata. As a result, a great income disparity has occurred in religious circles as well as "religious segmentation" among different religions.

Usually, the rich and poor choose Buddhism, while the ruling class or middle class prefer an institutional religion like Christianity. As for big families or tribes, they believe in Islam or Catholicism. In contemporary China, Christianity and Buddhism are more popular than other religions. In choosing a religion, people are affected by the economy and the religion's consumption method, as well as their own types of religious consumption, because religious consumption is decided by religious economy, and vice versa.

Religions will cater to every need of their followers; when followers want to burn the first bunch of incense, the temples will offer it. To satisfy followers' needs toward unveiling ceremonies, there will be various kinds of unveiling ceremonies for them to choose from. On the eve of the lunar New Year, the price of the first bunch of incense from a famous temple inflates to 5,000 RMB. That is why people will condemn Buddhism for being just for the rich, while Christianity is for the poor.

In his book *The Consumer Society*, Jean Baudrillard points out, "just as the social balance was achieved by God and monster in the Middle Ages, nowadays we achieved the balance through consumption."¹³ Anthropologists who studied the "Potlatch" of Indians in North America viewed the social customs and economic system of Indian relocation. According to the anthropologists, this give-away consumption method has played an important role in an unenlightened society. In fact, this phenomenon does not just exist in unenlightened societies, but is a crucial consumption method shared by all societies.

Looking at religious economy and consumption in contemporary China, we see they include relocation of fortunes among people, interaction based

on social status, and types of religious beliefs, which are more than just the religious economy. From this phenomenon, we can find a way to analyze contemporary Chinese society. The question is where religious belief is when economic development is equal to religious development and religious identity becomes consumption identity.

Today's folk beliefs include an economy of power, and the logic behind this practice is called "the exchange rate of mind," a subtle concept held by followers of folk beliefs in China. On the one hand, it reflects a sacred doctrine of fairness, making folk beliefs a collective activity to strengthen solidarity and identity. On the other hand, it embodies the unfairness of the secular world, making folk beliefs influential in the local community.¹⁴ Therefore, the richer one is the higher one's "exchange rate of mind" will be, making it a symbol of a person's financial and social status. Thus these beliefs are reduced to consumption. Actually, this type of consumption shows the inequality in the pursuit of belief and religion.

THE RISE OF RELIGIOUS NATIONALISM

The rapid development of Christianity over the past three decades has caused some researchers to controversially call it a "blowout."

There is a point of view in religious and academic circles that Christianity's rapid development is not good for the inheritance and development of traditional Chinese religions. Therefore we should promote the development of folk religions and beliefs to curb the development and permeation of foreign religions so as to improve the environment of folk religions. Some scholars even insist that China, as a big power, should have its own religion and belief.

Recently, the Chinese government held state or public sacrificial ceremonies in honor of Chinese ancestors like Yan Di and Huang Di, two legendary rulers of antiquity, and saints like Confucius and Mencius, who showed the great efforts of Chinese to build their own beliefs. Chinese rulers, such as the Yellow Emperor (2697–2589BC), Yan Di, Fu Xi (god of Fishery and Husbandry), and Yu from the Xia Dynasty, and saints and scholars like Confucius, Mencius, and Zhu Geliang have all exhibited their

everlasting charm to attract believers from the folk community during the social transitions of contemporary China. That is why they are worshiped in state-conducted sacrificial ceremonies. It has become a model of state ceremonies for ancestors that the "Yellow Emperor is worshipped in the north of China, and Da Yu in the south." The modern version of Heaven worship also indicates the need for the modernization of Chinese beliefs. All of these have consisted of modern political and cultural patterns with belief identification at the center.¹⁵

The traditional national consciousness of Chinese, particularly those of the Chinese Nation, is a powerful and deeply-rooted ideological belief system composed of "nation" or "nationalism" and "state and ethnic group[s] on the basis of the belief of Heaven and Destiny." This national consciousness contains a political expectation that the authorities should promote the development of traditional religions to the point where it can become a legal religion to replace modernity with nationality and offset the influence of Western Christianity with traditional or local religions like Buddhism, Daoism, and other folk religions. In other words, the goal is to build a religious structure using religious nationalism.

In conclusion, this phenomenon can be viewed as the rise of religious populism or nationalism and the integration of power and beliefs on a large scale, which turns the identification of a nation and state into a religious belief. The combination of power and beliefs will not only affect the legality of public power, but also the model of handling the relationship of state and religion as well as the shaping of modern state forms.

THE CONSTRUCTION AND IDENTIFICATION OF BELIEF OF THE RULING PARTY

Before the 17th National Congress of the Communist Party of China (CPC), there was a report on political reform that put forward the issue of breaking the barriers between political party beliefs and religious beliefs.¹⁶ The main points of the report are as follows.

First, political belief does not contradict religious belief. A proper way to handle the relationship is to persevere in communist political belief while

acknowledging the secular religious beliefs that are widely accepted by society and to respect and guarantee citizens freedom of religious belief in accordance with the law, for both play a role in adjusting the orientation of social value from different sides.

Second, political power should be set apart from politics and religion. In other words, religion should neither get involved in politics nor interfere with political affairs. From the perspective of the management of a modern state, the principle of separation of religion and politics should be preserved. Religion should not interfere with the state's political power, but function as a factor to maximize social harmony.

Third, laws related to religion should be improved to protect and manage religion in accordance with the law. The religion law should use the guideline of "united in politics, mutual respected in belief" to specify the relationship between the government and religion and to write down the state's religious management in a legal context in order to protect the legal interests of religious organizations.

Fourth, the Communist Party of China represents the basic interests of the overwhelming majority of the people, which certainly includes the interests of religious followers. So the outstanding followers should be admitted to the CPC by qualified consent. For this purpose, it is necessary to amend and improve the constitution of the CPC and adjust its religious policy, so as to narrow the gap between political and secular beliefs.

The issues put forward in this report suggest that the binary opposition between atheism and theism has directly interacted under a diversified ideology. Chinese society has gone beyond debating the distinction between socialism and capitalism, state-owned and private-owned. In the future, concern will focus on integrating the single-party system with multi-patriotism, atheism with theism.

The historical change of the CPC during the 20th century from a revolutionary party to a ruling party has made a far-reaching impact on China's development in the 21st century. Even though the core issue of this transition is institutionalization and democratization, transformation of belief and its form is also important to the transition of the CPC. Specifically speaking, the question is how to realize the transition from a belief in a revolutionary party to that of a ruling party, which calls for innovation of

the system, mechanism, and techniques, as well as the fundamental innovation and reform of ideology, concepts, and ways of thinking.

The beliefs in a revolutionary party and a ruling party seem similar, but actually are not. Usually, the revolutionary party has three features: a revolutionary leader, a set of ideologies usually put forward by the revolutionary leaders, and a strict discipline that cannot be negotiated. With the triumph of the revolution, revolutionary forces and power naturally turn into a spiritual belief in peoples' minds.

Looking at China's revolutionary history, the reign is usually established by violent revolution as are beliefs. A revolutionary party will take advantage of virtues like mercy, loyalty, and redemption as well as other social resources of great thought, religions, and morality throughout the revolutionary movement. By integrating all of these virtues, a revolutionary party seizes state power and transforms religion at the same time. Therefore, the basic tenet of belief in a revolutionary party is that one should be an atheist before being a revolutionary.

However, things are quite different for a ruling party. A ruling party exercises public power and is supposed to work with government to integrate state and society and promote development. The party has three features: ideology emphasizes the reconciliation of classes and social cooperation; social cooperation expands its basis of class and cooperation; it gradually opens up to the outside world through ideology, and diversifies beliefs to unite all forces of society.

Therefore, the transition from a revolutionary party to a ruling party is not just a change of power type, but also a fundamental change in the form of belief, the belief in a revolutionary leader to the diversified social belief. If belief in a revolutionary party is formed through the integration of power and social movement, belief in a ruling party is from legal identification and good interaction among political, state, and religious identifications, which finally turn belief in a political party to a party belief.

If we say that China's revolution in the 20th century filled two blanks in traditional China, one is that political ideology has taken the place of the function of religion. It has also introduced a collective lifestyle in the form of a political party, the first in Chinese history. In the 21st century, the beliefs of Chinese sort into many levels: public belief at the state level,

political belief at the political party level, and private religious belief and social belief in traditional cultures. Different kinds of beliefs should have their own institutions, and be handled in different ways, so as to avoid mixing private, public, and political beliefs. On the contrary, a reasonable belief system should have a core belief and a basic belief.

As for this, there are two perspectives of interpretation: the perspective of the religious follower—how to define political responsibilities, citizen consciousness, and political identity as a member of society—and the perspective of political belief—how to define the relationship and boundaries between political and religious beliefs in terms of the relationship among political identification, state identification and religious identification.

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PART TWO

Religious Freedom in China: Chinese and Western Perspectives

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Riding the Dragon: China and Religious Freedom

THOMAS F. FARR

Abstract:

Next to Islamist terrorism and Iran, China presents the most significant U.S. foreign policy challenge of the early 21st century. This ancient East Asian land of 1.3 billion people has experienced stunning economic growth in recent decades and is in the midst of a socio-economic transformation with enormous international, regional, and domestic implications. Moreover, China seeks, and is clearly achieving, a growing role in international affairs.

Two core questions emerge for American national security. The first is whether China's foreign policy will be peaceful and stabilizing or aggressive and dangerous to American interests. In the best case, China would continue to exercise a calming influence on its neighbors, in particular North Korea, which Beijing would encourage in the direction of economic and political reform and away from its dangerous dalliance with nuclear weapons, arms sales to rogue states, and support of terrorism. In the worst case, Chinese policies could lead to conflict with one or more of its neighbors.

In the long run, however, the nature of Beijing's relations with its neighbors, as well as its overall international role, will turn on the answer to the second question: what will be the fate of China's internal political regime? Put simply, can the country's leaders continue moving toward a controlled market economy while successfully managing the domestic consequences of growth? Those consequences include massive internal problems, such as unemployment, internal dislocation, the breakdown of families, a demographic excess of young males, huge income inequities, enormous environmental degradation, AIDS and other major diseases, and a slow but potentially potent demand for political reform. Can the Chinese manage all this without a radical political retrenchment or a violent internal upheaval the consequences of which could be catastrophic for China, its neighbors, and the United States?

China's religious actors will have something to say about all this. For example, they have the potential for significant influence over China's development in the coming decades by providing, inter alia, a source of social capital. The questions now being asked by China's leaders provide an opportunity for governments that China respects, and also for China's religious groups themselves to make the case for their inclusion as a positive force in the nation's socio-economic and political development.

But the trajectory of current Chinese policy suggests that the government is likely to continue its counterproductive understanding of "unofficial" religious practice as China's enemy, and to continue its efforts to restrain and manipulate that practice as a result. This understanding may well lead to more religious persecution and a deepening of the social crisis standing in the way of China's peaceful movement toward stable representative government. It will also mean a continuing obstacle to the improvement of U.S.-China relations.

To date, U.S. religious freedom policy has been sporadic in its application and minimal in its effects. It has succeeded in China, as it has elsewhere, in the occasional release of religious prisoners. It can also be said to have habituated China's leaders to U.S. interest in the issue, although they are doubtless aware of how erratic that interest can be. It cannot be lost on China's leaders that ad hoc U.S. religious freedom proposals are for the most part left by the U.S. government to lay fallow on the table. The most consistent elements of U.S. policy have been the annual public denunciation attending the Communist Party of China (CPC) designation, which has never been followed by action, either positive or negative, and the annual attempt during the 1990s to condemn China at the UN Commission on Human Rights in Geneva, which in every case was defeated by Chinese lobbying. One wonders whether Chinese Foreign Ministry officials on the America desk take bets on what their clients will do next.

This paper will explore the Sino-American relationship from the standpoint of China's internal religion policy and the U.S. policy of advancing international religious freedom.

THE IMPORTANCE OF CHINA TO AMERICAN NATIONAL SECURITY

Alongside Islamist terrorism, the trajectory of the Arab Spring, and the aggressive policies of North Korea and Iran, the fate of China represents the most significant U.S. foreign policy challenge of the 21st century.¹

This ancient land of 1.3 billion people has experienced stunning economic growth in recent decades and is in the midst of a socio-economic transformation with enormous international, regional, and domestic implications. China seeks, and is clearly achieving, a significant role in international affairs. It is one of the world's longest standing nuclear powers and possesses the means to deliver nuclear weapons over long distances. It is a permanent member of the United Nations Security Council, and as such is a powerful player in any attempt to build international consensus on major issues. It is an important partner in our attempts to deal with North Korea, traditionally a Chinese ally and, more importantly, a rogue nuclear regime that poses a potential threat to the security of the region and the United States.²

China's economic might alone makes it the single greatest force for stability or instability in Asia, and arguably in the world. Its economy, along with the Chinese diaspora, influences the economic development, culture, and politics of many of its East Asian neighbors, including the world's largest Muslim country, Indonesia.³ Its enormous energy consumption increases the need for allies in the Middle East, and has resulted in a growing Sino-Islamic relationship with significant implications for the United States.⁴

In short, China's regional and international influence is huge and unlikely to diminish in the near future. Samuel Huntington wrote in 1996 that Chinese economic and military power would likely to lead to an assertion of regional hegemony with international implications. Should its economic growth and political unity continue for another decade, Huntington predicted, "East Asian countries and the world will have to respond to the increasingly assertive role of this biggest player in human history."⁵ Other scholars argue that China requires peace to achieve the modernization and economic development it seeks.⁶

Two core questions emerge for American national security. The first is whether China's foreign policy will be peaceful and stabilizing or aggressive

and dangerous to American interests. In the best case, China would exercise a calming influence on its neighbors, in particular North Korea. In the worst case, Chinese policies would lead to conflict with one or more of its neighbors. For example, a military attack against Taiwan would produce a serious crisis in Sino-U.S. relations.

In the long run, however, the nature of Beijing's relations with its Asian neighbors, as well as its overall international role, will turn on the answer to the second question: what will be the fate of China's internal political regime? Put simply, can the country's leaders continue moving toward a controlled market economy while successfully managing the domestic consequences of growth? Those consequences include massive internal problems, such as unemployment, internal dislocation, the breakdown of families, a demographic excess of young males, massive income inequities, enormous environmental degradation, and a slow but growing demand for political reform. Can the Chinese manage all this without a radical political retrenchment or a violent internal upheaval the consequences of which could be catastrophic for China, its neighbors, and the United States?

The fact is that China's internal stability remains a serious long-term issue, called into question by the sea change wrought by modernization. Neither official nor private resources have been able to cope with massive internal emigration into the cities, where thousands move each year from surrounding villages. The health industry has been in shambles, unable to keep up with the need for hospitals and doctors. As China moved into the 21st century the ancient problem of leprosy hung on like a ghost of the past while new, more modern and virulent plagues, such as AIDS, began to wreak their devastation. As central government controls were relaxed in some areas, corruption increased. Families came under stress, with adultery, suicide, and increasingly rebellious youth part of the result. China's leaders quickly discovered that modernization brought traumas of a different sort, and they struggled to find solutions within the "socialist" model. Chinese planners furiously amended the Leninist construction of reality to fit the challenges of modernity.⁷

While the nation's accommodations of capitalism proved remarkably flexible, Chinese communism, like its dying counterparts elsewhere in the world, was built on a false anthropology, a grossly distorted understanding of human

nature and human freedom. Among other things, it was utterly unable to account for man's longing for transcendence and the need to respond to it in freedom, much less to understand this longing and accommodate it as a natural right. Inevitably, the socio-economic transformation of the country created a huge moral and spiritual vacuum, one that was rapidly filled by religion. After having been viciously and systematically suppressed during the Cultural Revolution (1966–1976), many of China's religions had quickly begun to revive. By the 1990s, many were steadily increasing in the numbers of adherents with various strains of Christianity leading the way.

The growing phenomenon of religion naturally worries China's ruling class. Unlike Tibetan Buddhism or Islam (both of which have their own difficulties), Christianity is directly associated with Western imperialism and, in the minds of many, China's humiliation. Adding to the anxieties associated with religion, China's new economic growth has produced pressures for political reform which threatens the regime. In 1989, the government arrested or killed the leaders of a protest in Beijing's Tiananmen Square, demonstrating a resolve to control, rather than be controlled by, internal movements for change.

There is in these trends a fundamental contradiction which must be resolved, and to which American foreign policy must attend. On the one hand, the Chinese government has apparently succeeded in replacing a Marxist economy with carefully managed but increasingly free market practices that are producing not only impressive economic growth but an enormous reduction in poverty.⁸ On the other hand, the government holds tight to outmoded and potentially disastrous methods of managing the consequences of economic growth. It is trying to midwife a stable political transition from the top down, controlling and manipulating with the deadening hand of socialist bureaucracy the activities of 1.3 billion citizens whose lives have been turned upside down. Some have been freed by new wealth; others plunged into despair by modernization.⁹

To their credit, China's leaders are asking tough questions about national policy. After all, a country capable of abandoning Marxist and Maoist economic theory in the course of a few years ought to be able to adjust its other principles in accordance with social and political realities. As they look at the enormous problems they are facing, their doctrines tell them to use the

Party and state to repress the issues. But their common sense and the success of their economic pragmatism tells them that other solutions must be considered as well. It is in the search for those solutions—ones consistent with their sense of Chinese greatness and national unity—that an opportunity to influence China emerges. In few areas is that opportunity greater, and in the long run more important for China's internal transformation, than the question of religion.

Today religious devotion appears to be growing steadily, moving to fill a void in the Chinese spirit. As this occurs, China's bosses, whose failure to understand religion adds to their fear, cling to Party-related mechanisms of social control, including "official" oversight institutions within each religious group and a State Administration for Religious Affairs (SARA) operating at the national, provincial, and local levels.

The quixotic task of SARA is to ensure that religious practice accords with national policy. These efforts have had some qualified success, producing a squad of five "official" religious groupings (Buddhism, Islam, Daoism, Protestantism, and Catholicism) that together claim some 150 million adherents, about 12 percent of the total population.¹⁰ But they have also encouraged a growing religious "underground" of individuals and groups refusing government registration or resisting government control of religion. Estimates of both "official" and underground adherents vary widely, but the numbers of China's religious believers clearly exceed 200 million, or between 15 and 20 percent of the total population. More importantly, the trend is upward, and perhaps dramatically so. One recent estimate suggests that within 30 years China's Christian population alone could reach between 20 and 30 percent of the total.¹¹

Awareness of these trends has alarmed Chinese officials, whose official ideology continues to view China as an atheist state and religion as a residuum of imperialism or as the practice of troublesome ethnic minorities to be managed and controlled. They are intensely aware of the destabilizing role religion—especially 19th century Christianity—has played in Chinese history. One result of their alarm has been persistent religious discrimination, which is inherent in the whole system of managed "official" religious groups. Far worse for the victims and for China are the periodic crack-downs and bouts of harsh persecution.

China's systematic religious persecution has been amply documented and widely acknowledged. For example, the U.S. State Department has for over a decade listed China as one of the worst persecuting governments in the world. The China chapters of its *Annual Report on International Religious Freedom* are a catalogue of horrors, most of them due to government policies against Tibetan Buddhists, Protestant house churches, Catholic "underground" clergy, and Muslims in Xingjiang Province.

The 2011 *Annual Report* noted, for example:

[T]he government's repression of religious freedom remained severe in the Tibet Autonomous Region and other Tibetan areas, particularly during "sensitive periods," such as the Shanghai World Expo and the Asian Games. ...Chinese security forces forcibly removed more than 300 Tibetan Buddhist monks from the Kirti Monastery in April [2011], nearly a month after a Buddhist monk set himself on fire to protest government policies. The Chinese government also prevented Christians from outdoor worship services as part of the Shouwang church, a 1,000-member unofficial "house church" in Beijing. The Chinese government continued to implement measures that strictly regulated religious activity in the Xinjiang Uighur Autonomous Region (XUAR) and in Tibetan areas.¹²

Recently the nonpartisan Pew Forum on Religion and Public Life identified a troubling new development—increasing hostility toward religion within Chinese society at large. In its 2011 global report, *Rising Restrictions on Religion*, it noted that "[i]n China, there was no change in the level of government restrictions on religion, which remained very high. But social hostilities involving religion, which had been relatively low, increased substantially from mid-2006 to mid-2009. During that time period protests erupted among the predominantly Buddhist population in Tibet and among Uighur Muslims in Xinjiang Province over what they saw as cultural and economic domination by ethnic Han Chinese."¹³

The Beijing government faces a profound and deepening dilemma that must be resolved if the nation's economic growth is to move it toward stable and peaceful democratic governance in the coming decades. History suggests

that rapidly increasing, diffused religious devotion is not susceptible to the kind of control that China continues to impose. Religion can be forcibly suppressed for a time, as it was during the Cultural Revolution, and as it continues to be in various locations around the world. But China decided in the 1980s that the costs to the nation of Maoist savagery were too high. It has rejected Maoist methods, including the attempt to abolish religion altogether. In fact, the government has since the days of the Cultural Revolution refurbished tens of thousands of houses of worship, and built even more.

Beijing's hope has been to domesticate and bureaucratize religious bodies under a neo-Confucian, patriotic umbrella of authoritarian control. But there is little in Chinese Christianity, Tibetan Buddhism or Islam practiced in Xinjiang Province that suggests such a goal is feasible. Traditional religions that are energized and growing must either be ruthlessly suppressed or encouraged into constructive efforts for the public good. The movement of modern history, including in China, suggests that religious groups cannot over the long term be manipulated into a de facto extension of the national bureaucracy, altering their doctrinal or moral imperatives to suit government policy. Tibetan Buddhists, for example, will no more accept Beijing's authority over who is the reincarnation of revered lamas than Catholicism will accept its control over the ordination of bishops.

The fact is that religious actors and ideas have the potential to make significant contributions to China's development in coming decades by providing, *inter alia*, a source of social capital and social harmony. As noted, the questions now being asked by China's leaders provide an opportunity for governments that China respects and for China's religious groups themselves, to make the case for their inclusion as a positive force in the nation's socio-economic and political development.

But the trajectory of current Chinese policy suggests that the government is likely to continue its counterproductive understanding of "unofficial" religious practice as destabilizing, and to continue efforts to restrain and manipulate that practice as a result. This will mean more religious persecution and a deepening of the social crisis standing in the way of China's peaceful movement toward stable representative government. It will mean a continuing obstacle to the improvement of U.S.-China relations. At worst, it could also mean a spur to Chinese nationalism and external aggression by the Chinese government.

To date, U.S. religious freedom policy has been sporadic in its application, and minimal in its effects. It has succeeded in China, as it has elsewhere, in the occasional release of religious prisoners. It can also be said to have habituated China's leaders to U.S. interest on the issue, although they are doubtlessly aware of how erratic that interest can be. The most consistent elements of U.S. policy have been the annual public denunciation attending the CPC designation, which has not been followed by action,¹⁴ and the annual attempt during the 1990s to condemn China at the UN Commission on Human Rights in Geneva, which in every case was defeated by aggressive Chinese lobbying.

CHANGING U.S. RELIGION POLICY IN CHINA

Two new dimensions are called for in American religious freedom policy towards China. The first is a recalibration of the task ahead. While it can (and indeed must) continue to target particular cases of injustice against religious people, as it does against injustice to political dissidents and other human rights abuses, the United States must also develop a medium and long-term strategy of altering China's perception of religion. The doors to influencing China's official understanding of religion are several. They include its economy, the law, Chinese patriotism, and the nation's growing platoons of academic experts, whose job is to gather the information and provide the analysis needed to usher China to the next level of modernization.

The second dimension of U.S. religious freedom policy in China, as elsewhere, must be consistency and institutionalization. Under the IRF Act the United States has denounced China each year since 1999 as a particularly severe violator of religious freedom. American officials have tried to talk to the Chinese about religious persecution and other human rights abuses in annual human rights dialogues, but these too often devolve into humanitarian pleading. To be sure, American human rights officials do wrestle with how to build bridges in these talks, so that they might have some cumulative effect on Chinese law and culture. But experience suggests that the talks just do not work that way. The Chinese, like most other countries with which the United States has human rights dialogues, see them as an

America-management task, rather than an integral part of U.S.-China relations and the vital interests that the two countries share.

Those interests center on trade, nuclear proliferation, and the stability of East Asia, especially North Korea. Underlying all of these issues is a shared interest in avoiding a catastrophic economic, social or political meltdown within China, as it tries to manage the internal dissent that inevitably attends enormous economic growth. Part of that internal volcano is the explosion of religious communities, which the Chinese communist government does not understand and which it, ironically, fears far more than the effects of capitalism. It is the underlying reason that China remains a severe violator of religious freedom.

If the United States were going to integrate its religious freedom policy into its larger strategy for China, it would worry less about prisoner releases and more about those Chinese religious communities, their relationships to Chinese laws designed to control them, and those elements of the Chinese government that design and implement China's religion policy.

How would a new religious realism be manifested in IRF policy? Among other things, it would mean transforming the argument. Currently the United States threatens sanctions if persecution continues and offers better relations if it stops. This has not worked, and is unlikely to do so over the long term. A broader policy would not abandon sticks and carrots but would nest them in a different logic, which goes something like this: religion and religious communities are natural and inevitable. Persecution induces social instability, even extremism, and harms the economy. Accommodate and nourish religious groups and they will benefit your economies and increase internal stability. This logic has been used by some U.S. officials. But it must be employed consistently by all U.S. officials, and it must be institutionalized in U.S. funded programs and in permanent U.S.-China bilateral organizations.

The goal of U.S. IRF policy in China should be to communicate a consistent, clear message that can overcome cultural and ideological resistance: it is in China's national interests not simply to end persecution, but also to favor the religious life. To be orderly and productive, it must be nurtured, not controlled and suppressed. Freed to pursue their beliefs, facilitated by Chinese laws and policies, Chinese religious communities will contribute to the economic, social, and political strengthening of

China. This is as true of Tibetan Buddhists and Uighur Muslims as it is of Chinese Christians.

The United States has been passing such messages arbitrarily to the Chinese for years, but it has done so inconsistently. Any appeal to China's national interests has been undermined by mixed signals and an emphasis on prisoner releases. Some religious freedom activists argue that the United States has complained about persecution without ever taking punitive action, such as economic sanctions. This criticism is correct to a point. Like other governments, the Chinese exploit American inconsistencies. But neither threats of sanctions nor sanctions themselves can alone solve the long-term problem of persecution, let alone religious freedom.

THINKING WITH THE CHINESE ABOUT RELIGION

If the United States is to break out of the cycle of empty threats (CPC designations), largely unavailing diplomatic dances (annual human rights dialogues) and accepting occasional high-profile prisoner releases as "progress," it needs to think differently and act differently when it comes to religion in China. Here are some ideas, by no means exhaustive, that could point the way.

The Economy, Civil Society, and Modernization

Economic activity is a major engine of Chinese policies, both domestic and international. If Chinese authorities became interested in the growth of religious communities as an economic asset and a driver of modernization rather than a source of social and political instability, they would be far more open to arguments against discrimination and persecution. If they saw, for example, that unregulated Protestant house churches were factories for "the lesser virtues," i.e., the social habits that yield economic productivity, they might reassess the role of the Three-Self Movement as a means of controlling, or when necessary repressing, Protestant movements. The religion economy connection could work to the advantage of other religious groups as well.

One way to approach this problem is to facilitate a change in the calculus of self-interest, and to tap into the Chinese Confucian evaluation of

education as the highest rung on the prestige ladder.¹⁵ If the Chinese became interested in religious education as a way to reinforce the attitudes and virtues that yield economically productive behavior, they might look differently at their policies. The idea is to get the Chinese to think seriously about the relationships between religion and sustaining economic growth. Such thinking would implicate much more than youth education; it would also raise questions about the treatment of “unofficial” or underground religious communities, the building of houses of worship, the training of clergy, and the involvement of religious people in government.

The huge and growing need in China for social and spiritual services provides another opportunity for making the case that religion is good for China. The problems are enormous: infectious diseases from leprosy to AIDS, increasing numbers of elderly people without resources, continuing abject poverty for tens of millions of people, environmental degradation, massive migrations into cities and homelessness, the breakdown of the family, moral degeneracy, and more. Religious communities around the world are uniquely positioned to deal with such problems and to deliver the services that government cannot.¹⁶ China is no different. U.S. diplomats “raise these points” with the Chinese from time to time, but a sustained initiative would very likely prove more availing. For example, the United States could deploy its development grants to organizations who work with local religious groups to provide social services.

The Law

China’s self-understanding is grounded in the rule of law, not in the democratic sense, in which law restricts the power of government and protects individual rights, but in the sense of defining and protecting the interests of the nation from the top down, i.e., by the actions of the government. Implicit in the Chinese view of law is an understanding of the state that is highly collectivist and paternalistic. As economic development continues to create a middle class and a civil society of voluntary associations, this view of law may begin to shift. But for the foreseeable future, religion will be addressed in China through the laws that are intended to regulate, control and, if necessary, suppress.

Working within that framework, U.S. foreign policy should systematize what are now ad hoc and inconsistent efforts on the part of various organizations inside China to encourage legal reform. The United States should encourage these disparate programs, some of which are U.S.-funded but many of which are not, towards employing the law for the benefit of religious groups. For example, legal programs should target local and provincial officials who, in the course of crackdowns on religious groups, abuse laws and regulations now on the books. U.S. grants should encourage NGOs to train and support cadres of Chinese defense attorneys who are experts in existing legal codes, and who can defend in Chinese courts religious groups suffering discrimination or abuse.

The Academy

The Chinese have traditionally venerated learning. When controlled religious activities became permissible after the Cultural Revolution, one result was a powerful policy need to understand better that which must be controlled. Accordingly, as Chinese institutions of higher learning developed during the 1980s and 1990s there was a natural interest in the “scientific” study of religion.

Partly as a result this officially atheist nation pays more attention to religion in its universities than most other countries of the world (including, ironically, many of the elite institutions in the United States). Chinese scholars travel the world in order to gather materials for detailed analyses of various religious traditions as they are developing in particular countries and regions.

The United States should allocate significant resources to stimulate greater discourse on religion with Chinese academics. This can take many forms, all of which now exist, but—as with most things involving U.S. policy on religion—operate in an entirely ad hoc fashion. They include university exchange programs of faculty and students, cooperative empirical research on the relationship between religious freedom and political, social, economic, and intellectual development, curricula development initiatives, discussion of the value of religious education for the common good, and various models for encouraging doctrinal development.

Permanent U.S.-China Institutions

The United States and China should establish a permanent bilateral institution that has a chance of withstanding the ups and downs of U.S.-China relations and, at the same time, facilitates true dialogue. One vehicle to this goal would be similar to the one proposed by IRF Ambassador John Hanford in the summer of 2002: a standing bilateral working group on religion, chaired by high level U.S. and Chinese officials. The group would be multilayered and interagency, drawing on government and related private sectors.

The working group might include, for example, officials from national and provincial government and party organizations, security and law enforcement, minority and ethnic affairs, economic development officials and business leaders, academics, democracy advocates, and religious leaders. The overarching goal of the working group would be exchange of information, scholarship, and national experience on the issue of religion and its relationship to good governance. The group could make recommendations to both governments, and under its aegis could sponsor private and public programs to address religion as a matter of law and science.

CONCLUSION

China is a huge player on the world stage, its fate of enormous significance for international affairs and vital American interests, including American national security. Among the issues that have not typically been addressed by U.S. policy makers in that context is religious freedom. Far more than a humanitarian issue, the way China handles its internal religious matters is of sufficient importance that the United States should make religious liberty a central element of its relationship with the East Asian nation.

NOTES

1. This paper is adapted from Farr's *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security* (New York: Oxford University Press, 2008), 273–307.

2. Jisi Wang, "China's Search for Stability with America," *Foreign Affairs* (September/October 2005): 45.
3. David S. Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor* (New York: W.W. Norton and Co., 1999), 478.
4. David Zweig and Jianhai Bi, "China's Global Hunt for Energy," *Foreign Affairs* (September/October 2005): 25–38.
5. Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).
6. Bijian Zheng, "China's 'Peaceful Rise' to Great-Power Status," *Foreign Affairs* (September/October 2005): 18–24.
7. Cf. Ross Terrill, "China is Not Just Rising, but Also Changing," *New York Times* (September 9, 2006): A27.
8. Bijian Zheng, "China's 'Peaceful Rise' to Great-Power Status," *Foreign Affairs* (September/October 2005): 18–19.
9. Thomas L. Friedman, "How to Look at China," *The New York Times* (November 9, 2005): A27. For a highly pessimistic view of China's modernization and its effects on poverty and stability, see Guy Sorman, "The Truth about China," *The Wall Street Journal*, (April 20, 2007): A15.
10. See the section on "religious demography" in the China chapter of the State Department's *2006 Annual Report on International Religious Freedom* at www.state.gov.
11. David Aikman, *Jesus in Beijing: How Christianity is Transforming China and Changing the Global Balance of Power* (Washington: Regnery Publishing, Inc., 2003), 285. Aikman's book has been banned in China since 2003. See the China chapter of the *2006 Annual Report on International Religious Freedom* at www.state.gov.
12. See the China chapter of the *2011 Annual Report* at http://www.state.gov/g/drl/rls/irf/2010_5/168351.htm.
13. See the report's description of social hostilities in China at [http://pewforum.org/Government/Rising-Restrictions-on-Religion\(4\).aspx](http://pewforum.org/Government/Rising-Restrictions-on-Religion(4).aspx).
14. The *2011 Annual Report on International Religious Freedom* asserts that the Secretary of State "applied CPC sanctions" to China, but these are toothless and ineffective. For the United States statement, see http://www.state.gov/g/drl/rls/irf/2010_5/168441.htm. For a discussion of the "sanctions," see Thomas Farr, *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security* (Oxford: Oxford University Press, 2008), 196–197.
15. Thomas Farr, *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security* (Oxford: Oxford University Press, 2008), 43.
16. One successful NGO, the Protestant Amity Foundation, has operated in China for more than 20 years, providing services to the poor and under-privileged. Amity's success has been in part the result of its approval by the government, which recently gave it an award for its work. The United States should find ways to seed such organizations and help them grow in China. See United States Catholic China Bureau, *China Church Quarterly* (Spring 2007): 6.

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The Chinese Freedom of Religious Belief Under the Background of Globalization

XIAOCHAO WANG

Abstract:

Freedom of religious belief is the core problem for contemporary religions. Scholars agree on what freedom of religious belief is and whether Chinese society should practice the “freedom of religious belief,” but they have various opinions on what “religious freedom” is and whether Chinese society should practice such “religious freedom.” Through an analysis of these two concepts, this paper tries to expound the importance of putting into practice the “freedom of religious belief” in contemporary Chinese society, and to lay out a vision of how to construct a religious community in China.

Belief is the core of religion, and “freedom of religious belief” is the core problem for contemporary religions. Against the background of globalization, the practice of the principle of freedom of religious belief underlies China's long period of stability, is vital for the happiness of the Chinese people, and is of significance for contemporary Chinese society. If we set out from this basic point and then observe, reflect on, and remark on the current situation of Chinese freedom of religious belief, no one will undervalue the significance of this issue, and the radical division of opinion will not happen.

“FREEDOM OF RELIGIOUS BELIEF” OR “RELIGIOUS FREEDOM”

Since the reform and opening of Chinese society, international academic circles have frequently offered observations and conducted research on

China's current situation of religious belief. Scholars agree on what freedom of religious belief is and whether the Chinese society should practice the "freedom of religious belief," but they have various opinions on what "religious freedom" is and whether the Chinese society should practice "religious freedom." This division of understanding also affects the fundamental understanding of religion by every level of Chinese society.

These two compound concepts, "freedom of religious belief" and "religious freedom" overlap in their intensions (i.e., signified) and differ in their extensions (i.e., signifier). If we put aside the dimension of "religion," the relationship will be between "freedom of belief" and "freedom." If we put aside the dimension of "freedom," the relationship will be between "religious belief" and "religion."

On December 10, 1948, the United Nations General Assembly passed and promulgated the "Universal Declaration of Human Rights." Article 18 indicates that "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." It is assumed that, in today's world, different definitions of "religious freedom" are drawn from this basis, and that "religious freedom" includes "freedom of religious belief" as a fundamental part.

Today, constitutions of different countries have different regulations about religions. Chapter 1, Article 2 of the Constitution of Norway says, "All inhabitants of the Realm shall have the right to free exercise of their religion."¹ Article 13, line 1 of the Greek Constitution says, "Freedom of religious conscience is inviolable."² Article 20, line 1 of the Constitution of the Republic of Korea states, "All citizens shall enjoy freedom of religion."³ Article 15, line 1 of the Swiss Federal Constitution states, "Freedom of religion and conscience is guaranteed."⁴ Article 2, line 1 of the Canadian Constitution says, "(Everyone has the fundamental freedom) of conscience and religion."⁵ Article 4, line 1 of the Federal Republic of Germany's Basic Law states, "Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable."⁶ No matter how it is expressed in different national constitutions, religious freedom includes freedom of religious belief and freedom of religious activity. Chinese and foreign scholars agree on this point.

Religious freedom means that one can use his or her own judgment to choose a religious belief or to attend a religious activity without worrying about persecution or discrimination by society or others. As a system of rights, religious freedom is composed of both freedom of religious belief and freedom of religious activity, including rituals. Freedom of religious belief is a fundamental part of religious freedom, and the laws of modern countries (including China) stipulate that citizens enjoy the freedom of religious belief, meaning that citizens voluntarily believe or do not believe in religion, according to their innermost judgment. At the same time, laws are used to guarantee or to regulate the freedom of various religious activities. China's current laws have clear regulations on freedom of religious belief. Article 36 of the Constitution of the People's Republic of China stipulates, "Citizens of the People's Republic of China enjoy freedom of religious belief." It continues with, "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." Chinese scholars interpret this statement with their own understanding that citizens have the freedom to believe or not believe in religion. Every citizen has the freedom to believe in religion, and also has the freedom not to believe in religion. One has the freedom to believe in one religion or another. In the same religion, one has the freedom to believe in one sect or another. One has the freedom not to have believed in religion in the past but now believe, as well as the freedom to have believed in religion in the past but not believe now. The law respects and protects freedom to believe in religion, and also respects and protects freedom not to believe in religion. Religious citizens and non-religious citizens share equal rights and duties, and no state organ, public organization or individual may compel citizens to believe in or not to believe in any religion. No one may discriminate against citizens who believe in or do not believe in any religion. This is the fundamental content of the "freedom of religious belief."

Chinese scholars are still deepening their understanding of "freedom of religious belief." For example, Professor Jihong Mo holds that "the right to choose religious belief and the right of religious belief without interference are two of the most important extensions of the right of the freedom of religious belief." He also states that "freedom of religious belief in the form of rights could be expressed as the right to choose religious belief, the right of

religious belief without interference, the right of equality of religious belief, the right to maintain religious belief, the right to change one's religion, the right of religious belief for children to follow their parents or guardians, and the right to manifest religious belief, etc.”⁷ I believe that such thinking will continue in Chinese academic circles, and if the scholars' opinions are right, it will be accepted by more Chinese people.

However, do current Chinese laws only allow “freedom of religious belief” and not “freedom of religious activity?” This is not the case. Chinese laws have relevant regulations on “freedom of religious activity,” but adopt an even-handed formulation, which contains both “permission” and “prohibition.”

The Regulations on Religious Affairs, enacted on March 1, 2005, are in essence a law about “religious activities.” Article 3 stipulates:

The State, in accordance with the law, protects normal religious activities, and safeguards the lawful rights and interests of religious bodies, sites for religious activities and religious citizens. Religious bodies, sites for religious activities and religious citizens shall abide by the Constitution, laws, regulations and rules, and safeguard unification of the country, unity of all nationalities and stability of society. No organization or individual 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, or in other activities that harm State or public interests, or citizens' lawful rights and interests.

We can see that the Regulations regulate different kinds of religious activities taking law as the criterion. That is to say, religious activities and other non-religious activities are the same: legitimate religious activities are protected and free, and illegitimate religious activities are not free. Such regulations insist on the unification of rights and duties of the citizens. Freedom of religious activity neither is equal to nor is implied that religious activities are free from any constraint. Religious personages and believers enjoy the right to lead or join legitimate religious activities, but also undertake the duty to obey the Constitution, laws, and regulations. The activities of religious groups and believers should be limited by the Constitution, laws, and regulations. It is the case in China, and also in all the nations of the world.

In my view, belief is the core of religion, and belief must be free because for anything that is not free cannot be accepted as “belief.” Theoretically, “freedom of religious belief” sounds reasonable and is accepted by the general public, but if we mention “freedom of religious activity,” then the wording “religious activity” can easily cause misunderstanding and mislead people. This is because it has complex implications and the “freedom of religious activity” is not an absolute freedom. Hence, in China's current concrete situation, the phrase “freedom of religious belief” seems more reliable, and the implications of “religious freedom” raised by some countries overlap with “freedom of religious belief” raised by China.

“MODERN HORIZON” OR “GLOBAL HORIZON”

Scholars in China and abroad do not differ much in their understanding of “freedom of religious belief” and “religious freedom.” However, they differ quite a bit in observing and judging the current situation of Chinese freedom of religious belief. As a scholar, I not only reflect on these problems, but also pay close attention to other scholars' opinions and exchange opinions with foreign scholars.

I notice that currently some foreign individuals and organizations denounce or criticize the current situation of Chinese religion, but do not focus on whether the Chinese government is willing to or intending to put “freedom of religious belief” into practice. Instead they focus on “freedom of religious activity.” For example, David Aikman, an American journalist, former *Time Magazine* Beijing bureau chief, and foreign policy consultant, says, “Compared with 1949–1976, China is a paradise of personal freedom. Compared with most other major nations of the world, however, China still lags miles behind in terms of freedom of religion and freedom of expression.”⁸ After quoting an article from the 1982 Chinese Constitution on the freedom of religious belief, he responds that it was impressive. Then he asserts:

The problem lies both in defining what “normal religious activities” are and in the content of the “Regulations on the Management of Sites for Religious Activities.” “Normal religious activities” does not

include Christian evangelism in the ordinary sense that religious freedom is defined in most modern societies. As for those “site” regulations, they were designed to prevent Christians or adherents of any other faith from moving across jurisdictional boundaries to share their faith with other Chinese.⁹

There are some problems in Aikman’s analysis of the situation of Chinese religion. First, he makes no distinction between “freedom of religious belief” and “freedom of religious activity,” perhaps he confuses the meanings of the two concepts. From the Chinese government’s regulation of “religious activity,” he judges that the Chinese actually have no “religious freedom.” Second, he seems to believe that “religious freedom” in a modern society should be free of judicial restrictions, and the Chinese government guarantees freedom of religious belief while insisting on “administration of religion in accordance with the law.” Consequently, he judges that the Chinese actually have no religious freedom. Third, he analyses the situation with the “modern horizon,” which lacks a global perspective like the “global horizon.” I have already dealt with the first two problems in the first part of this paper, and I will now stress the third problem.

To analyze any country’s current religious situation, one is required to survey that country’s history and social background. When analyzing, one scholar who is equipped with a modern horizon and another who is equipped with a global horizon will reach widely divergent conclusions. A “modern horizon” scholar looks at the “freedom of religious belief” as an absolute concept, and ignores other countries’ rich and diverse social lives by following existing patterns—the European pattern or the United States pattern. However, a “global horizon” scholar is different. He or she looks upon on the “freedom of religious belief” as a concept that requires further inquiry. He or she considers that, in today’s globalized age, freedom of religious belief is intertwined with the requirements of people from different ethnic groups and cultural backgrounds. This scholar also holds that the modern interpretation of “religious freedom” needs to be clarified.

If we view the problem historically, we find that prior to the Reformation of the 16th century in Western Europe, religious freedom or tolerance was rare. After the Renaissance and the Enlightenment, religious freedom

gradually became a reality in Europe and the United States. Religious freedom opposed traditional religion (Roman Catholicism), more specifically the hegemony of traditional religion and the prejudice and narrowness of religious irrationality. After the 18th century, secularism spread through Europe, where the disjunction of “religion” and “secularism” dominated people’s understanding of religious freedom. On the one hand, individual rights including freedom of religious belief were inviolable; on the other hand, religion was gradually fading out of the public and social sphere. Since the 19th century, “freedom of religious belief” as a basic civil right has become a common practice. Using freedom of religious belief and other basic human rights, European and American societies gradually have established social structures of coexistent diversity, where freedom of religious belief sustains the internal social structure and symbolizes the social standard of values. Thus, the outlook of “religious freedom” under a “modern horizon” has the following features: emphasizing the absoluteness of freedom, emphasizing the disjunction of religion and society, and emphasizing the separation of religion and politics.

We have already entered an age of globalization that needs to be distinguished from the “modern age” that occurred in Europe, the United States, and rising Asian countries. This will help avoid future problems, such as the suitability of the “religious freedom” advocated by European and American societies for non-Western societies. How can the freedom of belief that emphasizes the individual respond to the coexistence and interaction of multiple values from diverse groups? How can we consider and respect the interests of social groups and beliefs of communities while affirming the individual freedom of belief? Will freedom without restriction in the private sphere spur indulgence and cause injury to others’ freedoms? Will unconditional freedom in the public sphere challenge other social values, such as equity, justice, and harmony?

In this globalized age, it is more appropriate to understand freedom of religious belief by considering the relationship between religions. The history of world religions indicates that the unification of religious beliefs at the level of values and ideology is an illusion, and such attempts often cause religious discrimination and persecution. Since arguments on divinity at the level of religious belief are unavoidable, we must restrict the field of disagreement. We should insist on the principle of freedom in the field of belief and the principle

of legality in the field of activities. Since the reform and opening policy, the Chinese government insists on implementing the principle of freedom of religious belief, and emphasizes the administration of religion according to law. Therefore, it is the result of a “modern horizon” viewpoint that Aikman denies China’s religious freedom, uses the Chinese government’s lawful administration of religion as evidence, and lacks a “global horizon.” The insistence on both the principle of freedom of religious belief and lawful administration of religion is the unity of opposites. Therefore, the situation described by Aikman does not exist because he believes that once the administration of religion is mentioned, religious freedom will be denied.

By understanding freedom of religious belief in a “modern horizon,” Europe and the United States stress individual freedom of religious belief and restrict government actions. In comparison, the Chinese government focuses on the interests of society as a whole, and emphasizes that individual freedom of belief cannot harm others’ lawful rights and interests. It also stresses the government’s lawful administration of religious affairs. The 21st century is a century of globalization, and reinforcing the administration of religion is a global trend: France’s laws against dangerous heresies, Japan’s modified Religious Juridical Persons Law, and the U.S. Religious Freedom Act in 1988. All of these measures aimed at reinforcing the governments’ responsibilities to maintain religious freedom. It is impossible for religious freedom to be unconditional in any country. From this aspect, we should not regard the lawful administration of religion as the negation of the freedom of religious belief, rather the support of it. China’s implementation of the principle of freedom of religious belief is an effort to increase the people’s freedom of belief under the framework of the whole country’s interest, and to realize individual citizens’ freedom of belief under the comprehensive administration of religious groups.

Aikman’s opinion does not represent the opinions of all European and North American scholars. For example, Canadian scholar, James Miller, holds a different view of the Chinese government’s administration of religious sites. He writes:

In fact, the latest set of regulations governing religion in China, published in 2004, recognize the new reality of Chinese religions

and demonstrate a clear shift away from considering religion in the context of political ideology. The new regulations do not deal with thorny theoretical questions, such as the definition of religion, or the relationship between religion, superstition, and scientific belief. Rather, they tend to focus on more bureaucratic questions, such as which government agency is the competent authority for dealing with various types of religious issues, or economic questions such as the relationship between religious pilgrimage and secular tourism.¹⁰

Miller’s following observation seems more objective than Aikman’s opinion:

As this regulation indicates, the overall goal now is to promote the smooth management of religions in such a way that they do not disrupt social harmony or pose a threat to the authority of the government. It seems that party officials are no longer concerned with understanding the nature of religion in terms of political theory, but only with managing its social and economic functioning. In contrast to the divisive ideological debates of the May Fourth and early communist era over secularization, tradition, and modernity, the contemporary framework for understanding the relationship between religion and society emphasizes economics, management, and social harmony. The CCP no longer seems intent on attempting to control the religious beliefs of Chinese citizens, but rather on ensuring that religious organizations, whatever they believe, work to support the nation and its economy.¹¹

It is a central problem to handle the relationship between the freedom of religious belief and lawful administration of religion, a puzzle that requires special attention from countries around the world. On one hand, the relation between nation and religion is never simple. Regional issues never exist in isolation, but rather are always interlaced with historical and contemporary contradictions of politics, economics, culture, and ethnicity. On the other hand, since developments in China are inseparable from the world, regional issues interact with international conflicts and become an

important factor in international relations and world politics.¹² The Chinese government already has a clear statement of its understanding of freedom of religious belief, and reiterates its sincerity to maintain the principle of freedom of religious belief. This situation is perfectly clear, leaving no doubts.

A COMMUNITY OF RELIGIONS

The overwhelming impact of globalization means that the effects of religions are increasingly prominent. The age of globalization is an age of religion in an authentic sense since the coexistence of religions has formed a kind of social reality. Jacques Baudot, coordinator of the International Forum for Social Development at the United Nations, says that:

A community is a great human undertaking. It requires its members to be tolerant and generous to each other. But at the same time it also respects everyone's freedom, depending more on shared values and accepted customs rather than only law and institutions. Members of a community should not fight with each other, while wars between one community and another is even unthinkable. "Community" has a kind of gratified quality. It calls for consensus and no more conflict of interests.¹³

To establish a community of religions requires a connection between the 11 existing religions because it essentially is a community "among religions." A community of religions is neither an actual, existing religious country nor an association of existing religions. It is to be a great undertaking with belief as the bond. Hence, a community of religions is the peaceful coexistence of religions, a union of religions.

To quote Hu Jintao, "to fully and rightly implement the policy of freedom of religious belief" is the primary principle for managing China's religious affairs. The implementation of the principle of freedom of religious belief is the work of the State Administration for Religious Affairs, every religion in China, and every Chinese citizen. Since the reform and opening up policy, changes have occurred in China's religious circumstances, including the

growing number of religious believers, the changing characteristics of believers, the shifting of religious configuration, the prominence of international influence, and the complexity of religious contradictions. In order to "build a Moderately Prosperous Society in all Respects" and to accelerate socialist modernization, in-depth studies of these changes and new tendencies in China's religious situation need to search for adequate solutions to various religious contradictions and to promote harmony among religions.¹⁴

In order to improve citizens' understanding of religion and to implement properly the freedom of religious belief, some Chinese scholars recently have advocated constructing a Chinese community of religions. Some American theologians support such a community's construction. James L. Fredericks says that China's community of religions should provide an option for the construction of Chinese civilization.¹⁵ China needs religious leaders who are wise, trained, and equipped with a "global horizon" viewpoint.¹⁶ To contribute to the construction of Chinese civilization, the community of religions has to provide a broad perspective and mirror the conversation between Buddhism and Christianity.¹⁷

Ze Jin and Yonghui Qiu say, "China is in a period of drastic social transformation and also in a period of strategic opportunity. The ecology of diverse beliefs, including traditional religions and folk beliefs, has become a fact obvious to all in modern China. This ecological scenery becomes more multicolored and complex as society is inundated by the wave of globalization."¹⁸ It is still an ideal to construct a Chinese community of religions. However, as long as the principle of freedom of religious belief does not change, the relationships among Chinese religions and those between religion and society will certainly lead to harmony.

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PART THREE

Religion and Society:
A Comparison of Various
Models Currently Being
Practiced in the Chinese
Speaking World

Law and Religion: the Hong Kong Model and its Adaptability to Mainland China

BENNY YIUTING TAI

Abstract:

In this paper, the relationship between law and religion in Hong Kong will be discussed. Although Hong Kong is a part of the People's Republic of China, its system of laws, including the relationship between law and religion, is very different from that in Mainland China. Whether the relationship between law and religion as practiced in Hong Kong has any chance be adapted by Mainland China in the future is a legitimate concern.

Part I of this paper gives a brief and general account of the legal and constitutional order established in Hong Kong after the People's Republic of China resumed exercising sovereignty in 1997. Part II illustrates the relationship between law and religion in Hong Kong under the new constitutional order. Part III analyzes the adaptability of the Hong Kong model to Mainland China.

HONG KONG'S LEGAL AND CONSTITUTIONAL ORDER

Before Hong Kong Island was ceded to the British after a war in 1841, Hong Kong was a small fishing village, sparsely populated, at the far south end of China under the reign of the Qing emperor. The Qing Dynasty had a sophisticated set of legal codes called the Imperial Code of the Qing Dynasty, issued by the Qing emperors and applicable to the whole empire.¹ There were also customary laws or practices applicable particularly to the region.

During the occupation of Hong Kong, the British issued a proclamation promising that “the natives of the island of Hong Kong, and all natives

of China resorting thereto shall be governed according to the laws and customs of China, every description of torture excepted.”² The promise was subject to subsequent legal changes. After the Qing emperor officially ceded Hong Kong Island to the queen of the United Kingdom of Great Britain and Ireland in a treaty,³ the colony of Hong Kong was formally established in 1843. The colony’s boundary was extended to the Kowloon Peninsula in 1860, also in the form of cession after another war and treaty.⁴ The New Territories was absorbed into the territory of the colony in 1898 in the 99 year lease.⁵

A common law legal system was transplanted to Hong Kong to facilitate colonial rule.⁶ The substantive laws applicable in Hong Kong came from various sources. Like other colonies, Hong Kong was headed by a governor appointed by the queen. A colonial governor was vested with vast powers, including the power to make local ordinances “by and with the advice and consent”⁷ of the local legislature for the “peace, order and good government of the colony.”⁸ Many acts of Parliament were copied and enacted in the form of local ordinances in the colony. More local ordinances addressing the specific needs of the colony were later enacted. Various acts of Parliament of the United Kingdom were also made applicable to Hong Kong.⁹ The common law of England and the rules of equity were made applicable to Hong Kong by local ordinances¹⁰ so far as they were “applicable to the circumstances of Hong Kong or its inhabitants” and “subject to such modifications as such circumstances may require.”¹¹ Chinese law and customs were maintained to the extent they were not changed or abrogated by local ordinances or court decisions.¹²

From 1979 to 1984, the British government conducted series of negotiations with the Chinese government¹³ on the future of Hong Kong. This was prompted by a practical concern arising from the uncertainty that the lease over the New Territories would expire in less than thirty years. In 1985, an agreement was signed between the British and the Chinese governments.¹⁴ The Chinese government declared that it would resume the exercise of sovereignty over Hong Kong, and the British government declared that it would restore Hong Kong to the PRC starting July 1, 1997. Attached to the agreement was a statement elaborating China’s basic policies regarding Hong Kong after her resumption of sovereignty over Hong Kong.¹⁵

Although China practiced socialism, the Chinese government promised to allow Hong Kong to practice capitalism and to keep the current lifestyle unchanged for 50 years. The Hong Kong Special Administrative Region (HKSAR) would be established and enjoy a high degree of autonomy, vested with executive, legislative, and independent judicial powers, including that of final adjudication. The laws currently enforced in Hong Kong would remain basically unchanged. Rights and freedoms of the Hong Kong residents would be protected.

These features originated from the “One Country, Two Systems” policy developed by the late Chinese leader, Deng Xiaoping. The essence of this policy is to allow a territory separated from the motherland of China to practice a different system from the motherland’s at the time of unification with China.

The policy of “One Country, Two Systems” is in Article 31 of the Constitution of the PRC. It provides that:

The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People’s Congress in light of specific conditions.

On the basis of Article 31, the Basic Law of the HKSAR (“the Basic Law”) was enacted and promulgated in 1990 by the National People’s Congress (NPC), the highest law making body of the PRC. The Basic Law is the constitutional instrument of the HKSAR. Since the Basic Law came into effect on July 1, 1997, the legal order of Hong Kong lies upon a new constitutional foundation that it can “remain basically unchanged” as promised in the Sino-British agreement on the future of Hong Kong and by the Chinese leaders through the “One Country Two Systems” policy.

In another words, the common law legal system previously applied in Hong Kong under the British colonial constitution will be maintained as far as possible but under a new constitutional order. It is within this common law legal order inherited from British colonial rule but sustained by the new constitutional order established by China in Hong Kong that law and religion interact. As will be illustrated below, it is based on the special arrangement of “One Country, Two Systems” that the interrelationships

between law and religion in Hong Kong can be different from their counterparts in Mainland China.

LAW AND RELIGION IN HONG KONG

There are several major features in Hong Kong's model of interaction¹⁶ between law and religion: (1) freedom of religion is constitutionally and legally protected; (2) some of the laws reflect values originated from a particular religion, i.e. Christianity; (3) there is no strict separation between church and state but there is also no state religion; and (4) autonomy of religious organizations is respected.

Freedom of Religion

Article 4 of the Basic Law is a general constitutional principle stating that the HKSAR shall safeguard the rights and freedoms of the residents and of other persons in the region in accordance with law. Providing specific protection to freedom of religion, Article 32 states that "Hong Kong residents shall have freedom of conscience. Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public."

This is a constitutional provision providing protection to the freedom of religion of individuals.¹⁷ This constitutional provision is complemented by Article 18 of the International Covenant on Civil and Political Rights (ICCPR) because Article 39(1) of the Basic Law provides that the provisions of the ICCPR as applied to Hong Kong shall remain and be implemented through the laws of the HKSAR (i.e. the Hong Kong Bill of Rights Ordinance).¹⁸ Article 39(2) further provides that the rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law and such restrictions shall not contravene Article 39(1).

The description of the right is much more detailed under Article 18 of the ICCPR. It states that:

1. Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and 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.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. 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.

Even though Article 36 of the Constitution of the PRC also provides constitutional protection of freedom of religion, it has several major differences with the Hong Kong provision. Article 36 states that:

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 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.

First, in the actual application of the Hong Kong provision¹⁹ following international jurisprudence,²⁰ religion is given a wide definition, including almost all religious faiths, even Falun Gong,²¹ while China only recognizes five religious faiths to be religion.²²

Second, the description of rights in the Hong Kong provision is more detailed. The rights include: (1) the freedom to have or to adopt religion;²³ (2) the freedom to manifest one's religion in worship, observance, practice, and teaching either individually or in community with others and in public or private; (3) the right to be free from coercion which would impair his freedom to have or to adopt a religion or belief of his choice; and (4) the parental rights to ensure the religious and moral education of one's children in conformity with one's own convictions. The Chinese provision only provides a general statement on one's enjoyment of freedom of religious belief, although it also emphasizes that one should not be compelled or discriminated against by the state organ, public organizations, and individuals for believing in or not believing in any religion.

Third, legitimate restriction on rights is more clearly defined in the Hong Kong provision. Only the freedom to manifest one's religion or beliefs but not the freedom to have or to adopt religion may be subject to any limitation. The limitations must be prescribed by law, and are necessary to protect public safety, order, health, morals, and fundamental rights and freedoms of others.²⁴ However, the Chinese provision only protects "normal" religious activities without giving a definition on the meaning of "normal". In addition, no one is allowed to use religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state. The necessity requirement with the embedded proportionality test is not mentioned in the Chinese clause. The Constitution of the PRC has other provisions, which may impose further restrictions on the rights enjoyed by Chinese citizens, including their right to freedom of religion.²⁵

Fourth, the Chinese provision has an additional requirement on religious organizations that "religious bodies and religious affairs are not subject to any foreign domination." We will further discuss the differences between

the Hong Kong and Chinese models of law and religion relationship on religious organizations in the following sections.

These differences between constitutional texts may not be significant as compared with their constitutional mechanisms of enforcement. Basically, the Chinese provision is still not justiciable, and is unenforceable under the constitutional order in Mainland China.²⁶ In another words, Chinese citizens who found their freedom of religion infringed upon do not have any legal channel (like suing in court) to seek any legal redress.

However, it is well recognized that Hong Kong residents have the right to institute legal proceedings in court against the acts of the executive authorities and their personnel for any infringement of their rights protected by the Basic Law.²⁷ It is also confirmed that the courts of the HKSAR continue to exercise a constitutional power to review administrative acts and legislative acts on their conformity with the Basic Law including the above provision concerning freedom of religion.²⁸ In practice, the courts of the HKSAR can continue to exercise their judicial powers to protect freedom of religion independently and impartially.²⁹

Laws Reflecting Religious Values

Owing to the historical influence of British laws, it is not too difficult to find the footprints of Christianity in the statutory laws in Hong Kong, even though the Christian population is only a minority. The same applies to Hong Kong's common law, which is embedded with Christian values.³⁰ Sometimes, they are in very explicit terms, sometimes in more subtle forms.

An example in the statutory laws is the definition of marriage provided in Section 40 of the Marriage Ordinance:

1. Every marriage under this Ordinance shall be a Christian marriage or the civil equivalent of a Christian marriage.
2. The expression "Christian marriage or the civil equivalent of a Christian marriage" implies a formal ceremony recognized by the law as involving the voluntary union for life of one man and one woman to the exclusion of all others.

An example in the common law is the famous “neighborhood principle” concerning the duty of care in negligence laws. In this case, religion influences laws in a less direct manner. A religious value may not be directly incorporated into the laws, but the religious background provides justification for the legal rule. As part of the common law in Hong Kong, Lord Atkin in *Donoghue v. Stevenson*³¹ laid down the test on duty of care. He said that a certain relation might give rise to a duty of care. Borrowing from the parable of the Good Samaritan in the Bible (Gospel of Luke, 10:25–29), he said:

You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbor. Who, then, in law, is my neighbor? The answer seems to be — persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as long as so affected when I am directing my mind to the acts or omissions that are called in question.

The influence of Christianity in Hong Kong’s legal and constitutional order may be even more deep-seated than some of the constitutional principles considered to be the core values of the Hong Kong society like constitutionalism³² and democracy³³ that arguably have their religious roots in Christianity.

Church and State

In the Basic Law, there is no specific provision on the relationship between church and state, be it a state religion clause³⁴ or a separation clause.³⁵

There is no state religion in Hong Kong. Also, no religion enjoys a privileged status in Hong Kong. The Church of England is the state religion of the United Kingdom, but the Hong Kong Anglican Church, whose root can be traced to the Church of England, did not enjoy a state religion status during colonial rule, though it did enjoy some *de facto* advantages. Again owing to the historical influence of British colonial rule, many footprints of Christian cultural practices can be found in the daily life of Hong Kong people. One good example is the statutory holidays in Hong Kong, which

include many Christian celebrations like Christmas and Easter. After the establishment of the new legal order in 1997, other religions are getting more recognition. Buddha’s birthday is now also a statutory holiday.

The law concerning the celebration of marriages is an interesting case study that can illustrate the development of the relationship between law and religion in Hong Kong. In the past, marriage could only be conducted by the Marriage Registrar in the office of the Marriage Registry³⁶ or by a competent minister in a licensed place of worship.³⁷ Only Catholic and Protestant churches were recognized as licensed places of worship during colonial rule. After the new legal order was established, some Daoist and Buddhist temples were also recognized as licensed places of worship. In 2005, the law was further reformed so that marriage could be conducted by civil celebrants of marriages (who are mainly practicing lawyers)³⁸ in any licensed place authorized for marriage ceremonies,³⁹ and did not need to be at a place of worship. The law changed from allowing a particular religion, such as Christianity in the case of Hong Kong, to have more prominent influence into also recognizing other religions. The law then is further secularized, recognizing non-religious entities to have functions that used to be performed only by religious entities.

The Basic Law also does not require a separation of church and state. In some countries with such a constitutional clause, such as the First Amendment in the Constitution of the United States, a certain reading of this constitutional principle requiring a strict separation of church and state⁴⁰ may prohibit public money to be used to subsidize any work of religious organizations as this may cause “an excessive government entanglement with religion.”⁴¹ There is an alternative reading of the principle emphasizing neutrality, which may allow the government to bestow benefits to religious organizations on the condition that the religious organization can satisfy the same set of general requirements applicable to religious and non-religious entities.⁴² The state is religion-blind, neutral between religions, and neutral between religion and non-religion.⁴³

For many years, religious organizations, in particular the Catholic and Protestant Churches in Hong Kong, have received government subsidies to run various educational undertakings in the territory and provide different kinds of social services.⁴⁴ They are required to satisfy the general

requirements set by the Hong Kong government, as do other non-religious organizations, in order to receive government subsidies. Therefore, even though there is no separation of church and state clause in the Basic Law, the neutrality principle, as stated above, has been in practice in Hong Kong since colonial rule.

Recently, there is a dispute between the Catholic Church and the Government of the HKSAR over the reform to the education system introduced in 2004.⁴⁵ In Hong Kong, most primary and secondary schools are called “aid schools,” which are run by school sponsoring bodies receiving subsidies from the government in accordance with codes toward aid. The Catholic Church is one of the major school sponsoring bodies in Hong Kong. The reform aims to change the management of all schools by introducing a scheme that may import as school managers persons who may not share the education mission of the school sponsoring body (representatives of teachers, parents, and alumni).

The Catholic Church alleged that this reform has contravened constitutional provisions of the Basic Law, including the provision promising that “religious organizations may, according to their previous practice, continue to run ...schools.”⁴⁶ The Court of Final Appeal decided against the Catholic Church.⁴⁷

To summarize, Hong Kong’s model of the relationship between church and state is that no religion enjoys special status. All religions are protected. Religious organizations also do not need to be strictly separated from the state. They can receive subsidies and support from the government without being under government control. In another words, autonomy of religious organizations can be maintained with their working relationships with the government.⁴⁸

The Constitution of the PRC also does not have a state religion clause or a separation of church and state clause, but the reasons may be very different. The Constitution of the PRC is based on communist ideology, which is famous for its hostile attitude toward religion. It explains why there is no state religion. The Preamble of the Constitution of the PRC also provides clearly that all Chinese society is under the leadership of the Communist Party of China (CPC). Therefore, all religious organizations, like other social organizations, are under the direction of the CPC. This explains why

there is no separation of church and state, as religious organizations are subject to the control of the state.

Autonomy of Religious Organizations

In addition to the protection of individual freedoms of religion, the autonomy of religious organizations is also respected.⁴⁹ Article 141 of the Basic Law provides that:

1. The Government of the Hong Kong Special Administrative Region shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the Region.
2. Religious organizations shall, in accordance with law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive financial assistance. Their previous property rights and interests shall be maintained and protected.
3. Religious organizations may, according to their previous practice, continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.
4. Religious organizations and believers in the Hong Kong Special Administrative Region may maintain and develop their relations with religious organizations and believers elsewhere.

Article 141(1) reiterates that the Government of the HKSAR shall not restrict the freedom of religious belief and further provides that it will not “interfere in the internal affairs of religious organizations or restrict religious activities, which do not contravene the laws of Hong Kong.” The Court of Final Appeal in a recent case also confirmed “Article 141(1) lays down the core constitutional right to freedom of religious belief, freedom from interference in internal affairs and freedom to take part in lawful religious activities in relation to religious organizations.”⁵⁰

In another words, the autonomy of religious organizations is protected. The autonomy of religious organizations can be reflected in the following aspects concerning their operation. The first aspect is about the registration requirements of religious organizations.⁵¹ It is well established in international jurisprudence⁵² that registration requirements arbitrarily imposed by the state upon religious organizations are considered to be an infringement of religious freedom as it encompasses the freedom to exercise such a right in a community that should be allowed to function peacefully and free from arbitrary state intervention.⁵³

In Hong Kong, there is no additional registration requirement for religious organizations. Like all entities in society, they just need to comply with the normal legal procedures for establishing a legal entity in the form of a company or a society.⁵⁴ With legal status, religious organizations can acquire, use, dispose of, and inherit property. They can receive financial assistance from the government, other agencies or other persons. They may also continue to run seminaries and other schools, as well as hospitals and welfare institutions, and to provide other social services.⁵⁵

However, all religious organizations in China are required to register, according to the Regulations on Religious Affairs.⁵⁶ Article 6 of Regulations on Religious Affairs provides that “the establishment, alteration, or cancellation of registration, of a religious body shall be registered in accordance with the provisions of the ‘Regulation on Registration and Administration of Associations.’”

The Regulation on Registration and Administration of Associations set a requirement that any entity that would like to register as a social organization must get approval from a competent business unit.⁵⁷ Competent business units are defined as the relevant departments of the State Council and of local governments at and above the county level, as well as organizations authorized by the State Council or local governments at and above the county level, to be the competent business units over relevant social organizations of trades, academic disciplines or lines of business.⁵⁸

In the case of religious organizations, the competent business units are the eight officially recognized religious organizations of the five officially recognized religions respectively.⁵⁹ In the actual practice of these two sets of administrative regulations, it is difficult for a religious organization to

be legally registered if it refuses to be subject to the control or supervision of an officially recognized religious organization, i.e. its competent business unit. As a result, many religious organizations (mainly underground Catholic churches and Protestant house churches) cannot acquire a legal status through registration.⁶⁰

The second aspect concerns the requirements for setting up a place of worship. Like registration, religious organizations can establish places of worship in accordance with the normal legal rules on planning, building, fire safety, and other requirements that are applicable to all places for public gatherings. There is no special or additional requirement for running a place of worship.

The Regulations on Religious Affairs has set very strict requirements on the establishment and regulation of places of worship or “sites for religious activities” in China.⁶¹ To establish a site for religious activities, an application has to be made by the religious body to the religious affairs department of the People’s Government at the county level where the site is to be located.⁶² Conditions for granting an application include the need of local religious citizens to frequently carry out collective religious activities and the lack of interference of the location with the normal production or the livelihood of neighboring units and residents.⁶³ These vague standards allow the religious department arbitrary discretion over the setting up of sites for religious activities.

After the establishment of a site for religious activities, the religious affairs department has the power to supervise and inspect the site for compliance with laws, regulations and rules, development and implementation of management systems, alteration of registered items, and conduction of religious activities and activities that involve foreign affairs.⁶⁴ A site for religious activities is also under the legal duty to prevent, within the site, any major accident or event, such as the breaking of religious taboos, which hurts religious feelings of religious citizens, disrupts the unity of all nationalities or impairs social stability.⁶⁵

The third aspect is about the qualifications of religious personnel. The Basic Law protects the right of religious organizations, according to their previous practices, to continue to run seminaries.⁶⁶ Qualifications of religious personnel are also determined by the religious organization themselves, without any interference from the government.

In China, qualifications of religious personnel are determined by religious bodies, but there is an additional requirement that the religious body has to report to the religious affairs department of the People's Government at or above the county level in order for the religious personnel to engage in professional religious activities.⁶⁷

The fourth aspect concerns the kinds of activities that religious organizations can be involved in. Article 141(3) of Basic Law provides that “according to their previous practice,” “religious organizations...may continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.”⁶⁸ Article 137 of the Basic Law also provides that “[s]chools run by religious organizations may continue to provide religious education, including courses in religion.”

Following the decision of the Court of Final Appeal in a recent case, these provisions guarantee that religious organizations may continue to be involved in different kinds of activities like running seminaries, schools, hospitals, and welfare institutions as well as providing social services according to their previous practices in so far as it involves the exercise of their rights to freedom of religious belief and religious activity.⁶⁹ In accordance to this understanding, under Hong Kong's new constitutional order, any “legislative reform or executive direction which, for instance, banned morning prayers or religious instruction forming part of a religious organization's previous practice, would fall foul of Article 141(3) and be unconstitutional. However, policies which have no religious content, for instance, as to the teaching of second languages, providing more physical education or information technology classes, or providing student travel or textbook subsidies, would not engage the protections.”⁷⁰

Even with this recent and more restrictive reading, the kinds of activities that religious organizations in Hong Kong can be involved in are still numerous. They include activities like running schools and hospitals and providing social services to the community. These activities are not necessarily or purely religious. In contrast, religious organizations in Mainland China are only authorized to be involved in strictly religious activities.

The fifth aspect is about the relationship with foreign religious organizations. In addition to their activities within Hong Kong, religious organizations and believers in the HKSAR may maintain and develop their relations

with religious organizations and believers elsewhere.⁷¹ The right to maintain external relationships with religious organizations in foreign countries and regions and with relevant international organizations is further provided in Article 149 of the Basic Law. Religious organizations in Hong Kong are authorized to develop relations with overseas bodies using the name “Hong Kong, China.” According to Article 148 of the Basic Law, the relationship between religious organizations in Hong Kong and their counterparts on Mainland China is based on the principles of non-subordination, non-interference, and mutual respect.

However, the Constitution of the PRC expressly provides that “religious bodies and religious affairs are not subject to any foreign domination.” The CPC for a long time has advocated the policy of “self-administrating, self-supporting, and self-propagating” by religious bodies. Religious bodies are not to be subject to the control or supervision of foreign religious bodies of the same religion.

To summarize, religious organizations in Hong Kong enjoy a much higher degree of autonomy compared to their counterparts in Mainland China.

ADAPTABILITY OF THE HONG KONG MODEL TO MAINLAND CHINA

Each model of law and religion is unique as it is the product of the interactions of different factors in a particular political community with specific historical, political, and social contexts.⁷² The same applies to the Hong Kong model. It is also based on distinctive contexts and specific factors so that Hong Kong can have its existing model of law and religion with the features illustrated in the previous section and be able to maintain it.

First, Hong Kong's historical link with English common law laid the legal, constitutional, and social foundation for Hong Kong's model. Second, the political principle of “One Country, Two Systems” permits Hong Kong to maintain its systems (legal, constitutional, and social) together with its model of law and religion even after the PRC, with a very different model of law and religion, resumed sovereignty over Hong Kong in 1997. Third, over the years, the political and legal culture in Hong Kong has evolved to a

position that allows the existing model. The legal and political culture may even demand such a model be maintained as Hong Kong people may consider any deviation from the existing model a threat to Hong Kong's core values, which emphasize freedom and autonomy.

Based on the above understanding, it may be improbable for Mainland China to adopt the Hong Kong model of law and religion, at least in the short-run, because the two legal systems have very different historical, political, and social contexts. Until there are substantial changes in all these aspects in Mainland China, the Hong Kong model is not practicable in Mainland China even if it is adopted.

From a historical perspective, religion did influence the shaping of laws in China,⁷³ though it might not be in a form similar to that of Hong Kong, which is very much influenced by western experiences.⁷⁴ However, such a connection had been cut since the CPC established a new political order in China based on communist ideology in 1949. Chinese laws were totally secularized. Since the end of the Cultural Revolution and the beginning of the open door policy, China borrowed many laws, literally or conceptually, from the West in its legal modernization process. However, as the religious root of these laws had been severed in the West, one can hardly identify any trace of Western religions in these imported laws.

The Hong Kong model, with its emphasis on the protection of individual religious freedoms and respect for autonomy of religious organizations, relies on a constitutional order that provides constitutional recognition of these rights and is equipped with an effective enforcement mechanism, i.e. an independent and impartial judiciary armed with constitutional authority. The unified form of governance in China under the leadership of the CPC makes it difficult for such an attitude toward rights accompanied by the constitutional mechanism to be developed in the near future unless there is a sudden paradigm shift in the governing ideology of the CPC. There is no sign of any such fundamental change.

Any institutional establishment including the legal rules and the constitutional structures implementing those laws has to be sustained by an appropriate culture.⁷⁵ The concept of freedom or rights is different in China than in the West.⁷⁶ The general Chinese population may still consider freedom of religion as not fundamental, regard interference with the autonomous

operation of religious organizations as illegitimate, or give insufficient respect for people of other religious convictions. Without these cultural orientations, even if China would like to import the Hong Kong model of law and religion, the culture of Chinese society may not be able to sustain it.

NOTES

1. G. Jamieson, *Chinese Family and Commercial Law* (Shanghai: Kelly and Walsh, 1921), 9. This is referred to in *Liu Ying Lan v. Liu Tung Yiu and Another* [2002] HKCFI 63, HCA006693/1992, May 8, 2002.
2. Captain Elliot on behalf of the Queen of the United Kingdom of Great Britain and Ireland issued the proclamation on February 2, 1841.
3. Treaty of Nanking (1842).
4. Convention of Peking (1860).
5. Second Convention of Peking (1898).
6. Peter Wesley-Smith, *Constitutional and Administrative Law in Hong Kong*, 2nd edition (Hong Kong: Longman Asia Ltd., 1994), 30–49.
7. *Letters Patent* Clause VII (1).
8. *Ibid.*
9. Peter Wesley-Smith, *Constitutional and Administrative Law in Hong Kong*, 2nd edition (Hong Kong: Longman Asia Ltd., 1994), 34–35. See also *Application of English Laws Ordinance 1966*.
10. First by *Supreme Court Ordinance 1873* s 5, and later by *Application of English Laws Ordinance 1966* s 3.
11. They were also subject to amendment made by any Order in Council or Act of Parliament applicable to Hong Kong or any local ordinance.
12. Yash Ghai, *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law*, 2nd edition (Hong Kong: Hong Kong University Press, 1999), 271–275.
13. The Qing Dynasty was overthrown by a revolution in 1911. After years of internal conflicts and turmoil, the Communist Party of China formed the PRC in 1949, exercising the sovereign right of China.
14. *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong*.
15. Annex I of the *Joint Declaration*.
16. For a comprehensive survey of models of interaction between law and religion, see Benny Y.T. Tai, "Models of Interaction between Law and Religion: An Overview," *Pacific Journal*, No. 7 (2007), 50–63.
17. *The Catholic Diocese of Hong Kong also known as the Bishop of the Roman Catholic*

- Church in Hong Kong Incorporation v. Secretary for Justice*, FACV1/2011, para. 79. For the constitutional protection of freedom of religion of religious organizations, it is provided in Article 141 of the Basic Law. See the discussion below.
18. The constitutional relationship between the Basic Law, the ICCPR, and the Hong Kong Bill of Rights Ordinance is complicated. To summarize the existing laws, in determining rights that enjoy constitutional protection and the scope of the constitutional protection of each right, the provisions of the Basic Law and the ICCPR will be read together. See Simon Young, "Restricting Basic Law Rights in Hong Kong," 34 (2004) *HKLJ* 109.
 19. For a full review of the protection of the freedom of religion in Hong Kong, see Puja Kapai, "Freedom of Conscience and Religious Belief," in *Law of the Hong Kong Constitution*, eds. Johannes Chan and C. L. Lim (Hong Kong: Sweet & Maxwell, 2011).
 20. Human Rights Committee, General Comment 22 (1993), Paragraph 2.
 21. *Chu Woon Chyi v. Director of Immigration* [2007] 3 HKC 168.
 22. Only Catholicism, Protestantism, Islam, Buddhism, and Daoism are officially recognized. Falun Gong is considered to be an evil cult. See Carolyn Evan, "Chinese Law and the International Protection of Religious Freedom," *Journal of Church and State*, Vol. 44, No. 4 (2002).
 23. Following international jurisprudence, it also includes the freedom to change religion. See Human Rights Committee, General Comment 22 (1993), Paragraph 5.
 24. On the general principles concerning limitation on rights see *Leung Kwok-hung and Others v. HKSAR* (FACC Nos.1 and 2 of 2005).
 25. See Article 51 to Article 56 of the Constitution of the PRC. Some provisions impose various duties on Chinese citizens, including the duty "to safeguard the unification of the country and the unity of all its nationalities" (Article 52), "to keep state secrets, protect public property, observe labor discipline and public order and respect social ethics" (Article 53), and "to safeguard the security, honor and interests of the motherland; they must not commit acts detrimental to the security, honor and interests of the motherland" (Article 54). There is only one provision in the Basic Law (Article 41) on the duty of Hong Kong residents, which is the obligation to abide by the laws enforced in the HKSAR.
 26. For the enforceability of the Chinese Constitution, see Zhou Yongkun, "The Direct Effect of Basic Constitutional Rights," (1997) *Chinese Legal Science*, Vol. 1 (1997): 20–28.
 27. Article 35 of the Basic Law.
 28. *Ng Ka-Ling and Others v. Director of Immigration* (FINAL APPEAL NO. 14, 15, 16 OF 1998 (CIVIL)) ([1999] 1 HKLRD 315).
 29. Benny Y.T. Tai, "Judicial Autonomy in Hong Kong," *China Information*, Vol. 24 (2010): 3. Benny Y.T. Tai, "The Judiciary and the Hong Kong Legal System," *Hong Kong Government and Politics: Governance in the Post 1997 Era*, eds. Wai-man Lam, Percy Luen-tim Lui, Wilson Wai-ho Wong and Ian Holliday (Hong Kong: Hong Kong University Press, 2007).
 30. Patrick Devlin, *Enforcement of Morals* (Oxford University Press, 1959).
 31. [1932] AC 562.
 32. Carl J. Friedrich, *Transcendent Justice: The Religious Dimension of Constitutionalism* (Duke University Press, 1964).
 33. Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991), 72–85.
 34. Examples are the Constitution of Norway (Article 2(2)) and the Constitution of Denmark (Section 4). Both recognize the Evangelical-Lutheran religion as the state religion.
 35. Examples are First Amendment of the Constitution of United States and Article 41(4) of the Constitution of Portugal.
 36. Sections 3 and 21 of the Marriage Ordinance.
 37. Sections 4 and 5 of the Marriage Ordinance.
 38. Section 5A and Schedule 4 of the Marriage Ordinance.
 39. Section 22 of the Marriage Ordinance.
 40. Michael W. McConnell, "Neutrality, Separation and Accommodation: Tensions in American First Amendment Doctrine," in *Law and Religion*, ed. Rex J. Ahdar (Aldershot: Ashgate, 2000).
 41. *Lemon v. Kurtzman* 403 U.S. 602 (1971).
 42. *Agostini v. Felton* 521 US 203 (1997).
 43. Michael W. McConnell, "Neutrality, Separation and Accommodation: Tensions in American First Amendment Doctrine," in *Law and Religion*, ed. Rex J. Ahdar (Aldershot: Ashgate, 2000).
 44. Article 141 of the Basic Law.
 45. Education (Amendment) Ordinance (2004).
 46. Article 141(3) of the Basic Law.
 47. *The Catholic Diocese of Hong Kong also known as the Bishop of the Roman Catholic Church in Hong Kong Incorporation v. Secretary for Justice*, FACV1/2011.
 48. See the discussion in the following part.
 49. As provided in Article 18 of the ICCPR, the right to freedom of religion can be exercised either individually or in community with others.
 50. *The Catholic Diocese of Hong Kong also known as the Bishop of the Roman Catholic Church in Hong Kong Incorporation v. Secretary for Justice*, FACV1/2011, para. 77.
 51. W. Cole Durham, Jr., "Facilitating Freedom of Religion or Belief through Religious Association Law," in *Facilitating Freedom of Religion or Belief: a Deskbook*, eds. Tore Lindholm, W. Cole Durham, Jr., and Bahia G. Tahzib-Lie (Leiden, The Netherlands: Martinus Nijhoff Publishers, 2004).
 52. *Church of Scientology Moscow v. Russia* (Application No. 18147/02) and 97 *Members of the Gldani Congregation of Jehovah's Witnesses & 4 Others v. Georgia* (Application No. 71156/01).
 53. *Hasan and Chaush v. Bulgaria* App. No. 30985/96 (2002) 34 EHRR 1339.
 54. Para. 2.22–2.23, "Consultation Paper on Charities" issued by the Charities

- Subcommittee of the Law Reform Commission of Hong Kong.
55. Article 141 of the Basic Law.
 56. It was adopted at the 57th Executive Meeting of the State Council of the People's Republic of China on July 7, 2004 and promulgated on March 1, 2005.
 57. Article 9 of the Regulation on Registration and Administration of Associations.
 58. Article 6 of the Regulation on Registration and Administration of Associations.
 59. Buddhist Association of China (Buddhism); Chinese Catholic Religious Affairs Committee and Chinese Catholic Bishops' Conference, Chinese Catholic Patriotic Association (Catholicism); Association of China Daoism (Daoist); Chinese Islamic Association (Islam); Three-Self Patriotic Movement Committee of the Protestant Churches in China and China Christian Council (Protestantism).
 60. Lauren B. Homer, "Registration of Chinese Protestant House Churches under China's 2005 Regulation on Religious Affairs: Resolving the Implementation Impasse," *Journal of Church and State*, Vol. 52, Iss. 1 (2010). Zhi Cao, "Analysis of the Registration System for Religious Groups—with Christian House Churches as Examples," *Chinese L. & Religion Monitor*, Vol. 31 (2008).
 61. Article 12 to Article 26 of the Regulations on Religious Affairs.
 62. Article 13 of the Regulations on Religious Affairs.
 63. Article 14 of the Regulations on Religious Affairs.
 64. Article 19 of the Regulations on Religious Affairs.
 65. Article 23 of the Regulations on Religious Affairs.
 66. Article 141 of the Basic Law.
 67. Article 27 of the Regulations on Religious Affairs.
 68. Article 141(3) of the Basic Law.
 69. *The Catholic Diocese of Hong Kong also known as the Bishop of the Roman Catholic Church in Hong Kong Incorporation v. Secretary for Justice*, FACV1/2011, para. 78.
 70. *The Catholic Diocese of Hong Kong also known as the Bishop of the Roman Catholic Church in Hong Kong Incorporation v. Secretary for Justice*, FACV1/2011, para. 79.
 71. Article 141(4) of the Basic Law.
 72. Simeon L. Guterman, "The Interaction of Religion, Law and Politics in Western Society: its Historical Character and Influence," *University of Miami Law Review*, Vol. 17 (1963): 439–468. John W. Morden, "An Essay on the Connections between Law and Religion," *Journal of Law & Religion*, Vol. 2 (1984): 7. Mulford Q. Sibley, "Religion and Law: Some Thoughts on their Intersections," *Journal of Law & Religion*, Vol. 2 (1984): 41.
 73. Tongzu Qu, *Law and Society in Traditional China* (Paris: Mouton, 1965).
 74. Geoffrey MacCormack, "Religion and Law in Traditional China," *Law, Morality, and Religion: Global Perspectives*, ed. Alan Watson (Berkeley: University of California Press, 1996). C.K. Yang, *Religion in Chinese Society* (Berkeley: University of California Press, 1970). Anthony C. Yu, *State and Religion in China: Historical and Textual Perspectives* (Chicago: Open Court, 2005).
 75. Larry Diamond, "Political culture and Democracy," and "Causes and Effect,"

- Political Culture and Democracy in Developing Countries* (Boulder: L. Rienner Publishers, 1993). Daniel P. Franklin and Michael J. Baun, "Introduction: Political Culture and Constitutionalism," and "Conclusion," *Political Culture and Constitutionalism: A Comparative Approach* (New York: M.E. Sharpe, 1995).
76. Elizabeth Perry, "Chinese Conceptions of 'Rights': From Mencius to Mao—and Now," *Perspectives on Politics*, Vol. 6 (2008): 37–50.

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Religion and the Development of a Harmonious Society: A Singaporean Reflection

MICHAEL POON

Abstract:

Singapore and the People's Republic of China (PRC), despite their marked differences, see the establishment of a "harmonious society" to be fundamental to nation building. The paper traces the religion-society relationships in Singapore. It discusses how Singapore successfully unites religiously and ethnically diverse communities to work together to build up a secure, prosperous and harmonious nation. Particular attention is given to the ways that the government engaged the Chinese and Christian communities in the early years of nation building amid dominant Muslim presence in the region. The paper discusses Singapore's seeming ambivalent expectations of religion from the 1980s. It ends with a discussion on the ways Singapore engages religious leaders to face the challenges of globalization in more recent times.

SINGAPORE: MANY FACES, ONE NATION

The building of a harmonious society is a central task in Singapore. It is core to Singapore's identity and continuing well-being. Singapore's birth in 1965 was punctuated by a series of political and ethnic crises in the 1950s and 1960s. Three riots stood out: the Maria Hertogh riots in 1950, the 1964 riot between Malays and Chinese on the Prophet Mohammed's birthday, and the 1969 racial riots that spilled over from Malaysia to the newly separated island-state. These traumatic events that are often rehearsed by the

government instill a sense of moral panic in national life that has become Singapore's institutional memory (Hill 2001).

One does not have to look far to understand this sense of crisis that grips Singaporeans. Singapore is an island nation of 714km², one-third smaller than Hong Kong. It has no hinterland. Singapore's success lies in its traditional entrepôt role. It offers a secure and stable haven in times of political and social unrest in neighboring countries. It is a "free-port" as well in the sense that peoples from different ethnic and religious backgrounds can mingle and thrive on the strength of their own merits, free from caste and ethnic discrimination that have plagued many Asian countries. In other words, multiculturalism, multilingualism, multi-ethnicity, and multi-religiosity are integral to Singapore's wellbeing and success. Therefore, the ability to harness the support of ethnic and religious communities for nation building purposes is a key concern for the Singapore government. In other words, for Singapore, at issue is not whether religions can find a positive role in national life and society. That is an undisputed fact. The key question for the government, as Lim Siong Guan (2006, 16), a former head of Singapore's Civil Service put it, is rather this: "How can [religion] be harnessed to raise moral standards, social conscience and responsible citizenship?" In other words, how we make religion a positive factor for the common good is a central question for the government and all constituencies of the island nation. To Singapore's credit, the nation has not had a riot since the end of the 1960s. This success story stands in huge contrast to the racial and religious violence that have marked neighboring multi-religious and multiethnic nations, namely, Malaysia, Indonesia, and Sri Lanka.

Singapore, therefore, offers an interesting model for exploring the relation between religious bodies and the state. The 2010 Singapore census provides a convenient starting point for this study. The census statistics show that slightly over 5 million people live in Singapore, of whom 3.2 million are Singaporeans, 0.54 million are permanent residents, and 1.3 million are non-residents. The residents consist of 74.1 percent Chinese, 13.4 percent Malay, 9.2 percent Indians, and 3.3 percent who the government label as "Others," namely, Eurasians, Europeans, and other groups.

Table 59, "Population Aged 15 Years and Over by Religion, Ethnic Group and Sex" shows about 18 percent profess Christianity (what the government

calls "Catholics" and "Other Christians"), 44 percent Buddhism/Daoism, 15 percent Islam, 5 percent Hinduism, and 17 percent "No Religion." The Christian "advance" in Singapore is clearly impressive. In 1980, only 10 percent of the resident population aged 10 and over professed Christianity (Saw 42). The relatively high proportion of Christian population underlines its vibrant growth in step with remarkable economic developments in Singapore.

On closer examination, Malays account for nearly 99 percent of Muslims; Buddhists/Daoists are composed of 57 percent Chinese and 21 percent "Others;" Christianity attracts 20 percent of the Chinese, 13 percent of the Indians, and 58 percent of the "Others." Table 61, "Resident Population Aged 15 Years and Over by Religion, Residential Status and Sex," shows that among permanent residents, over 23 percent are Christians, 37 percent Buddhist/Daoists, and 15 percent Hindus.

Table 64, "Resident Non-Students Aged 15 Years and Over by Religion, Highest Qualification Attained and Sex," further indicates that Christians make up 32 percent of Singaporean university graduates. This compares with 4.3 percent among Muslims. Among the resident non-student population with "Below secondary" educational levels, 62 percent are Buddhists/Daoists, 16 percent Muslims, and 9 percent Christians.

Clearly then, Singapore is a largely ethnic Chinese society. Singaporean Christians too make up a significant number of its intellectual capital, on which the nation depends to keep its economic edge in the region. Interestingly, the Christian population comes mainly from the Chinese (83 percent) and "Others" (11 percent). A higher proportion of permanent residents—23 percent compared with the national average of 18 percent—professes Christianity. Evidently, Christianity has a significant presence among the more recent settlers and those who cannot readily fit into the Chinese-Malay-Indian categories. Christianity enjoys broader appeal across traditionally demarcated lines. The statistics suggest that the Chinese Christian population, with its higher formal academic achievements, plays an influential role in Singapore's continuing success.

THE SETTINGS FOR STABILITY, SECURITY, AND SUCCESS

Singapore's demography underscores the sense of crisis Singapore faces. The island-state is surrounded by nations with huge Malay, Muslim, and anti-Chinese communities. According to the United States Department of State Background Notes, in Malaysia 53 percent of the population are Malay and 26 percent Chinese. As for religious affiliation, 60 percent are Muslim and 9 percent Christian. In Indonesia, 86 percent are Muslim and 9 percent Christians. One percent of the population identify themselves as Chinese (Suryadinata 2008, 23).

Many commentators (Lyons and Ford 2009; Peled 1998; Siddique 1989, 568–570; Tan 2008, 61) have noted the Singapore government's distrust of the Malay. Even in 2001, Lee Kuan Yew (Tan 2008, 61) insisted in a speech at the Dialogue Session with the Association of Muslim Professionals and the Majlis Pusat:

We must never put the person in a situation where he may face a conflict of loyalties. I said in answer to a question some nearly two years ago it is a difficult matter to put a Malay Muslim of deeply religious family background in charge of a machine-gun....For nearly every job, a person's race and religion are irrelevant. But in the security services, because of our context, we cannot ignore race and religion in deciding suitability.

For the government, Chinese Christians in contrast were a clear asset, especially in the early years of independence, for nation building. Lee Kuan Yew spoke on "Leadership in Asian Countries" in an East Asia Christian Conference in 1967. He asked (1967, 3, 7):

Every society needs leadership....How do we create it, in this area, without tradition, without a past to fall back on?...Somewhere in the church hierarchy or in the Young Men's Christian Association some people are demonstrating more than above average activity, intelligence, verve, drive, ambition, civic consciousness....In their own way,

[Christianity has] brought together diverse peoples, diverse cultural, ethnic, linguistic and social backgrounds.

Deputy Prime Minister Goh Keng Swee even saw Christianity playing a positive role in secular affairs in the early 1970s. He argued in his keynote address, "The Asian Struggle," at the EACC Assembly in 1973 (1973, 12, 20):

Let us first clear our thoughts about what the struggle in Asia is about....I can do no better than to quote from [the Thrust Paper of this Conference]: "Poverty and powerlessness are also overwhelming phenomena in Asia today, except in a few societies. Concentration of power in the hands of a few, ethnic and social tensions, traditional and social structures and value systems that inhibit equal opportunity for self-development,...all contribute to the suffering of people in their daily life, often creating apathy and frustration." I am greatly encouraged by the general approach of this paper. It does not accept that poverty, social injustice and other afflictions of Asian societies should be accepted with resignation, much less condoned. On the contrary, it sees a vital need for action to put an end various forms of human suffering, much of which are avoidable and result from inability or unwillingness of man to cope with his contemporary problems....I am encouraged, as I said, by this positive attitude to secular affairs. This is partly because, in recent years, in Singapore at least, there has been a temptation to question the need for material progress....This problem, the conquest of poverty, must surely be of great interest to the Christian church, as the root of any fundamental solution in the re-orientation of value system. It is a subject to which the Christian church is as well-equipped as any other human institution to contribute and to give guidance.

Goh Keng Swee noticed the visible Christian presence in the business community and military establishment in the 1970s. James Minchin, a biographer of Lee Kuan Yew (1990, 268–269), reported that "from [Goh's] point of view, it would be good if the Singapore citizen could translate both religious heritage—the Puritan ethic and the Roman Catholic instinct for stability and authority in a troubled world—into

business capacity, political acumen and the readiness to defend the nation from malevolent neighbors.”

Clearly, the Chinese Christian population has been a chief asset to nation building, especially in the early years of nationhood. At the same time, the government can capitalize on this strength only if it is equally successful to allay the fear among its local population and neighboring countries that neither the Chinese nor Christianity would receive preferential treatment. Singapore must not become an “overseas Chinese” nation. Neither should it accord any religion a favored status. Any display of Chinese/Christian chauvinism would surely lead to social and political collapse. Therefore, Singapore needed to follow an intentional and disciplined policy to build a harmonious society within an ethno-religiously and politically volatile region.

THE MAKING OF A HARMONIOUS SOCIETY

Singapore’s survival and economic success depends on social stability. Therefore, the government puts huge effort into promoting religious and racial harmony. The government does not attempt to homogenize diversities: ethnic and religious distinctions are affirmed. Rather, it ensures that ethnic and religious communities would not live their own segregated lives. To do this, the building of a common Singaporean national identity—a common reference point—is critical. Each and every person is to be called Singaporeans and to work for the common good of the Singapore nation. Lim pointed out (2006, 3–4) the National Pledge and the (Six) National Education Messages bring this message home to all Singaporean communities. The National Pledge, rehearsed at the National Day Parade, underscores the connection between national unity and progress:

We, the citizens of Singapore,
pledge ourselves as one united people,
regardless of race, language or religion,
to build a democratic society
based on justice and equality
so as to achieve happiness, prosperity and
progress for our nation.

The National Education Messages reinforce the principle of governance for survival, security, and success to young people in schools and in National Service, in which 18 year old Singaporean males must serve for two years.

1. *Singapore is our homeland; this is where we belong.*
We treasure our heritage and take pride in shaping our own unique way of life.
2. *We must preserve racial and religious harmony.*
We value our diversity and are determined to stay a united people.
3. *We must uphold meritocracy and incorruptibility.*
We provide opportunities for all, according to their ability and effort.
4. *No one owes Singapore a living.*
We find our own way to survive and prosper, turning challenge into opportunity.
5. *We must ourselves defend Singapore.*
We are proud to defend Singapore ourselves; no one else is responsible for our security and well-being.
6. *We have confidence in our future.*
United, determined and well-prepared, we have what it takes to build a bright future for ourselves, and to progress together as one nation.

Singapore’s Constitution, legislation, and policies reflect the proactive and directive role that the Singapore government assumes in order to safeguard the interests of religious communities and ensure religious harmony.

Articles 15 and 16 of the Singapore Constitution uphold the “Freedom of Religion” and the “Rights in Respect of Education.” Article 15 safeguards “every person has the right to profess and practise his religion and to propagate it.” It further maintains that every religious group has the right “to manage its own religious affairs;” “to establish and maintain institutions for religious or charitable purposes;” and “to acquire and own property and hold and administer it in accordance with law.” There shall be no discrimination

against Singaporean citizens “on the grounds only of religion, race, descent or place of birth.” The right for parents to educate their children according to their own religious traditions is further guaranteed. Religious groups have the right to establish and maintain institutions for the education of children and provide therein instruction in their own religion: “No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.” These rights, at the same time, are set within the wider security and order considerations: “The Article does not authorize any act contrary to any general law relating to public order, public health or morality” (Article 15.4).

The Constitution pays particular attention to safeguarding the interests of racial and religious minority groups. Part VII of the Constitution establishes the Presidential Council for Minority Rights “to consider and report on such matters affecting persons of any racial or religious community in Singapore as may be referred to the Council by Parliament.” The Malays receive particular attention. Articles 152 and 153 underline that “the Government shall exercise its functions in such manner as to recognize the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.” The Administration of Muslim Law Act came into being to “make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion.”

Legislative provisions are in place to regulate religious activities and pre-empt public disorder. The Penal Code (Cap. 224) sanctions against offences relating to religion or race:

1. Injuring or defiling a place of worship with intent to insult the religion of any class;
2. Disturbing a religious assembly;
3. Trespassing on burial places, etc.;

4. Uttering words, etc., with deliberate intent to wound the religious or racial feelings of any person;
5. Promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony.

The Sedition Act (Cap. 290) proscribes against seditious tendency:

1. To bring into hatred or contempt or to excite disaffection against the Government;
2. To excite the citizens of Singapore or the residents in Singapore to attempt to procure in Singapore, the alteration, otherwise than by lawful means, of any matter as by law established;
3. To bring into hatred or contempt or to excite disaffection against the administration of justice in Singapore;
4. To raise discontent or disaffection amongst the citizens of Singapore or the residents in Singapore;
5. To promote feelings of ill-will and hostility between different races or classes of the population of Singapore.

The Maintenance of Religious Harmony Act came into effect in 1990. This act enables the Minister for Home Affairs to issue a restraining order against any leader, official or member of a religious group or institution who causes or attempts to cause ill feelings between different religious groups, or who commits or attempts to commit any of the following activities while under the guise of, propagating or practicing a religious belief: promote a political cause, carry out subversive activities or excite disaffection against the president or the government of Singapore.

Religious societies must also be legally registered in Singapore under the Societies Act (Cap. 311). The government has used this act to ban what it sees to be undesirable groups, such as Jehovah’s Witnesses and the Unification Church in Singapore. The Singapore government can also

resort to the Internal Security Act (Cap. 143) to deal with perceived threats to public order. The handling of the Marxist Conspiracy and the expulsion of the Christian Conference of Asia in 1987 are cases in point that have received huge international attention (O'Grady 1990, Barr 2010).

To promote racial harmony, the Housing Development Board set up a quota in 1980 to ensure that no particular racial group gathered together and to prevent sectarianism. The Group Representation Constituency (GRC) scheme was introduced in 1988 to protect minority representation in Parliament: at least one of the MPs in a GRC must be a member of the Malay, Indian or another minority community of Singapore.

FOSTERING RELIGIOUS HARMONY IN A GLOBALIZING AGE

From the 1980s, Singapore increasingly saw the need to wrestle with the impact of globalization on social harmony. Clearly, Singapore cannot isolate itself from outside currents. It depends on globalization for its continuing economic success. At the same time, globalization makes boundaries porous; it introduces rival carriers of the same religion. This anxiety may explain the seeming ambivalent attitude the Singapore government holds towards religion. In Michael Hill's (2011, 11) words, "religion is favoured [by the government] as a source of social cohesion and welfare provision, but on the other its potential for disruption and ethnic antagonism is seen to require constant vigilance and legislative control."

In the mid-1980s, the government became so alarmed with the adverse social impact of religious revivalism and aggressive conversion practices that it dropped religious knowledge from the national syllabus (which it introduced in the early 1980s), and engaged social scientists to study these phenomena in the late 1980s (Kuo, Quah and Tong 1988; Kuo 1989; Kuo and Quah 1989; Quah 1989; Tong 1989). In 1987, the arrest of Roman Catholic activists and the expulsion of the Christian Conference of Asia from Singapore underscore the government's anxiety about the destabilizing impact of religious networks in a globalizing age. In response, the Maintenance of Religious Harmony Act came into effect in 1990. Ever since, religious radicalism has been a chief concern of the government.

Indeed, to preserve the nation's identity in a globalizing era, in 1991, the Parliament adopted the following five principles to be the Shared Values of the nation:

1. Nation before community and society above self: the interests of society are put ahead of the individual.
2. Family as the basic unit of society: the family is identified as the most stable fundamental building block of the nation.
3. Community support and respect for the individual: the individual has rights, which should be respected and not encroached upon. It encourages the community to support and have compassion for the disadvantaged individual who may have been left behind by the free market system.
4. Consensus, not conflict: issues are resolved through consensus, and not conflict stresses the importance of compromise and national unity.
5. Racial and religious harmony: different communities need to live harmoniously with one another in order for all to prosper.

Ambassador Vanu Gopala Menon (2008) underscored the challenge globalization poses to social harmony in a recent address to the United Nations. From the outset, he insisted:

Globalization has connected us all together more closely than ever before. All over the world, people of different religions now live and work together in mixed societies. Diversity is a byword, both religiously and culturally, which in turn raises important questions about how these religions and cultures can and should interact.

He then highlighted a model of partnership between authorities and communal leaders in building in harmonious society:

Governments can and should initiate processes at the local level, to bring together key partners capable of establishing links between religious leaders, so as to emphasize the value of working together in harmony for mutual benefit. To do this sensitively and meaningfully, we need to recognize the local realities of society, such as the trust that people have in their governments to be impartial in their dealings with different ethnic communities.

From the early years of independence to the present, the Singapore government indeed has consistently applied this policy to foster religious harmony. To be sure, legislative and constitutional frameworks are put in place to keep peace. More importantly, the government has successfully engaged communal leaders to work together for a common cause in building a cohesive, harmonious, and equal society. The Presidential Council for Minority Rights and the Presidential Council for Religious Harmony (under the provision of the Maintenance of Religious Harmony Act) are instances in point. Indeed, following the 9/11 attacks and the arrest of members of the Jemaah Islamiyah terrorist network in Singapore in 2001, the government increasingly draws on the leaders of religious communities to regulate the conduct of their constituencies and to keep religious peace with one another.

In fact, religious leaders themselves mainly have been proactive to ensure religious peace among their communities and to join forces to buttress the moral fabric of society. This sense of comradeship reached back to the formation of the Inter-Religious Organization (IRO) in 1949. The IRO initially consisted of Muslim, Buddhist, Christian, Hindu, Jewish, Sikh, and Zoroastrian councilors. Its objective was “to establish co-operation between leaders of religions on matters agreed upon by all religions, such as the support of justice and welfare, the prosecuting of adultery and gambling, the resisting of anti-moral actions.... Its object is also to tolerate and not to attack each other on matters which are in dispute among followers of religions” (IRO 1966, 2–3). In 2003, the Declaration of Religious Harmony was issued by the national bodies of mainstream religious groups to affirm “religious harmony is vital for peace, progress and prosperity in our multi-racial and multi-religious Nation.” The Inter-Religious Harmony Circle, inter-racial and religious confidence circles, and the government-sponsored Community Engagement Program are set in place to

foster unity and resilience among religious and ethnic communities at different levels of society. The makeup of the Inter-Religious Harmony Circle underscores the government’s practical approach to religion. The Harmony Circle includes major religious organizations as well as minority groups in Singapore: Hindu Endowments Board, Inter-Religious Organization, Majlis Ugama Islam Singapura, National Council of Churches of Singapore, Roman Catholic Church, Sikh Advisory Board, Singapore Buddhist Federation, Singapore Council of Christian Churches, Taoist (Daoist) Federation, Organizations that worship five religions (*Wu Jiao*), and Singapore Jainism Religious Society.

The government further actively consults religious bodies on moral and social issues. The discussions on homosexuality, casinos, and bioethics are cases in point. In return, religious bodies also have played an active role to defuse potentially socially divisive situations. In 2009, an enterprising Christian group engineered a takeover of AWARE (Association of Women for Action and Research) over its alleged pro-gay stance. In 2010, a Christian pastor made “insensitive and offensive” comments on the Buddhist and Daoist faiths. The National Council of Churches of Singapore and other religious bodies played an important role to resolve the situations.

To end, Singapore’s genius lies in its ability to build a harmonious society amid the complex religious and ethnic interplays in the region and in the nation. Singapore is a secular city-state; religion is strictly kept out of politics. But wisely, the nation has not enshrined “secularity” in its constitution. Local religious communities and peoples of diverse convictions are harnessed for nation building. Far from marginalizing religion from the public realm, the government allows religious groups to become publicly visible. As Edwin Tan (2008, 66–70) puts it, “the public face of religion is evident and is regarded as part of associational life.” The strength and co-operation between community leaders at different levels of the society make Singapore more able to withstand sudden onslaughts of radical and divisive religious movements in a globalizing age. After all, as Lee Kuan Yew saw it, more than above average intelligence, verve, drive, ambition, and civic consciousness are needed to build a prosperous Singapore. Religious communities can inspire such intangible and unquantifiable virtues that top-down government policies alone cannot inculcate.

As a final remark, the extent to which Singapore’s religious bodies identify with national goals is aptly shown in the ways that charismatic

Christians repackage their identities in Singapore. In the early 1990s, a “Spiritual Warfare Network” movement from the United States was making headways in Asia. Charismatic Christians introduced this movement in Singapore in 1995 with a change in the name. Tan-Chow Mayling (2007, 54) explained that “this change was deemed necessary as its close association to [Spiritual Warfare Network] sounded too ‘militant,’ and therefore unwise, especially in an environment where militant faiths are on the rise.” The new name, Love Singapore, was adopted because “it expresses the movement’s love for God and love for the nation.” How even charismatic Singaporean Christians see the need to align with patriotic causes is a measure of Singapore’s success to keep God in place!

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The Autonomy of Church Organizations: A Path Conducive to the Development, Stability, and Harmony of China

AIMING WANG

Abstract:

As far as religious freedom in China is concerned, some hot or controversial issues—underground Catholic priests, various “family churches,” and many charismatic groups among Christians—are often discussed by American churches or reported on by the American media. These issues need to be dealt with through a theological lens that combines reason and faith. These discussions are beneficial to China’s modern development, social stability, and national sovereignty. Such forthright discussions can also win the favor and respect of the United States and of global public opinion. This thinking is also in line with China’s modern philosophy of building up a harmonious society.

My proposal for the above issues is that the Chinese Church should be autonomous within the constitutional framework.

The Chinese government should give full recognition to all religious groups and organizations. This is the only solution to solve the controversial issue of religious freedom in China.

The purpose of my paper is to discuss the history of State-Church relations and to design an experimental method for the Church in China, using the “Little Flock” approach. The “Little Flock” is an indigenous approach and is not included in the system of the Three-Self Patriotic Movement/China Christian Council (TSPM/CCC).

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Looking at Christian history, since 313CE there have always been a primary line and an auxiliary line in the Church's structure: the magisterial (institutionalized) church and the free (non-magisterial or non-institutionalized) church. Since the Reformation in the sixteenth century, the magisterial church has transitioned from direct state government to the so-called "Mainstream Church" existing under a mutual checks-and-balances system on the basis of law. The Free Church, though always existing in the society and under the jurisdiction of the state, has never borne the obligations or enjoyed the privileges of secular government. Such a transition has lasted for four centuries and is still going on. The year 1945 can be seen as a turning point in the history of western politics and of Christianity as the magisterial church, modeled on American political-religious relations, replaced the magisterial church that followed the models of Great Britain, Germany, and France, thus becoming the dominant paradigm for the contemporary institutionalized church. Such a paradigm is driven by an intrinsic structure of values instead of an outward institution and interest. The non-institutionalized church in the United States also underwent a change drastically different than the church in Europe.

All of these can provide valuable lessons and serve as a reference as we consider and design the model of the relationship between Church and State in China.

According to hermeneutic principles, when and where did the current model of Chinese political-religious relations originate? What factors in this model are related to traditional culture and civilization? Has such a model become a barrier or a problem undermining mutual recognition and understanding between China and the world?

The solution is to allow the Church to be absolutely autonomous within constitutional boundaries, establishing the magisterial church and legalizing the operation of the non-magisterial church. The specific issue at hand is how to transfer the existing political system of the TSPM/CCC, administrated through the Religious Affairs Bureau at all governmental levels, into the state's legal framework and set up truly autonomous church organizations based on the churches' beliefs, doctrines, and regulations. This requires studying how the function and role of the Religious Affairs Bureau can be changed. As for how to devise rules and regulations for the non-magisterial or Free Church organizations and groups to operate within the legal boundaries of the state, this also involves many legal, judicial, doctrinal, and ethical issues.

Based on their social and political views, we may select several non-magisterial church groups like the "Local Church" or the "Little Flock" to explore how to establish an autonomous church organization based on national law. The Local Church is unique in its spiritual and ecclesial attributes, showing freedom and autonomy within a sound regime that guarantees the religious rights of citizens.

Since 313CE, national interest has always been a concern of the governing classes. Our consideration and studies cannot go on without paying attention to the related concerns and considerations of the Chinese government. Analyzing and interpreting its fundamental concerns is an effective starting point for establishing a rational mechanism and design. Therefore, my design stipulates that within the legal framework autonomous church organizations should possess the basic elements that suit China's interest, whether they completely agree with the relevant policies of the current government or hold a critical stance. The final solution to the difficult situation of religious freedom and human rights in China will be through the establishment of a civil society, especially through the establishment of FBOs (faith based organizations) within the framework of constitutional or state law. Using this process, the Protestant Church, the Magisterial Church, the Free Churches, and the Local Church could be addressed as the first steps.

Along with history and the deepening relationship between China and the United States, there is a relationship between the American Church and the Chinese Church. Through the diverse lenses of history, politics, economics, culture, and spirituality, Christianity has become a special and meaningful point of discussion. As a pastor and theological professor, I highly respect a great number of American missionaries who boldly crossed the Pacific to China since the 19th century. With a strong passion for sharing the Gospel, some of them left their homes and worked diligently among Chinese people. Some even died in China. Their great contributions will be always remembered in Chinese history and by Chinese people. Even now, we can still recognize some of their beautiful footprints in different areas of China.

Admittedly, there are still some arguments, disputes, and conflicts on politics, the press, and in certain academic fields between the United States and China. From the perspective of historical and doctrinal theology, it is

critically important to establish a trustful relationship between the United States and China. This requires serious and elaborate theological thinking. I would like to reiterate: both American and Chinese Christians and theologians must agree with the Church's attributes of unity and catholicism. This should be valued regardless of time, place, race, national or social origin or economic status. Besides, we both share the same confession: following Jesus and taking on the needs of the world as our responsibility. The Church should put Jesus' three offices of "Prophet," "King," and "Priest" into practice. This premise can lay a foundation for the further discussion of religious freedom and human rights between the American Church and the Chinese Church.

As far as religious freedom in China is concerned, some hot or controversial issues—underground Catholic priests, various "family churches," and many charismatic groups among Christians—are often discussed by American churches or reported on by the American media. These issues need to be dealt with through a theological lens that combines reason and faith. These discussions are beneficial to China's modern development, social stability, and national sovereignty. Such forthright discussions can also win the favor and respect of the United States and of global public opinion. This thinking is also in line with China's modern philosophy of building up a harmonious society.

The purpose of my paper is to discuss the history of State-Church relations and to design an experimental method for the Church in China, using the "Little Flock" approach. The "Little Flock" is an indigenous approach and is not included in the system of the Three-Self Patriotic Movement/China Christian Council (TSPM/CCC) (*Liang Hui*, 两会).

OVERVIEW

Looking at Christian history, since 313CE there have always been a primary line and an auxiliary line in the Church's structure between the magisterial (institutionalized) church and the free (non-magisterial or non-institutionalized) church. Since the Reformation in the 16th century, the magisterial church has transitioned from direct state government to the

so-called "Mainstream Church" existing under a mutual checks-and-balances system on the basis of law. The "Free Church," though always existing in society and under the jurisdiction of the state, has never borne the obligations or enjoyed the privileges of secular government. Such a transition has lasted for four centuries and is still going on. The year 1945 can be seen as a turning point in the history of western politics and of Christianity as the magisterial church, modeled on American political-religious relations, replaced the magisterial church that followed the models of Great Britain, Germany, and France, thus becoming the dominant paradigm for the contemporary institutionalized church. Such a paradigm is driven by an intrinsic structure of values instead of an outward institution and interest. The non-institutionalized church in the United States also underwent a change drastically different than the church in Europe.

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to explore how to establish an autonomous church organization based on national law. The Local Church is unique in its spiritual and ecclesial attributes, showing freedom and autonomy within a sound regime that guarantees the religious rights of citizens.

Since 313CE, national interest has always been a concern of the governing classes. Our consideration and studies cannot go on without paying attention to the related concerns and considerations of the Chinese government. Analyzing and interpreting its fundamental concerns is an effective starting point for establishing a rational mechanism and design. Therefore, my design stipulates that within the legal framework autonomous church organizations should possess the basic elements that suit China's interest, whether they completely agree with the relevant policies of the current government or hold a critical stance. The final solution to the difficult situation of religious freedom and human rights in China will be through the establishment of a civil society, especially through the establishment of FBOs within the framework of constitutional or state law. Using this process, the Protestant Church, the Magisterial Church, the Free Churches, and the Local Church could be addressed as the first steps.

MAGISTERIAL CHURCH AND FREE CHURCH: HISTORY AND THE PRESENT

Any discussions about issues of Christianity in China and in the United States and their related organizations must be related to church history. Church history is both a doctrinal history and a political history. From the time of the Gospels and the Epistles, the Church has always needed to face the problem of its secular existence and development, not merely avoid reality and wait for eternity. Since Pentecost described in Acts 2, the primary problem that Christians faced was survival in society. Under this premise, we can understand why Christianity became institutionalized.

The Apostle Paul's theology that interpreted the relation between Jewish laws and Roman laws laid a foundation for later political principles in Christianity. Since 313CE, truth and organization became particular

modes for demonstrating the intrinsic reality of grace and sacrament. Concerning the doctrine of original sin (*le péché originel*), the Church has struggled with the matter of free will (*libre arbitre*), and has continually adjusted its strategies and methods in response to global changes. This is a picture of one thousand years of Christian history. In 325CE, the Nicene Council condemned Arianism as heresy. Since then, the Church did not stop contending between orthodoxy and heresy on the topics of *Fides ecclesiae* and Individual Faith until the Reformation.

The definition of 'Christianity' and its existence were not established until the Enlightenment of the 18th century. Prior to that, there were only the ideas of "Church" and "sects" in Western civilization; Western history was marked by Christianity. The relational mode of Church and State also complicatedly demonstrated various expressions according to different rules and historical contexts.

Therefore, when dealing with the increasingly serious problems of Christian organizations and groups, the Chinese elite must realize that in modern Western civilization "Christianity" still constitutes the intrinsic structure of current global, political, economic, and ethical order, despite the fact that it has experienced the challenges of modernity and post-modernism that resulted from rationalism and the Enlightenment. As for the United States, the traditions of the New England Era, Calvinism, Puritanism, and the spirit of the Covenant still influence mainstream values and structures. Therefore, as long as the English language is regarded as the only common international language, the inner spirit and value of Protestantism will continue to occupy a dominant position. Chinese scholars need to realize this when looking at growing Christian faith groups and spiritual, aesthetic, and economic value.

Historical Development of Magisterial Church and Church-State Relation

1. In 313CE, *Edit de Constantine* (*religio licita*): Magisterial Church and *Fides ecclesiae*. *Religio licita* marked the official recognition of Christianity as the national religion of the Roman Empire and the entrance of Christianity into the Roman legal system. Since then, the

Church's faith was the standard for judging orthodoxy and heresy. The Magisterial Church, by way of order and truth, was shaped to be the mainstream theological tradition until the Age of the New Continent (18th century). The current European mainstream sects are Lutheranism in Germany; Anglicanism in England; Presbyterianism in Scotland; Catholicism in France, Belgium, Italy, and Spain; and Orthodoxy in Greece, Bulgaria, Hungary, and Russia. The Catholic Church in European countries is still dominant. The Magisterial Church in the United States is different from that in Europe, and should be a main reference for China's Magisterial Church.

2. ***The Nicene Council (325CE)***: the first Church Council, held by the Roman Emperor Constantine (306–337CE). The Council discussed many doctrinal disputes, especially Arianism. It also stated the basic rules of the Christian faith. Since then, the Church has ensured the faith orthodoxy and church unity through the Council. It is worth mentioning that the decision the Council made was like the Roman Empire's law. Thus, the dogma, doctrines, and disciplines of the Roman Catholic Church became part of the Roman legal code regarding "Church Faith."

3. ***1215CE, Two Great Historical Events:***

- a. Fourth Council of Lateran—Pope Innocent III (1198–1216CE) promoted theocracy all over Europe and the pontifical consciousness of Innocent III.
- b. *Magna Carta*—The *Magna Carta* was signed on June 15, 1215CE in England. It began the legal restriction of absolute power of the British royal family.

4. ***The Peace of Augsburg***

In 1555CE, the Peace of Augsburg was signed, marking the first resolution of the Church-State relationship using law in Christianity's modern history. It established the main principle of '*cuius regio, eius religio*' (whose realm, his religion).

From 1517CE to 1555CE, several European countries were embroiled in religious conflicts and turbulences, resulting from the Reformation.

Free Church and Religious Tolerance

In the Rationalist Era, radical reformation started to bloom, develop, and grow. Eventually, the movement rooted itself and began to grow in the New World, North America. The church organization was called the "Free Church" or "Independent Church" to differentiate from traditional churches.

In Western Christendom, Catholicism and mainstream Protestant denominations—Lutheranism, Anglicanism, the Reformed Church, and Presbyterianism—are representative of the Magisterial Church. Baptism, Mennonitism, Moravianism, and Pietism in Germany represent the non-mainstream Free Church. They constitute a unique part of Protestantism, having developed their own set of theories and interpretation of the church system, doctrine, and dogma.

Unlike the traditional church, the Free Church was unwilling to depend on the government to rule the church and its believers or to cooperate with the government in matters concerning the organization of the church. At the same time, the position or salaries of church leaders did not depend on their social status. In fact, the Calvinist-Puritan doctrines concerning selection, calling, freedom of conscience, and the divine right of resistance, to some extent promote the growth of the Free Church.

In 1536CE, John Calvin published "The Institutes of Christian Religion" in Basel, and was invited to take charge of the reformation in Geneva. Calvin's followers spread his teachings throughout Europe. Calvinism, Puritanism, and Separatism all originated from Calvin. These laid the foundation of the basic principles and structure of the Free Church, which was separate from the state system.

On November 11, 1620CE, the Mayflower Compact was signed. It symbolized the colonists' intention to "enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience."

In 1689CE, the Parliament of England passed the “Bill of Rights.” This strictly restrained the king’s rights in affairs of economics, politics, and religion, determined the basic principles of the supreme authority of Congress, and provided basic rights for citizens. Fundamentally, it guaranteed everyone’s ‘natural rights of equality,’ the natural right of freedom.

1. 1791CE, The Bill of Rights, the Declaration of Independence, the Constitution

In 1791CE, the United States’ Bill of Rights was passed. It is the main legal document that scholars today study to understand the relationship between Church and State, the organization of the Free Church, and the Puritan tradition in the United States.

2. 1789CE, The Declaration of the Rights of Man and of the Citizen

In 1789CE, the French National Assembly passed “The Declaration of the Rights of Man and of the Citizen.” The Declaration stated Man’s natural rights and the citizens’ rights in secular society. Even today, the items of this Declaration remain as aspirations of other nations and peoples outside Christendom.

3. 1848CE, The Universal Declaration of Human Rights

Article 18 of the Universal Declaration of Human Rights states: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Article 19 says: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Throughout the past 2,000 years, the Church has explored the relation between Church and State within the framework of understanding the Law-

Gospel Paradigm. Nowadays, Calvinism is the main trend in American society. This will be helpful in analyzing Christianity’s past, present, and future in China.

Since the Reformation, the Magisterial Church in Europe has treated “country” as a secular organization, while the Magisterial Church in the United States has been based on the Calvinist doctrine of freedom of conscience. To a high degree, both are legitimate autonomous religious organizations under the constitutions. In modern countries characterized by civil society, autonomy has built up a direct legal relationship between the citizen and the state. The role and function of government are to protect the fundamental rights of every citizen and to limit all that harms citizens and public interests, particularly those that abuse or overstep the state’s authority.

Historical sources from Europe and the United States support the observation that the blend of Protestantism and the traditions of the Church as practiced in China today is characteristically Puritan in theory and perception as a result of movements by American missionaries. Therefore, a Chinese society rooted in Confucian traditions with highly valued social classes dealing with the State-Church relationship remains a big challenge to the ruling party and government.

Meanwhile, the definitions of “State” and “Church” in the State-Church relationship are always ignored in China. For example, “autonomy” should be a basic characteristic of the Church, it being relatively independent from the secular world. Only in a citizen society that accommodates and protects autonomy can a benign, law-abiding FBO grow healthily and develop exemplary virtues—self-esteem, conscientiousness, and dedication—in a secular society.

Therefore, the modern, civilized, world system that has traditionally looked primarily to Christianity for direction includes as its tenets religious freedom, the rule of law, equality of rights, guarantees of natural rights, and the rule of conscience. These are legally manifested through the different State-Church embodiments of Europe and the United States, together constituting the basic world order. Both Mainstream Churches and Non-mainstream Churches share the same freedom, independence, and autonomy with legal guarantee.

CHRISTIANITY AND CHURCH ORGANIZATION IN MAINLAND CHINA

Background and Interpretation

Sociological observations show that the development of Christian organizations and groups in China has become a historical trend. Proper understanding of such important backgrounds will help to analyze and interpret China's Christian faith, the Church, and the current problems. From 1949 through the 1980s, an individual in China required a great deal of courage to confess a faith in Jesus Christ. In the national educational and psychological systems, religion was associated with ignorance, superstition, and backwardness. By definition and public perception, religion was a synonym for non-science and anti-science. Therefore, national elites either chose to stay away from religion, together with its value system, ethical perspective, and view of life or brought it into the realm of policy management. Even those intellectuals who knew and understood religion could only study it from the standpoint of national ideology (Marxism and Leninism), and gave interpretations that served the need of the nation and the ruling party.

Since the introduction of Deng Xiaoping's "Reform and Openness" as the fundamental policy for China's modernization, Chinese elites have begun to study religion in a positive way from the cultural perspective, especially the intrinsic value and historical significance of Christianity. China's National Academy of Social Sciences, universities, and research organizations now accept Christianity as a cultural phenomenon; this is a remarkable historic event. Much literature on the Christian faith has been translated by university scholars and can now be formally published by national publishers. To a great extent, this has corrected the paranoid control imposed on religion under the ideology of the former Soviet Union.

Well-educated overseas Chinese scholars returning en masse from western countries, especially the United States, have recently become a part of the modernization of various trades and professions. Many of these scholars have themselves spread the Christian faith to higher social strata, thus elevating its status beyond the lower levels of society.

Many values, ideas, and ideals of a modern nation with a rule of law, such as the United States with its social, economic, managerial, and technological advancements, have become the standard mark and reference for the younger generation of Chinese national elites. When associated with the Christian faith, American ideals—natural law, natural rights, civil rights, constitutionalism, and freedom of speech—will cause the Christian Church to become the most notable and the fastest maturing religious group on Chinese university campuses. This phenomenon has undeniably manifested itself in Mainland China since 2000. More and more people who take the Christian faith as truth are forming various kinds of groups, fellowships, and churches, as well as regional and occupational Church organizations outside of TSPM/CCC, which is controlled by the government. The importance of Sino-United States relations within China's international relations also allows the national media to help Chinese intellectuals and elites understand and focus on the disagreements, disputes, and conversations between the two nations over issues pertaining to human rights and religious freedom. All of these facts—especially given that generations of Chinese scholars, after studying abroad and assimilating to American society, are now returning to China as entrepreneurs to participate in the nation's development—form the basic background for our study of China's Church-State relationship. Therefore, any study of China's Christianity in its organized form, whether the ruling party is able to accept it or not, must also consider American national interests, which are inseparable from China's modernization, and values involving the American national character, which originated from the Christian faith. At the same time, one must also pay attention to how these values, be they political, historical, sociological or economical, become the infrastructure of American national security.

Five Approaches to Observe and Define the Church in China

1. The Magisterial Church and the Non-magisterial Church
2. The Rural Church and the Urban Church
3. The Historical Church and the Native Church

4. The Missionary Church (Overseas Chinese Type) and the Non-Chinese Type
5. The Ideological Church (Non-communist Type) and the Extreme Nationalist Type

According to the general principles of classification within the study of the Church's history, we could consider the first type of classification—Magisterial or Non-magisterial Church—a launching point to help define the current situation of Christianity in China. In the long history of western churches, magisterial churches maintained a strong bond with governments, even as they retained a high degree of autonomy in dogma, doctrines, and Church order. That is to say, *ecclesia* has always been the intrinsic essence of the western Magisterial Church. Christianity in China is showing a more striking tendency: Church organization, administered and supported by the government, is increasingly bureaucratic, resembling more a secondary State Administration for Religious Affairs (SARA), and its seminaries and biblical colleges are becoming less educational and less scholarly. All kinds of “hidden rules,” which are typical of government bureaucracy, are at all levels of TSPM/CCC organizations. In contrast, a growing number of independent non-magisterial churches (house churches) focus on continuing the traditional heritage of the historical Church. That is to say, the standard that ought to delineate the Magisterial Church and the Non-magisterial Church appears in reverse order in the landscape of Chinese Christianity: the free churches (non-magisterial/house/independent churches) become the successors of the historic church and orthodox faith, the great tradition of Christianity. This begs the question: Will they become the future “mainstream” of Chinese Christianity? This is the unavoidable reality that the Chinese magisterial church, namely the TSPM/CCC, is facing. The responsibility for preventing the TSPM/CCC from becoming a secondary SARA lies solely with the government.

The “rule of men” over “rule of law” once determined by national conditions and historical traditions will be a pattern that accompanies China's

development throughout the globalization era. Thus the quality, character, morality, and ability of the officials in PROs are to a great extent dependent on the personnel in charge of the responsible government organs. In such an enormous bureaucratic system, it is rare that high level policies are made to pass the mandatory legal procedure, despite being the responsibility and directive of policymakers. For more than 2,000 years of agricultural civilization, the people were either ignorant or could only look up at the sky and sigh. But today it is absolutely impossible to return to the times of an ignorant population. Rule of law, constitutionalism, democracy, surveillance, and balance of power have become the basic elements behind China's modernization. Behind them, the affinity of these ideas with the Christian faith, Biblical revelation, and Church tradition has increasingly manifested itself. This is a major point in our consideration of Magisterial and Non-magisterial churches in China.

Therefore, the existence and development of and continuous attacks on many non-magisterial churches has a specific, historical significance that will at least induce the public, government authorities outside of the religious sector, and elites to think critically about the current national system of religious administration, and to try to solve chronic and stubborn problems. If the government remains at ease with the current system of religious administration, it will lose the present opportunity and eventually have no choice but to deal with the matter in a conclusive way. Many non-magisterial churches will eventually gain legitimacy in faith, doctrines, order, polity, civil rights, and responsibilities, especially once both the quantity and quality of their believers undeniably exceed those of TSPM/CCC organizations. At that time, any change in the role of SARA surely will be forced upon it.

POSSIBLE SOLUTIONS

At the Political Level: Sun Yat Sen's three stages of China's modernization

Sun Yat Sen's three stages of China's modernization were military rule, political tutelage, and constitutional government. Based on his famous designation

about the modernization process in China, the Three Principles of the People were nationalism, democracy, and livelihood. On January 29, 1923, Sun declared, “I therefore advocate that the examining and censorial powers should be placed on the same level with legislative, judicial and executive, thereby resulting in the five-fold separation of powers. On top of that, the system of the people’s direct political powers should be adopted in order that the provision that the sovereign power is vested in the people may become a reality. In this way my principle of democracy may be carried out satisfactorily.” He added, “According to my plan, the progress of our revolution should be regulated and divided into three stages: First, military rule; second, political tutelage; third, constitutional government.”

At the Truth Level: The universality of the truth of Cross

天下为公 (the universe [literally, *all that is under heaven*] belongs to the people) constitutes the intrinsic character of the Chinese nation and tradition. Therefore, the Christian faith is by no means a foreign spiritual and value system. It contains universal truth and value. The Church in China needs theologians and scholars who can expound the truth of the Christian faith in Chinese, thus making the Christian faith a source of truth and spiritual origin for China’s modernization. This will eventually allow Christianity to merge into the spiritual life of Chinese people.

At the Theological Level

The Dilemma of the Magisterial Church in China

China is facing the dilemma of political reform. The system the SARA uses to carry out the will of the state is also facing adjustments and scrutiny. The government should allow and encourage legalists, sociologists, historians, and theologians to study and reflect on the role, limit, and basic function of the SARA (re-define its means, actions, and existence) from different points of view.

Currently, the Chinese government legally admits and supports five national religions: Buddhism, Daoism, Islam, Catholicism, and Protestantism. In Christianity, the Chinese Catholic Patriotic Association (CCPA), Bishops

Conference of the Catholic Church in China (BCCCC), and the Three-Self Patriotic Movement and Chinese Christian Council (TSPM/CCC) can be regarded as the “Magisterial Church.” Even though their ecclesiastic nature (*ekklesia*) is essentially weaker than their political and administrative nature, the two organizations can still be objects for our thinking and discussions. In reality, their seemingly orthodox and legitimate nature came from the state and demonstrates their weakness and crisis. Essentially, they are controlled by some officials of the National Religious Bureau.

As mentioned above, these government religious officials are in charge of the duties and powers of all of the magisterial church leaders. Their personal beliefs, values, personalities, moral characters, and tastes decide what kind of religious leaders they will select. Often many religious officials abuse their power to ensure their own personal and family interests. They appoint religious leaders according to their own desire and taste and not according to the ruling party’s principles or national interests. Thus, a strange phenomenon is that no matter how the SARA officials emphasize the significance and legitimacy of those religious leaders in the Magisterial Church, they have little spiritual authority over believers because they do not follow the principles of faith. They also do not render any real help in maintaining the prestige of the ruling party and national interests.

Even though the ruling party and government in China promote the rule of law and morality, it is still hard to fulfill the transitional process of modernization within several generations. The only thing they can do is to push gradually toward rule of law. It can be said that in China religious affairs belong to the ideological arena, not to public affairs. Only with the fulfillment of political reform can religious affairs come under the sphere of the rule of law. Along with the process of China’s modernization, there will still be some conflicts, misunderstandings, and trifles. Therefore, we must realize that the progress and development of China’s religious affairs in the long run relies on religious officials’ personal characters, their moral standards, and their responsibilities. This is the reason why the religious policies designed by the ruling party are reasonable and realistic, but are hard to implement.

This is the dilemma the Magisterial Church (CCPA and TSPM/CCC) is currently facing.

The Church's Autonomy can Guarantee Religious Freedom in Law

Historically, the State-Church relationship is feasible only if the State respects the Church's freedom, autonomy, and independence toward dogma, doctrine, and Church order. This makes it possible for the Church to function in a secular world. In this way, the Church can become the conscience for society and the country. Any attempt to abolish the Church's autonomy and force it into government ideology and the bureaucratic, administrative structure makes it impossible to solve or deal with all the arguments and conflicts originating from disorder. One phenomenon in China's huge administrative system is that religious freedom is guaranteed in areas where religious affairs officials have a fine character, high moral standards, and a good heart, and the church leaders have a healthy, positive relationship with them. This more closely resembles the situation during the past feudal era that depended on certain enlightened officials than a modern society under the rule of law.

Taking the institutional Catholic Church and the non-institutional "Little Flock" (Local Church) as examples demonstrates that the Church's autonomy can work within China's legal framework.

At present, a serious issue within the Chinese Catholic Church concerns the conflict between orthodoxy and legality. From the perspective of orthodoxy, the Chinese government allows Chinese Catholics to pray for the Pope in public and to receive instructions for their spiritual lives from the Holy See. Thus, the Chinese Catholic Church is consistent with the universal Catholic Church in terms of the unity and orthodoxy of dogma and doctrine. However, from the standpoint of legal, constitutive authority, the Chinese government totally refuses any interference from the Holy See in Rome in the affairs of Chinese Catholics. As a result, illegal priesthood classes have always existed and developed outside of China's religious policy and administrative rules, causing problems and troubles among the Chinese Catholic community. The way of solving this problem is to be autonomous, unifying the orthodoxy and the legally constituted authority under China's constitution. At present, countries around the world that have no problems allowing their Catholic citizens to relate to the Holy See in Rome have basically adopted autonomy and self-discipline within their constitutions.

Among the non-institutionalized churches of the Protestant Church in China, only the "Little Flock" realizes its relatively autonomous rule in

doctrine and self-discipline of civic duty. From both the theological and legal perspectives, we need to assure the devotion to Christian traditions, the dignity and autonomy of the non-institutionalized churches that arose from the Reformation and modern Industrial Revolution, and the doctrinal authenticity and credibility with regard to civic responsibilities.

As far as the Chinese Church-State relationship is concerned, the "Little Flock" needs to respond to and clarify three central misunderstandings that revolve around Watchman Nee/Witness Lee, their worship practices, and the Bible:

1. The members regard Watchman Nee and Witness Lee as gods or saviors.
2. The members regard the central and powerful part of the Local Church as the Shouters, an illegal cult that uses secretive approaches and methods to worship, such as yelling, to cause disorder in society.
3. The "Little Flock" church uses a different Bible from the canonical Bible that most traditional churches use because Watchman Nee and Witness Lee tampered and distorted some of the scripture.

The non-institutionalized Church, or Free Church, is not concerned with obtaining political, financial or legal support and protection from the government. They do, however, care about absolute freedom and autonomy based on law; as long as it is harmless, it should be legal. This constitutes a fundamental criterion for the law. The Chinese government and the Magisterial Church (TSPM/CCC) should develop an operational plan as soon as possible to legalize all Christian groups and organizations in China. The Magisterial Church must not become an authoritative organization for determining orthodoxy and heresy. It should also not become an arbitrator that decides which organization is qualified to be registered. In other words, the non-institutionalized Church organizations should share the same rights as the Magisterial Church organizations. Both should be legal, but one should not be subject to the other.

Since the Reformation, the Protestant church according to Martin Luther has formed a series of the specific principles such as *sola Scriptura*, *sola fides*, *sola gratia* and the priesthood of all believers. In later missionary history, they worked with these practical principles. Subsequently, after Calvin, a variety of denominations formed. Therefore, doctrinal autonomy became a major feature of the Protestant Church, differentiating it from the Roman Catholic Church. It is better to say that the Chinese Church belongs to the “pre-denominational period” rather than the “post-denominational period” because it did not experience an era of innovation based on dogma, doctrine, and Church order. Basically, the Chinese Church was and still is run by the will of the ruling Party and its policy. Thus, it never realized its doctrinal autonomy.

The Autonomy of the Free Church

I prefer to use the Local Church as a pilot project for establishing the legal model of religious autonomy under the state constitution in China. The autonomy of the Church as a FBO is the only feasible way.

Doctrinal Autonomy: Watchman Nee and the Local Church have formed a unique “Local Church” doctrinal system different from the Magisterial Church. However, it includes the New Testament Church traditions and fundamental doctrines from the early-mid age Church.

The Doctrine of Calvinism: The Third Usage of the Law (*tertius usus legis* or, as Calvin prefers, doctrine of *usus in renatis*) means that believers are reincarnated in order to obey God’s commandments in a Christian life.

Ethical Self-discipline: The Free Church emphasizes ethical constraint, such as Church discipline. They inherit Melancthon and Calvin’s Doctrine on the third function of law and the idea of natural law. It has become a major characteristic of fellowship in many of China’s “House Churches.”

Thus, autonomy means self-discipline. The Church demands stricter requirements to regulate its members’ behavior. This is the basic feature for all nations under the rule of law regarding FBOs. Why does the Magisterial Church receive a great deal of criticism? The main reason is that the spiritual legitimacy and authority of the Magisterial Church’s leadership lacks a strong foundation in the Christian faith. Their actions and words often do not demonstrate their inner faith or ecclesiastical doctrine. They are mainly

chosen according to the standards of religious affairs officials, and then their legitimacy and authority are conferred by the highest authority of the ruling party and government.

The Reality of Christian Responsibility: We should study religious groups and organizations in order to understand the responsibilities and obligations that come with religious and ethical self-discipline and follow the constitution and laws as China develops into a state under the rule of law. Even since Emperor Han Wu, the national system has been based on Confucius’ teachings and orthodoxy. It is not the government’s responsibility to set up every kind of government branch to take charge and control people’s spiritual life and faith. Therefore, in studying today’s Chinese society, which is a civil society in form, government authorities on religion should establish legal relationships with all lawful religious groups and organizations based on the Church-State principles, instead of interfering, controlling, and administering five national religious organizations. For this we need to study and design a system based on each group’s values and traditions and look at how it should or could be manifested in civil areas.

A basic principle from the doctrine of original sin in the Christian faith is that any earthly power without restrictions will lead to corruption. The Church’s discipline and its members’ civic responsibility can help with sustaining social stability. The present system shows that the Chinese government has not yet learned to allow the Catholic Church to work out its own social responsibilities according to church instructions. History indicates that any religious group with established doctrines and organizational systems when allowed to operate autonomously according to its own statutes will help to establish and legitimize the law and ethics of a state and society, creating a more stable society.

Conclusion

In China, the religious problem is a political problem because the Chinese mentality emphasizes taking universal value and absolute truth into social management. Therefore, seeking the universal and absolute truth becomes the most important and esteemed responsibility of the elites (君子). From the *Analects*, Book Four, “He has not lived in vain who dies the day he is told

about the Truth” or “What a joy if, hearing the Dao in the morning, one dies in the evening.” (子曰: 朝闻道, 夕死可矣!) *Dao* refers to the absolute truth in the Chinese spiritual system. Confucius said, “A gentleman in his dealings with the world shows no preferences, but he is prejudiced in favor of justice.” (子曰: 君子之于天下也, 无适也, 无莫也, 义之与比。) This shows that, after setting up the *dao*, one must build a political order based upon *yi* (righteousness) and conformed to *li* (ritual propriety). As Confucius said in *Analects* 2/3:

Lead the people with administrative policies and organize them with penal law, and they will avoid punishment but will be without a sense of shame. Lead them with *te* and organize them with ritual actions, and they will have a sense of shame and moreover will order themselves harmoniously. (道之以政, 齐之以刑, 民免而无耻, 道之以德, 齐之以礼, 有耻且格.)

This is what we emphasize and call today “the obligation.” American sinologist, Peter Boodberg, translates the idea of *zheng* (政) in Chinese classical thought as “effecting sociopolitical order,” which avoids the usual translation, “government.” According to him, the *zheng* in Confucian ideology has a two-fold meaning: the first, “rectitude, justice;” and the second, from its shared origin with the character *zheng* (征), meaning “to compel submission.” Under such a mindset, in order for Westerners to understand China’s religious problems and their possible solutions, they must know where the current ideology of government control came from, what kind of *dao* guides the current state of affairs, and what types of irresolvable conflicts or serious “misunderstandings” the government perceives in western teachings constituted by Christian ideas like natural law, natural rights, freedom of conscience, and the principle of separation of Church and State. The only choice to solve the dilemma of *zheng* is to use Chinese to interpret the *dao* of the Christian Faith. Then such issues as human rights, freedom, conscience, and obligation can be understood and explained.

As a pastor and theological professor in the Magisterial Church, I repeatedly remind and warn the highest leadership of the Three-Self Patriotic Movement and the China Christian Council (TSPM/CCC) that if they still do not pay special attention to the great theological tradition of doctrinal autonomy and the Church’s principles and standards, one day the non-institutionalized churches in China will shift to become the mainstream of Christianity. A similar situation transpired in Europe and the United

States during the 16th and 19th centuries. During that period, the various independent churches, free churches, Puritans, Calvinists, Anglicans, and Lutherans broke away from the framework of the Magisterial Church and brought a great evangelist movement. They shaped the history and political systems of the United States and other Western powers, and their influence is still felt in the modern world.

My proposal is based on the principle of constitutional government to allow the establishment of autonomous church entities, and to subject SARA’s role and scope of power to the principle of Church-State separation, being constrained and controlled by the law. If we could take the most notable non-magisterial free church, the “Local Church” or “Little Flock,” as a trial and grant this church autonomous status, this experiment will be instrumental in establishing a new type of religious system with regulations and guidelines based on the rule of law.

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- “这就保证了政府对个教派、教会的中立地位，保证了各派宗教团体的平等地位，从根本上消除了曾给欧洲人民带来巨大痛苦的宗教冲突和宗教迫害，避免了因宗教原因造成的社会分裂。尽管由于历史的原因，美国的大教派与小教派、新兴教派与传统教派、主流教派与非主流教派、白人教会与少数族裔教会之间存在着事实上的不平等，在美国建国前和建国初期，还发生较为严重的宗教迫害，某些宗教与教派（如天主教、摩门教等）曾长期处于社会的边缘，但正是由于政教分离原则的实施，这些历史上的消极因素才没有扩大并发展为美国社会中不可消弭的裂痕，没有成为影响国家稳定的隐患。” Liu, Pengzhe. *Zongjiao wenti wenji*, 286. Beijing: Pushi shehui kexue yanjiusuo, 2000.
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- “Toute personne a droit à la liberté de pensée, de conscience et de religion ; ce droit implique la liberté de changer de religion ou de conviction ainsi que la liberté de manifester sa religion ou sa conviction, seul ou en commun, tant en public qu'en privé, par l'enseignement, les pratiques, le culte et l'accomplissement des rites ». Ces textes paraissent tout à fait clairs ils rendent plus que problématique l'instauration d'une législation « antisecte » dont on voit mal comment elle pourrait ne pas être en contradiction avec la liberté religieuse fondamentalement reconnue comme Droit de l'homme.” Collange, Jean-François. “Intolérance et sectes.” In *L'intolérance et le droit de l'autre*, edited by J.F. Collange, G. Duprat, et.al, 114. Genève : Labor et Fides 1992.
- 路德宣称：“几乎可以说，整本圣经和全部神学知识都是对律法和福音的正确认识联系在一起的。”（7；502,34s. 1521）“只有知道正确区分律法和福音的人，才知道应该感谢上主使之成为一个神学家。” Luther, Martin. *Œuvre*. Tome 15, 129. Genève: Labor et Fides, 1969.
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dignity and popular participation in government. Given the nature of modern technology, these principles will not be confined by national borders. But experiences has shown that to seek to impose them by confrontation is likely to be self-defeating—especially in a country with such a historical vision of itself as China.” Kissinger, Henry. *On China*, 526. United States: Penguin Press, 2011.

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Some Indigenous Models of Church-State Relations in the Context of 21st Century Chinese Society

FU-CHU CHOU AND CHUNG-YAO WU

Abstract:

Since the beginning of this decade, following its ascendance in international society, China has gradually moved towards being a more diversified country in the areas of economy, culture, religion, and society. This essay represents an effort to explore the possibility and potential of a future China that tolerates multiplication of religions by first studying the development in Taiwan, where in recent years more religions have emerged, with a focus on government regulation of religious groups.

Soon after the end of martial law in 1987, thousands of local and foreign religious groups began to preach in Taiwan. This newly found freedom of religion gave rise to a “religious miracle” comparable to the “economic miracle.” The “religious miracle” was praised as the manifestation of religious freedom in Taiwan. In a response to the boom of religious activities, Taiwan’s government consulted opinion leaders of various groups and proposed legislative bills to regulate religious groups. Proponents of those bills argued that such a legislation would consolidate resources of various religious groups; define the legal status of religious groups by creating a new category of “public-interest legal entity,” i.e., “Religious Group;” require proper administration of properties and funds controlled by religious groups and certain degree of disclosure; and prevent fraud and embezzlement of funds under the cover of religion. Opponents protested against a possible intrusion on the core value of autonomy rights of religious groups and argued that related legal issues had already

been dealt with using existing laws, such as the Civil Code, the Criminal Code, and other administrative laws.

Past attempts of promulgating legislation by the Taiwanese government failed to produce results. The failure is due to the “bureaucratization” of religious groups and the complications followed by such a development. In traditional China, religions never aimed to grow into sophisticated organizations, but tended to appeal to individual followers to maintain a bond with group members. Under the influence of modernization, religious groups started to organize their members and keep strong ties within the groups. Government thinking behind proposed legislation that sought the transformation of loosely-built religious groups to formally incorporated associations or foundations further aided the bureaucratization movement. As a result, religious groups built up bureaucratic structures either to get hold of more members and socio-economic resources or simply to survive. Bureaucratization does not necessarily invite undesired consequences. But recent development in Taiwan showed a complicated relationship between government and religion. On the one hand, once religious groups bureaucratized, politicians and government could easily influence a whole group by exercising control over its “headquarters” or representative body. On the other hand, religious groups with a nationwide presence could sponsor powerful campaigns to demand privileges and entitlements when a particular legislation was proposed. One such example was a proposal to grant preemptive right to a religious group that continued to occupy illegally public land for more than five years to purchase that specific land from the government. The opposition party fought fiercely against it because the proposal would encourage unlawful usurpation of public lands by formally registered religious groups.

To envision an indigenous model of the government-religion relationship in the context of 21st century China, Taiwan’s experiences of recent legislative proposals reveal that one must reflect the bureaucratization of religious groups and the implications of such development under the consideration of religious freedom and separation of church and state. This essay will introduce organizational structures and guiding principles of several Christian groups in Taiwan for comparison and analysis, and then further discuss government policies in response to the multiplication of religious practices.

INTRODUCTION

As China entered the 21st century, its local, social, economic, cultural, and religious developments, along with its rising global standing, became increasingly diversified. Based on recent Taiwanese experiences of religious diversification and a comparative study of Church-State relationships of the Presbyterian Church and “Local Church” in Taiwan, this paper explores a few indigenous models of Church-State relations in 21st century Chinese society.¹

After the lifting of martial law in 1987, a multitude of religions flourished and there has been an observable change in Church-State relations. In her books, *Religion and Politics*² and *Government-Religion Relations in Taiwan*,³ Professor Ye Yongwen describes the government-religion relationship in the pre- and post- martial law era with “Religion as a Product of Government” and “The Politics and Religion as One Mutual Entity.”⁴ She argues that having experienced democratization and diversification after martial law, religious autonomy has gradually been constructed, which accompanied the phenomena of “religionization of politics” and “politicization of religion.” Although this argument is helpful in understanding government-religion relations under the Taiwanese government, it ignores the dual-dimensional observation and investigation of interaction between politics and religion and the cultural linkages between them.⁵ Professor Zheng Zhiming believes that the development of religion in Taiwan is best described as “the fight over indolence.” Without clear government policy as a guideline, those religious groups have found ways to survive legally. In 2006 many religious incidents occurred, and the media overstated these incidents as “religious chaos.” Actually these were just the result of the long-term fight over indolence. Without any seen mishaps one could pretend that all is well. Once trouble arose, they became the object of serious scrutiny of all parties.⁶ Despite that, in 2010, many sociologists mentioned that after the lifting of martial law, thousands of local and foreign religion groups could preach in Taiwan,⁷ which made Taiwan a society with a high degree of religious freedom⁸ worthy to be followed. Therefore some scholars have even called this a “religious miracle” in addition to an “economic miracle.” Such a flourishing and lively phenomenon, which nearly made Taiwan a “religious island,” is the highest manifestation of religious freedom in Taiwan.⁹

THE TAIWAN GOVERNMENT'S REPEATED ATTEMPTS AT RELIGIOUS LEGISLATION

With the emergence of new religious groups and the occurrence of a series of major religious incidents, religion seemed deficient in its avowed function as a guide to positively lead people to excel. Rather, religious groups gave in to the demands of believers to expand religious influence and descended into a concealed rivalry for believers and an open struggle for resources. This resulted in a torrent of criticism about the function of religion and the failure of the function of its divine forms. The Grand Justice addresses these issues in J.Y. Interpretation No. 573, which concerns the abolition of the Act of Supervising Temples and produced legislative requirements for religious groups.¹⁰ Furthermore, religious groups often have financial disputes concerning the donations of faithful believers. These donations often go into the pockets of the abbot or the management committee, resulting in tax evasion. Therefore, the requirement for the transparency of property of religious groups was one of the major considerations for religious legislation in Taiwan.¹¹ Appeals for religious legislation is greatly incited whenever crimes, such as moneymaking or fraud, by those who falsely use the name of religion are reported.¹² Moreover, there are religious leaders who pointed out that the real fatal issue with the religion in Taiwan is the recognition of the qualifications of religious personnel from monasteries.¹³

On this account, for years, the Taiwanese government tried twice to conduct religious legislation. The preliminary version of the "Religious Groups Act," drafted by the Ministry of the Interior, was revised five times in 1999. After the political turnover in 2000, the Ministry of the Interior invited representatives and professional scholars of the religious world, a total of 37 people, to form a "Religious Advisory Committee." The advisory committee elected six members to form a small religious legislative group aimed at conducting studies directed against the Ministry of the Interior's version of the law. After three discussions, the draft was submitted to the Religious Advisory Committee and in 2000 was approved as the draft of the Ministry's version submitted to the Executive Yuan. Afterwards, the draft was submitted to the Legislative Yuan along with other versions proposed by legislators. On December 19, 2003, it was approved on the first

reading of the Interior Affairs Committee. Then the debate for different versions had to be negotiated with the opposition parties. However, the ruling party legislator Chiu Taisan's version did not receive consensus within the party. Mr. Chiu's version was admirable in several ways: the taxation of charnel houses, the financial disclosure of religious groups, the adherence to religious groups' accounting systems, and the taxation of religious groups. However, he suffered massive opposition and had to compromise with some high ranking people within the party.¹⁴ According to the Legislative Yuan Functioning Act Article 13, before the expiration of the term, during the several negotiations of opposing parties, lawmakers of the ruling party deliberately took leave. Therefore, even with the approval of the draft at the first reading, everything was left unsettled.

On April 6, 2009, the Interior Affairs Committee of the Legislative Yuan passed the first draft of the "Religious Groups Act." On April 28 of the same year, when the draft's examination was addressed at the Yuan, sitting legislator Chen Jieru and 14 other members objected mainly because of Article 21. That article provided a Religious Judicial Person who had continuously used public land not under public use for at least five years the right to request purchase of that land. The resolution of the Yuan was to submit it to the Party Caucus for consultation.¹⁵

For years, many parties have differed in their opinions regarding the suitability of religious legislation. The arguments, which are for the "Religious Groups Act," roughly specify the following: 1) to integrate and develop the power of each religion;¹⁶ 2) to designate the world of religious groups as a religious corporation having the position of a public corporation to improve the administrative legal system for religion to play a greater social, educational function;¹⁷ 3) to necessitate the transparency of the properties of religious groups¹⁸ and to limit the occurrences of false-named religions, illegal money-making, fraud, and other criminal acts in society;¹⁹ 4) to illuminate regulations for the establishment and validity of "religious training institutions;"²⁰ and 5) to elucidate the management of religious groups' finances, temples, inheritance of temples, religious buildings, and use of land.²¹

However, many scholars and experts question whether there is a need to develop a special act to settle the above-mentioned issues. Based on the constitutional norms on religious freedom, many scholars oppose state

intervention on a variety of “autonomous rights” of religious groups, believing that this is against the constitution.²² On December 12, 2009, the Ministry of the Interior and the Taiwan Religious Association held a seminar called “The Religious Freedom and Religious Legislation.” A current Grand Justice mentioned that there was no need to set up special laws to regulate religious groups according to the country’s norms providing that a strict standard for public welfare considerations be followed. Then regulations could be lessened making exception for specific matters related to religion, for example registration procedures for the establishment of religious groups, use of religious funds, and compulsory dissolution of a religion. Establishment and registration are procedural requirements, permitting the use of the People’s Organization Law. The use of religious funds follows the example of general public corporation. As for mandatory revocation, it can be placed under criminal law. Therefore, a careful review of the current law with the addition of some regulations would be adequate. Many items in the draft “Religious Groups Act” are likely unconstitutional.²³

THE PRESENT SITUATION AND DILEMMA OF RELIGION IN TAIWAN DUE TO “BUREAUCRATIZATION”

Although some scholars of constitutional rights believe that many items in the draft “Religious Groups Act” are questionable, the Taiwanese government still attempted religious legislation. It has been unsuccessful to this day apparently for many reasons. The most crucial reason is the present dilemma of “bureaucratization” of Taiwan’s religions. “Bureaucratization” is a process by which formal social organizations take on the characteristics of a bureaucracy. Central to this process is the formalization, standardization, and impersonalization of rules, regulations (laws), and hierarchy.²⁴

Traditional Chinese religions are loose in their organizational structure. In form, faith provides the main basis of the relationship between believers and sect.²⁵ But with the changes in modern society, religion has increasingly systematized believers by closely uniting believers, organizations, and legislative requirements that condense the temples, churches organizations, and judicial entities. The “Religious Groups Act” intensified the development of

the “bureaucratization” of different sects.²⁶ Articles 4, 5, 8, and 10²⁷ of the approved draft are on the construction of the bureaucratized management system to intensify the formation of religious consciousness, to hasten the development of sect “bureaucratization,” and to encourage religious groups who are not for “bureaucratization.” Religious groups, either for their existence or for obtainment of socio-economic resources, accelerate the development of “bureaucratization.”

This is understandable, but the hierarchical organization does more harm than good for the development of religious groups in Taiwan. In essence, the emphasis of bureaucratization is on the secular power structure; thus it is hard for faith and secular power to coexist. The bureaucratization of religious groups seemingly is helpful for development. However, due to the reduction of sanctity, it suffocates the creative energy of spirituality. Once an organization is bureaucratized, Man is estranged from “God,” the divine relationship between believers and gifted persons is lost, and the enthusiasm of missionaries can hardly be maintained. This results in a lack of stability and durability of religious groups.²⁸ Religious groups, which follow a modernized society’s development of government, economy, and culture, face a strong challenge of secularization leading to the weakening and atrophying of religious sanctity.²⁹ Facing the secularization of present society, religious groups should strictly observe the sanctity of their own norms; otherwise they will be lost in present-day global isolation. The “sanctity of norms” refers to the event where religious groups are able to penetrate deeply into divine understanding of religion, genuinely realizing its ultimate entity and the universal law.³⁰

Studying the process of religious legislation, politics is usually the thrust to promote legislation and also the main reason for legislative failure. For the 2000 presidential election, in order to gain votes from religious groups, Chen Shui-bian proposed a “religious policies’ white paper” advocating the improvement of the religious administrative system and the abolishment of regulations on temple supervision. In the 2004 presidential election, another outbreak happened where Master Wei Jue openly opposed the “Religious Groups Act.” Then Master Shi Zhaohui and Secretary General Lin Rongzhi convened a press conference for the act. During each election the Religious Groups Act was put on the table.³¹ Different groups fought

for their rights on the taxation of charnel houses, financial disclosure of religious groups, religious groups accounting system, and tax benefits, yet the legislative committee of the ruling party deliberately took leave during the consultation. The draft, though approved on December 19, 2003 on the first reading, was thus made void.

Interestingly, although some controversial issues existed during the party consultation, there was a big change. The Democratic Progressive Party (DPP) gave in, agreeing that “A Religious Judicial Person that has continuously been using public land not for religious activities for at least five years before the implementation of this Act shall submit relevant documents to its regulating authority for a purchase of that land.”³² But on April 8, 2009, legislator Chen Jieru and 13 other DPP legislators raised an objection mainly on Article 21, which provided the right to request purchase of the land, though relevant regulations were not provided.³³

To speed up the law’s amendment, the Taiwanese government set up a legislative group to represent the committee in raising opinions on the amendment and finally submitting them to the committee for consideration. The committee recommended the following six persons for the legislative committee: director-general of the Association of Presbyterian Church in Taiwan Pastor Luo Rongguang, chairman of the Republic of China Daoist Association Wu Longxiong, secretary of the Catholic Bishops’ Conference in Taiwan Reverend John Baptist Wu, secretary general of the Chinese Buddhist Association Lin Rongzhi, policy advisor Yang Sihai, and assistant professor of Aletheia University Lin Benxuan. From the point of view of constructing the religious consulting committee, this is common practice in setting a bill. To make the bill more thorough, the government often filters representatives from various elite sectors related to the bill to form the country’s religious consulting committee. This committee becomes the national think tank providing the country with different opinions to avoid major negligence of the bill and to relate public opinion under the jurisdiction of the law. Therefore, from this point of view, the formation of the religious consulting committee is equivalent to the country’s administrative system and the site of interaction for religious group elites. The prototype for the draft was determined on this site and the state bureaucracy dominated this version in the beginning. Then it was

slightly amended by the legislative group of the religious consulting committee. Finally, it was enacted after consultation with the related ministry director by the religious consulting committee and submitted by the state bureaucracy to the Legislative Yuan for discussion.³⁴ Therefore, in 2009 the Ministry of the Interior’s version passed through the first reading in the Legislative Yuan. That same year, the decreed version of the religious consulting committee should have been set as a blueprint first before making minor adjustments or revisions.

Professor Zhang Jialin is confident that the 2009 draft, adopted on the first reading, will pass the second reading, third reading and finally complete the legislative process. In his view, with the pressure of funeral regulations requirements on religious groups not to accept the keeping of ashes, religious groups desperately need this law to protect their own interests. Looking at the bill as a whole, this law is tantamount to giving religious groups many religious “privileges,” but bearing little “obligations.” Religious groups do not have any major reason to oppose.³⁵ However, there will be an election of the legislator on January 14, 2012. The draft that passed the first reading might again be made void.

Why is it that the major religious groups have a representative in the legislative group but cannot do a follow-up thrust for the draft to complete the legislative process? In fact, Buddhist, Daoist, Protestant, and Catholic leaders had once questioned the government designed religious law, and some totally opposed the law. Some only wanted the government to expand the public right and maintain the benefits of present “institutional” religions.³⁶ Religious groups might not have any strong reason to oppose, but the draft did not even maintain the benefits of the “bureaucratized” religious groups. For example, Bishop Wang of the Roman Catholic Church in Taichung district believes that the “Religious Groups Act” draft produced a major problem for the Catholic Church. According to the law, the Roman Catholic Church can establish different religious social groups, religious foundations or churches and every Catholic Church can register individually, disturbing the existing hierarchical system and seriously violating the principle of secularism.³⁷ From the standpoint of the Catholic Church, the segment of the global “system” of religion and the Catholic Church in Taiwan belong to the universal Vatican Catholic Church. The Catholic

Church in Taiwan has only one system: the cardinal bishop as the supreme leader, the many parishes, and the priests in charge of the many Catholic churches. In this system, the order is clear. If the registration method of religious groups in Taiwan is followed, the original system of the Catholic Church will be disrupted. This will disintegrate the legal structure of the Catholic Church in Taiwan.³⁸

The views of Daoist leader Zhang Cheng and Buddhist leader Jing Xin are identical with Bishop Wang. They strongly suggest that the government should provide a “centralized religious system” in the “Religious Groups Act” draft so that all religions would have a headquarters. Each district would have a local organization, and under the local organization would be a small temple or congregation, forming a centralized religious system.³⁹ As much as the Buddhist and Daoist groups are concerned, they were accustomed to this centralized religious system from the authoritarian era. At that time, the KMT government required all religious temples in Taiwan to join either the Buddhist Association or the Daoist Association for the convenience of management. But after the change of the state system, many temple groups left the Buddhist Association and Daoist Association. They no longer pay fees to the national associations, and when the national associations do not have any direct relationship with the temple the associations become hollow and unable to operate. In the past, the Buddhist and Daoist associations were constructed under the authority of the KMT. Today, with the democratization of the Taiwanese government, such authority was handed back to the temples that they might have the freedom to choose whether to join or to leave the original Buddhist and Daoist organizations. Therefore, the strong Buddhist and Daoist associations of the past are now relatively weak. The Buddhist and Daoist leaders witnessed this transformation. They wanted to recover their large organizations by amending the draft of the “Religious Groups Act” and once again have abundant human resources and financial bases. However, current religious temples have an even stronger sense of independence. In the legal structure of the Corporate Act, they have the freedom to establish their own associations with different purposes. The number of various “National Associations” of Buddhism and Daoism are more than ten. The traditional Buddhist Association and Daoist Association are just weak national associations.⁴⁰ The honorary chairman

of the China Buddhist Association, Jing Xin, criticized the draft act saying it disturbed the administrative system of the Buddhist Association.⁴¹ Under the current organization, temple groups belong to the Buddhist Association. But the “Religious Groups Act” draft categorized monasteries, temples, and churches as on the same level, thus destroying the monastery and the Buddhist affiliation system.

As for the Presbyterian Church of Taiwan (PCT), during the President Chiang Ching-kuo and Lee Teng-hui’s regime, the church did not trust the KMT and opposed religious legislation. However, during Chen Shui-bian’s regime, it enthusiastically joined in the formulation of the religious law to gain more aid and recognition from the government. However, the PCT believes that the rank of the church is higher than that of the government and that the association of interior enterprise should follow the regulations of the association. But the rank of government regulations can never be lower than the internal regulations of religion, and this has led to unresolved conflict. The best example is the conflicted appointment of the President of Changhua Christian Hospital.⁴²

Due to the bureaucratization of religious groups, as long as political parties, politicians, and administrative organs can control the “headquarters,” government and religious groups are able to influence the whole group. Sociologist Gu Zhonghua pointed out that the “divine world” of China was never “unified,” using the development of western religions as a comparison. This was probably because the political power in China prevailed over religion and was good at manipulating the “divine” symbol that eventually provided legitimacy to the rulers.⁴³ Now the situation in Taiwan is such that some religious people proposed “the rule of state over religion associations and the rule of association over the temples,” believing that with lack of religious administrative staff in the government this approach is worthy to be considered.⁴⁴ Some religious groups depend on the aura of politicians to grow. Politicians depend on believers to enlarge their territory and even receive monetary aid. Each side has its own needs, thus developing an intimate relationship. However, in some cases, this relation caused trouble and even damaged religious groups.⁴⁵ Legislator Huang Zhaoshun, in reviewing the articles in the Committee of the Interior, expressed her view that religious groups, in fact, do not like to be categorized as “national” or “local”

because the rotation of the ruling party has become a norm. The central association and local temples are sometimes ruled by different parties. Even more, the political parties frequently get involved into the temples' affairs. In this aspect, all the parties are the same.⁴⁶

Professor Liu Peng pointed out that the nature of the relationship between state and church should be cooperative and not challenging. The state should represent the benefit of the whole nation and not the interest of a certain religious or non-religious group. The state should not let any religious organization obtain political privileges or exercise political power. The country's finances should not provide any assistance to any religious groups, and it should not promote and support or discriminate and oppose any religious activity and religious education. Religious belief reflects the personal choice of the people, which is also based on the fundamental right of citizens, and should not be used as an instrument for the realization of political goals. Once the government gets involved in the supporting or suppressing a certain religion, it loses the superior position as the representative of the public. Only secularism can guarantee the freedom of religion and maintain social stability. The utilization of state power to support or suppress religion is counterproductive, and is not the solution to this issue between the relationship of state and church. The use of the government as an instrument to achieve the religious goal of promoting a religion or the use of a religious organization to realize the goal of state government is a misunderstanding of the function and goal of the state and church. Hence, the proper choice is both state and church in their respective areas with the full exercise of their respective functions accomplished with mutual cooperation on the foundation of secularism.⁴⁷

Professor Li Xiangping also pointed out that the process of political socialization could never be finished once and for all. The inherent values and ideas of religion and government are realized only after the effective separation of socialization, which is the best solution to the conflict of the first process of modernization of a middle society. The essence of this social fact actually is one of the methods used to rethink the formation of a harmonious society. The goal of this method is to structure a "normative communicative relationship" that conducts a two-way recognition between state, government, and religion in order for religion and government to be

structured with a "normative mutual understanding" under the two-way recognized social category. The endeavor for this socialization, in contrast with the actual state of religion and government, is the second modernization needed by contemporary China.⁴⁸

A COMPARATIVE STUDY OF THE PRESBYTERIAN CHURCH IN TAIWAN AND THE "LOCAL CHURCH"

The Definition of "Church"

The Greek word for "church," *ekklesia*, is composed of *ek*, "out," and a derivative of *kaleo*, "called." Hence, it means a called out "assembly." In short, the meaning of the word "church" in Greek refers to "believers" and not a "physical building." Theologian Milliard J. Erickson mentioned that in Saint Paul's writings the term "church" usually refers to a group of believers in a specific city. There are also references to the church meetings in individual homes. In most cases, the word *ekklesia* has a broader designation—all believers in a given city. In some instances, it is a larger geographical area.⁴⁹

A famous professor of the New Testament, George E. Ladd, mentioned that the earliest *ekklesia* (church) was a group of unorganized Jewish believers. They met at a home together, ate food together, partook of the Lord's Supper, praised God, worshipped God, and listened to the apostles' teachings together. There was no organization and no appointed leader. The *ekklesia* at that time was different from the church today that has an organizational structure. Although the churches were bound together by no ecclesiastical ties or formal authority, they had a profound sense of oneness. All churches felt they belonged to one another because they jointly belonged to Christ. There could be but one Church; and this one Church of God expressed itself locally in the fellowship of believers. However, this unity was not something formally imposed or outwardly sustained; it was a reflection of the concrete experience of the true nature of one church.⁵⁰ The famous theologian Charles C. Ryrie also said that the early church did have a government structure. Local churches were not organizationally linked together, although they cooperated with each other.⁵¹

The *New Dictionary of Theology* shows that after the age of the apostles, there were three lines of development of church administration and organization: Episcopal polity, Presbyterian polity, and Congregational polity. The distinguishing feature of Presbyterian polity included a local church (such as locality, country or continent) that composed a district or a council. The right of the council and presbytery was regulated by the local council. Their function was to monitor, examine, and correct the wickedness of the district so that each district would give their full cooperation and the strong ones might help the weak ones. The Congregational polity had three basic features. First, the word “church” had two meanings. One referred to the whole entity—the unseen church—and the other referred to the local church—the church in a locality or an assembly where believers regularly met. Second, the local church had to maintain its independence, and not be controlled outwardly or dominated by any larger organization or central management. Third, the members managed the majority of the “congregational church.”⁵² In this view, the local churches in the Presbyterian polity and Congregational polity mentioned should fully cooperate and help each other with no upper or lower affiliation to a nationwide central organization or local chapters.

The Comparison of the Church-State Relations of the Presbyterian Church in Taiwan and the “Local Church”

The Presbyterian Church in Taiwan (PCT) and the “local church” (also called as the “Church Assembly Hall”) are the two largest Christian groups⁵³ in Taiwan with utterly different church-state relations. This article will explore its key factors.

The PCT started in 1865 in the south of Taiwan. The work on the north started in 1872. In 1951, the southern and northern parts merged together, forming the “The Presbyterian Church in Taiwan.” According to statistics for 2007, it has around 1,218 Presbyterian congregations and 217,280 members, making it the biggest new church in Taiwan. Administratively the PCT is organized by the General Assembly: 20 presbyteries, 6 districts, and 1,218 congregations.

Before the lifting of martial law, the PCT was an opposing organization issuing three political statements. The PCT adhered to the teachings

of Christianity caring for the future development and political development of the country, worrying for the nation and its citizens.⁵⁴ In 1982, Taiwan’s well-known sociologist, Chu Hai-yuan, said that the tension between the PCT and the government was caused by a lack of communication and reflected the subtle differences and conflicts between different Christian sects. The majority of pastors of the PCT did not believe that they were promoting Taiwan independence, but at the same time believed that their motive was patriotic. When subjected to the outside world, especially hostile public opinion, they were resentful because of injustice.⁵⁵

In 1987, current General Secretariat of the PCT Chang Deqian said that the impression of the PCT to Taiwanese society was on the “green side.” The Church itself was clear in its standing and deeply tied with the DPP. Since the Formosa incident (Kaohsiung incident), the abolition of martial law, the establishment of the DPP, the street protest parade, the county election, and the advancement to the presidential election, the PCT has actively cared for and supported the growing “opposition party,” all the more becoming one of them.⁵⁶

In 1999, due to its concern for the 2000 presidential election, the General Assembly of the PCT issued a “pastoral letter” calling all the citizens to join the election with a godly, serious, and prayerful will to build Taiwan jointly into a beautiful, free, democratic, and justice-filled “new and independent country.”⁵⁷ They even united with the other Christian groups to form a “Fan Club” for supporting Chen Shui-bian’s presidential bid.⁵⁸ In 2003, the PCT viewed the 2004 presidential election as the key factor for “Taiwan’s Life and Death.” The PCT organized a “Supporting Club” for Chen Shui-bian, expecting to increase the votes for Chen Shui-bian through its mobilization of more than 200,000 members.⁵⁹ Chen and Annette Lu won with the majority of votes in the 2004 presidential election. In the long stream of Taiwan’s history, this signified the start of the solid establishment of a local regime leading Taiwan towards a “new and independent country.”⁶⁰ In December 2007, the General Assembly of the PCT issued, once again, a pastoral letter to show the “Concern for the Election of Legislators and President, Supporting Referendum for Joining the United Nations.”⁶¹

In April 2008, the fourth democratically elected president was announced. The General Assembly of the PCT expressed in a pastoral letter

its concern about Ma Ying-jeou's goal of "ultimate unification." It was still pleased with the "Self-determination theory," and thought that "the future of Taiwan should be decided by its 23 million population." This was strongly advocated by the PCT in 1971. The PCT called all believers to pray watchfully for the country, to pray for the succession of Ma to the presidency, and to support and supervise the implementation of the promise—"Self-determination of Taiwan's future" and "Ensure Taiwan's Authority and Dignity."⁶² In October 2010, the PCT announced that the "2010 Taiwan Presbyterian Church Nation is Declared," calling church members to vote "Say No to the China—at the same time say No to Ma government."⁶³

These are but a few illustrated examples. The moderator and general secretary of the PCT's General Assembly often sign together to "actively care for and support" the DPP. In this regard, after the 2003 thanksgiving worship of the 10th Anniversary World Conference of Taiwan Christians with President Chen and former President Lee on the same stage, Professor Chu Hai-yuan criticized harshly saying,

Chen Shui-bian is an election-oriented politician. As long as he can obtain votes, even if he is a person of no religious faith, he can always speak "God's word" while "facing God," and speak "Buddha's word" while "facing Buddha"...The reason why politicians are such is due to the degradation of the religious world. They think that the personal "instructions" of the President is of supreme honor. Because of the similar political philosophy, the PCT holds all their religious rituals and activities under the influence of political goal, which is not only contrary to the principle of secularism but also offended the divine nature of Christianity and the autonomy of the church. On February 2005 before the Bian-Song meeting, the PCT once again announced in the name of General Assembly the "Declaration of Justice and Peace."⁶⁴

After the announcement of such a declaration, Professor Yeh Ren-chang wrote an article questioning whether the so-called "conscience of faith" was but an "ideological interpretation" of the minority in the PCT.⁶⁵

In 2004, Pastor Zhang De-qian, before becoming the general secretary, wrote a reflection, "Green party, green PCT?" After Chen Shui-bian was

elected president in 2000, Taiwan's political situation faced an unprecedented major change: "the rotation of the ruling party." This was the first rotation after the 50-year rule of Chinese Nationalist Party (KMT) in Taiwan. Many who struggled for democratic rule for years were inspired by such change. Is the PCT confused with its own role and position? Every time the General Assembly participates in political activities, there are always members questioning what they are doing. Such disagreement and misunderstanding have always caused discouragement. Some members left the PCT and joined another sect because they did not agree with the original church, and could not be proud of being a member of the PCT.⁶⁶ Furthermore, Pastor Yang Qi-shou, the General Secretary of the PCT from 1989 to 1998, said that after the rotation of the ruling party, the church's mission in politics should come to an end. Therefore, during this period of time, the church would maintain a certain distance from authority thus proposed a so-called "critical distance."⁶⁷

The General Assembly voiced another article of reflection on "the vision and direction of the Bible study of our Presbyterian Church" that described the PCT's concern for Taiwan society. Because of this, the interest of top students in the Theological Seminary focuses on the study of Practical Theology or pastoral care and counseling. When these biased students begin to preach in the local churches, they create a negative influence on the church as a whole far beyond its original expectation. These pastors may be able to talk about Taiwan's culture and political environment, as prophets, according to the Bible only because the pastors themselves do not make any effort in biblical interpretation at the seminary. In their pastoral courses, they are not able to train the leading ministers and members to develop the ability and habit to interpret the Bible themselves. The result is the total dependence of the leading ministers and members on the nourishment of the pastor. Hence, they become "Gigantic in Knowledge—Dwarf in Bible," knowing only how to listen to sermons and not knowing how to raise questions and study the Bible.⁶⁸

Recalling the years, the accusation from outsiders, the reflection of the future general secretary, and the reaction of the former general secretary seemly did not cause any change in the PCT's church-state relationship. The main reason was its organizational structure, which is bureaucratic

with the division of responsibility as the *modus operandi*.⁶⁹ Furthermore, since the “Confession of Faith” was passed in 1984, organizational authority became highly concentrated.⁷⁰ Even though there are inner reflections on the political standing of the General Assembly, these voices are no match for the voices of those in power; they are ignored.⁷¹

The “local church,” also known as the “Church Assembly Hall,” is a Chinese independent Protestant church founded by Chinese preacher Watchman Nee and his coworkers. In the early days, the local church was also named “Christian meeting place” and “little flock.” The members called themselves *zhaohui*, the “called-out assembly,” “local church,” and “the Lord’s recovery.” The “local church” in Taiwan is registered at the government as the “Church Assembly Hall;” thus, they are called so by outsiders. As of 2007, it had around 201 church meeting halls and 118,464 members. In 1946, the members of the “local church” migrated from China to Taiwan. In May 1947, they started to have meetings in Taipei. In 1949, the first meeting hall of the Church in Taipei was established. In 1950, meeting places for Chiayi, Tainan, Yilan, Keelung, Taichung, and Kaohsiung were established. In Taiwan, the leader of the “local church” was Witness Lee. Professor Lin Jin-shui pointed out that the “indigenous church” was “composed of the local Christians and not influenced by the Western Missionaries in administration and finance. The ‘Christian meeting place’ is a typical example.”

In comparison with the PCT, Professor Chu Hai-yuan mentioned that the “Church Assembly Hall” is neutral in political involvement.⁷² Professor Guo Cheng-tian believes that “the Local Church takes an extremely isolationist view toward church and state.”⁷³ Watchman Nee said that “we have to learn to submit to all authority, whether great or small. We cannot oppose any authority. On the one hand, believers should not touch any politics. On the other hand, they should submit to all political powers.”⁷⁴ Witness Lee said that “the saints need to maintain a good relationship with the government. According to the healthy teaching in the New Testament, we must respect the government.”⁷⁵ The “local church” inherited the view of Watchman Nee and never participated in politics. In its 60 year history in Taiwan, it has not had any conflict with the government, whether under the KMT or the DPP. This is totally different from the political involvement of the PCT. The key factor is their ecclesiology.⁷⁶

The most important feature of ecclesiology of the “local church” is that it endorses the system of “one locality one church.” It believes that the Bible views the city or the smallest administrative unit as the boundary of a local church, and does not have any organization above the local church. Watchman Nee pointed out: “The local church is the highest authority on earth. The Lord has not established a federated church, a mother church, or a head church above the local church. There is no such concept in the Bible as a mother church or a head church. In the Bible only a local church is recognized as a unit. In addition, the local church is recognized in the Bible as the unique unit. There is no authority above her.”⁷⁷ He also said:

The church is never divided into regions. The Bible never groups a few churches together under a regional organization....Every church is governed by Christ alone and is not under the control of any other church. In administration, every lampstand is independent and not under the control of any other lampstand....The seven churches, they have not joined themselves to become one united church, and they are not responsible to some higher synod or convention. Each one of them is a so-called congregation, an assembly whose boundary is the locality. The Bible takes the city or the smallest administrative unit as the boundary of a local church. A local church is the basic unit of the church in the Bible. No local church is joined to another church or regards another bigger church as the central church. In other words, in God’s eyes, Rome has never been appointed to be the central church. God has never acknowledged one place as the center of all churches, with that place ruling over and controlling all the other assemblies. According to God’s organization, there is no center on earth.⁷⁸

When Professor Lin Ben-Xuan investigated the organization of religion groups in Taiwan, he found that some of them were non-bureaucratic and all the churches were equal. He used the “Church Assembly Hall” as an example.⁷⁹ Witness Lee also pointed out: “Among all the churches that compose the one universal Body of Christ, there is no organization, but there is the fellowship of the Body of Christ. This means that in the proper church life there is no organization, but there is much fellowship. Just as the

human body does not have organization but does have circulation, so we should not have organization, but we should have fellowship.”⁸⁰

In terms of church organization, the ecclesiology of the “local church” can be briefly summarized as follows: one local church is one unit. It has neither a headquarters nor an association among them, but it has an informal and non-hierarchical relationship through the “fellowship of the Body of Christ.” On the one hand, in such a church organization there is no headquarters or centralized authority to challenge the authority of the government. It also does not lead to close observation of a political party or politicians, controlling the “headquarters” and thus influencing the whole group. On the other hand, “the fellowship of the Body of Christ” causes “local churches” to have remarkable cohesion and efficiency.⁸¹

There has been a lot of research done on the “local church.” Chu Hai-yuan and Yuan Yi-ping found that the believers of the “Church Assembly Hall” were in a “deep” yet impractical, “internal” and not institutional, “intrinsic” and uninfluenced by outside religious groups.⁸² Chang Qing-feng positioned the organizational feature of the “local church” as an “organic structure” based on three indicators: low “complexity,” low “formality,” and low “totalitarianism.”⁸³ Furthermore, Chang pointed out that the “local church” did not emphasize so-called “democracy,” but in fact had the connotation of “deliberative democracy.” They said that church’s internal organizational operation on decision-making took the way of equal participation and consideration of collective dialogue encouraging believers to participate collectively, teaching the believers to voice opinions based on common values, and learn to listen and accept different voices.⁸⁴

Although the “local church” does not touch politics, it is very active in social care. For example, since 2000, its members have actively promoted “life-education” in the compilation of a series of “life-education” material and in the extensive training of volunteers who do the “life-education.” Facing the trend of self-annihilation among young people, the Taiwanese government asked for help from religious groups to educate young people on the value of “life.” At that time, the “local church” was also the only Christian group involved in something like this. Furthermore, the “local church” has shown strong cohesion and efficiency in a variety of relief operations after natural disasters.⁸⁵ For example, after Taiwan’s 921 earthquakes

in 1999, each of the “local churches” claimed a disaster area for the reconstruction of homes and distribution of goods. Hundreds of volunteers stayed longer to conduct psychological relief. After the Wenchuan earthquake in Mainland China in 2008, the churches donated 10 million RMB. They also formed the “Caring Team of Believers of Taiwan Churches,” and sent two such relief teams to the hard hit areas.

In terms of ethnic harmony in Taiwanese society, Professor Guo Cheng-tian noted that because of the over emphasis of the Presbyterian Church and its seminaries on “Taiwanese nationalism,” many aboriginals feel discriminated against.⁸⁶ The PCT has repeatedly urged not to divide Taiwan’s social groups. However, the “local church” does not touch such politics, and shows “remarkable cohesion and efficiency,” as observed by Professor Guo Cheng-tian. There is no division of “blue” or “green” in the “local churches.” The members of the Church in Taipei and the Church in Kaohsiung, the two largest local churches in Taiwan, are harmonious with each other, even though they are in a political environment of strong opposition from different ruling parties.

The teaching and practice of “one city one church” is not only scriptural, but also apt at preventing two harms from church organization, namely preventing “big-union” and “small-division.” “Big-union” means a bureaucratic organization above the local churches. This union may become a political or an economical power, which is beyond the realm of personal belief, with a strong potential of threatening to touch politics or damage social justices. “Small-division” means the division within a local church by race, culture, and social rank resulting in ethnic divisions or even conflicts that violate the original purpose of constructing a harmonious society through uniting all members in one church as the spiritual “one Body of Christ.” The ecclesiology of the “local church,” keeping its members neither divided nor confronting each other, can realize the implications of indigenization and exclude the invasion of foreign culture or religion.

CONCLUSION

After the lifting of martial law, a multitude of religions flourished in Taiwan, and there has been an observable change in church-state relations. Some

scholars have even called this a “religious miracle” in addition to its “economic miracle.” Sometimes a small scale “religious chaos” is reported though. The majority of religious groups in Taiwan are facing the dilemma caused by the “bureaucratization” of religion groups’ organization. For years, the Taiwanese government tried to conduct religious legislation. The draft of the “Religious Groups Act” has at least twice passed through the first reading in the Legislation Yuan. Bureaucratization of major religious groups is a key factor to the failure of the legislation of the “Religious Groups Act.” The comparative study of the PCT and the “local church” shows that whether the church is bureaucratic or not is the crucial factor for shaping church-state relations.

In short, the “local church” has three characteristics: a “one city one church,” a non-bureaucratic “organic structure,” and an attitude of neutral political involvement. These characteristics of the local church form a clear contrast from those of the PCT: bureaucratization and deep involvement in politics with an emphasis on “Taiwanese nationalism.” Both the PCT and the “local church” are called “indigenous churches.” But the mode and result of indigenization are worth comparing. The indigenization of the PCT’s emphasis of the ideology of being “Taiwanese” produces a division of the so-called “local regime” and “foreign regime” in politics. This differentiation intensified the ethnic division between the “local province” and “foreign provinces” to the extent that many aborigines felt discriminated. Such indigenization can be described as “split” indigenization. The indigenization of the “local church” is due to the separation from the tradition of the Western church and influence of the western missionary societies in its administration and finance, to the establishment of an ecclesiology that looked back to the Bible, and to the maintenance of a good relationship with the government by respecting authorities. It brought harmony among the social ethnic groups. Therefore, such indigenization can be called as “uniting” indigenization.

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PART FOUR

The Current and Potential Impact of Religion on the Social Transition in Contemporary China

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The Role of Religion in Achieving a Harmonious Society in China

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Abstract:

During China's development since its reopening and reform, great change has taken place on the religious understanding of the Chinese people. What the Chinese emphasize today in their social construction is harmony and no more struggles. Their personal relationship is based on mutual understanding. Their social unity depends on finding common ground while reserving differences. In the pursuit of truth, moral value, and spiritual faith, the Chinese uphold mutual respect and conformity without identity. This kind of social atmosphere leads obviously to the tolerance of religions and the embrace of religions by the whole society. Harmony relies on the mutual understanding and respect within the community. Having experienced spiritual disasters, Chinese society needs mutual harmony and public peace. Religion plays an important role in the achievement of spiritual harmony. For this reason, one of the important efforts in striving for social harmony in China is the promotion of religious harmony, which includes tolerance and reconciliation among various religions, especially among religious organizations, and the good treatment of religions by the Chinese government and the public. With this religious tolerance, religions are in a good situation for their development and for their active social function. In today's changeable and complicated social transition in China, the spiritual consolation and stability provided by religion are indispensable. In order to realize a harmonious society in China, religions have basically reached consensus in their social, political, and cultural attitudes. As a result, this development helps the potential of the confluence of ideas, values, and moral concepts among various religions. This spiritual consensus of the religious perspective might

gradually change the existing environment of Chinese society and generate a cultural impetus for social harmony. The reopening of China pushes the country to face a changeable world based on globalization. The efforts for harmony in multiple situations have made some Chinese scholars consider a “community of religions” from a spiritual perspective, the potential for such a community, and the techniques to meet effectively the challenges brought by a new social community in contemporary international development as well as to conform to the current developmental tendency in the global community.

INTRODUCTION: CHINESE RELIGIONS BETWEEN MISUNDERSTANDING AND RENEWAL

Religion as a spiritual belief has been a big issue in China over the past 100 years. There were various debates on whether religion existed in China and whether religious value was positive or negative. Since the “New Cultural Movement” at the beginning of the 20th century, religion in China was suspected by reformers. The success of the 1911 Revolution and complete failure to establish Confucianism as the “state religion” by Kang Youwei negatively impacted Confucianism, which was part of traditional Chinese culture. The “Anti-religious Movement” that exposed and condemned traditional Chinese religions and the “Anti-Christian Movement” that rejected foreign religions in the early 1920s have marginalized religious beliefs in Chinese society. In the development of political belief over religious belief over the following decades, religion disappeared gradually from the spiritual life of the Chinese. Religious organizations also collapsed in Chinese society. The mid-1970s judgment concerning the “no religions in China” and “non-religiosity” concepts by Chinese scholars at the beginning of the 20th century suggested that the prediction had unfortunately come true. Political beliefs became the sole popular concept for nearly 100 years, similar to the honor and dignity Confucianism taught from ancient Chinese history. Religion was expelled from its normal place in the social arena, and there was little concern of a Chinese religious self-identity.

But with China’s opening up, the misunderstanding of religion has caused criticism. With China’s long history, the claim that China should have no

religion is just a small part. After the 10 year silence of religion, various religions that had seemingly withered away have reappeared in Chinese society. This revival of religions is swift and on a large scale, which is rare even in Chinese history and shocking to the rest of the world. Religious revival and renewal has destroyed with opposition the former opinion that China should have no religion. The alienation of political beliefs and expansion of religious beliefs have stupefied many Chinese who are experiencing this fundamental change. Some of them are perplexed, and have even fallen into deep suffering. Only now are people beginning to think seriously about the multiple relationships between religion and Chinese society and trying to find a way to treat religion correctly. It seems to many people that culture without religion is like a body without a soul. Under most circumstances, religion should be the spiritual origin of and developing power for cultures. When cultural soil loses its soul of religious beliefs, it will waste away and become a cultural desert. Will Chinese culture also become a desert if it has no religion? Will a spiritual vacuum appear if Chinese society has no religion? These should be critical issues, which Chinese ask among themselves. How should we evaluate and treat Chinese religions? Many people are pondering such problems and searching for answers. They have discussions and debates, and sometimes feel confused. On the whole, contemporary Chinese are standing between misunderstanding and renewal in their knowledge of religion. But they do not know yet how to overcome this misunderstanding and to achieve renewal. What makes us happy is that more people no longer have a misunderstanding of religion and have an open and new concept of religion.

HARMONY OF SOCIETY WITH RELIGION: FROM TOLERANCE AND EMBRACEMENT TO CONFLUENCE

Since the end of 1970s, Chinese society has developed. The opening to the outside world and the hard task of healing the trauma from the “Cultural Revolution” have made Chinese society review its various relationships, including its relation with religion. The practice of denying tradition since the “New Cultural Movement” caused many Chinese to consider religion as a backward, conservative tradition and even to claim that Chinese culture

should have nothing to do with religion. Between the 1950s and the end of the “Cultural Revolution,” religion was called the “opium of the people” and “remnants of the old society.” This should gradually decline and disappear as a new China develops. These opinions and attitudes have caused Chinese religion to exist in an extremely unfavorable condition. Nevertheless, religion as an “anthropological constant” is without exception, even among the Chinese masses. From the beginning of the 20th century to the end of 1970s, religion remained in China—strong or weak, open or hidden—and never disappeared fundamentally. Such an existence has directly impacted the attitude of and treatment by Chinese society toward religion.

Thanks to the development from the reopening and reform of the late 1970s, important change has taken place on the people’s understanding of religion. With the abandonment of the “philosophy of struggle,” the construction of a “harmonious culture” has become the main goal for social development. The Chinese stress harmony in today’s social exchanges instead of struggles against one other. Their personal relationships are based on mutual understanding, and social confluence depends on finding common ground while retaining differences. Even with the conflict of the pursuit for truth, moral value, and spiritual beliefs, there is now mutual respect and conformity without identity. This social atmosphere restores and sublimates the tradition that “the sea embraces all rivers and shows its greatness by this embracement” in the Chinese nation. As a result, it makes it possible for Chinese society to achieve a harmonious relation with religion once again.

First, contemporary Chinese society has showed the minimal requirement of religious tolerance. As mentioned above, although Chinese society did not immediately clear up the historical misunderstandings of religion, the Chinese government still emphasizes “solidarity and cooperation” with religion at the political level and “mutual respect” with religion on the faith level. Furthermore, the freedom of religious beliefs for its citizens is guaranteed by the Constitution. As a result, although there is still a majority in the government who insist that religion should be considered a “backward” and “inappropriate” traditional concept, the government guarantees religious tolerance in theory and practice. It deals with religious problems from the perspective of a “contradiction among the people themselves.” Perhaps, from the angle of religion itself, this “tolerance” is still unequal in ideology

and value judgment, but there is already a qualitative difference and fundamental change in comparison with past struggles and forbiddance against religion. Consequently, religion at least has the minimal guarantee for its existence and development.

Second, contemporary Chinese society has begun to embrace religion with cultural consciousness and cultural significance, such as cultural origin, cultural constitution, and cultural nature. The reflection and legalization of religion should be based on the composition of cultural religion or religious culture. Religion is here considered an important component of Chinese culture. People recognize religion from the “comprehensive embracement” of Chinese culture, and accept religion as an organic component of their own culture. That is to say, religion has an equal position with other cultural aspects. Henceforth, the standard on how to treat religion is no longer a value judgment: good or bad, superior or inferior, advanced or backward, positive or negative, active or passive, and open or conservative. Religions in Chinese society should be determined increasingly by the principles of social order, legal standard, and public co-existence. The religious contradictions and conflict that still exist relate mostly to the differences or problems dealing with social management. So, the solution should come from the perspective of legislation, execution of the law, acknowledgement of the law, and adherence to the law. From a cultural perspective, the judgment and attitude toward religion are obviously improving. When reflecting on contemporary Chinese culture, the questions of whether China has religion and whether China as a non-religious nation is an exception should be reviewed and analyzed mainly using concepts of cultural consciousness like self-identity, self-consciousness, self-confidence, and self-dignity. With the deepening of knowledge, more people have realized that China is full of religious resources and that China’s social structure contains important religious elements. Without Confucianism, Buddhism, and Daoism, the main contents of Chinese culture might have been swept away and lost. Without the participation and establishment of the imported religions of Christianity and Islam, there might have been no mention of the tolerance and openness of Chinese culture. In order for Chinese society to achieve real harmony, we should not just give “tolerance” to religion. We need to embrace all

religions from the standpoint of equality and co-existence, and realize the important function of religion in its co-existence with Chinese culture.

Finally, Chinese society has begun to reflect upon and explore how to reach an organic confluence with religion from the perspective of social construction and cultural construction. In most cultural systems, religion is spiritual support, spiritual power, and spiritual orientation, and is significant for sustainable development. Religion, as a “potential spiritual factor” for these cultures, plays the role of the soul. In the consideration of cultural “soft power,” Chinese society is by no means a purely “secular society.” The same is true that Chinese culture is not a pure “political culture” or “secular culture.” That is to say, the sacred dimension plays an important role in Chinese culture. From the essence, origin, and tendency of development to analyze, Chinese culture has complicated connections with religion. There are abundant “spiritual” factors in Chinese humanistic spirit and personal cultivation. We can perceive in them the sense of holiness, transcendence, responsibility, and sublimation. Such spiritual training is quite familiar in China. So, the cognition of religious value and significance has been found again by Chinese today. Chinese society contains and clearly expresses the true, the good, the beauty, and the holy, which are similar to religious pursuit, feeling, and boundary. Of course, religion with other cultural forms has the responsibility of discarding the dross and selecting the essential, getting rid of the false and retaining the true. All cultures that have religion should continuously develop, promote, and progress with the times. Actually, in order to achieve the ideal of harmony, Chinese society needs to combine such religious elements so as to realize its integration and confluence. Social harmony is a system including harmony with religion and harmony brought by religion. The harmonious confluence between society and religion is the prerequisite for the realization of essential social harmony, as well as the important guarantee in its process.

HARMONY OF RELIGION FOR THE SOCIETY: FROM ADAPTATION AND SERVICE TO PARTICIPATION

Religion has also a key function for the social harmony in China. Such harmony between religion and society should be a mutual action, namely that there should be social harmony for religion and religious harmony for society. As one of the subsystems and the basic constitution of the society, religion should be responsible for social stability and harmony. But in a complicated and changeable society, we witness conflicts between religions and contradictions between religion and society. Such phenomena are disappointing and depressing. In the face of such a harsh reality, people are not quite optimistic toward harmony between religion and society. There are still various suspicions and “wait-and-see” attitudes. In the “Post-Cold War” period, when people talk about a “clash of civilizations” it is easy to look at religion. In this context, religions’ own harmony and religious harmony with society show their urgent necessity.

In the construction of contemporary Chinese society and culture, mainstream Chinese society appeals to religion for its “active adaptation to the socialist society,” which expresses a clear demand and positive gesture for accepting religion within China’s social construction. As a matter of fact, religion is not satisfied with such a passive adaptation. With the spiritual pursuit and orientation contained in human culture, religion should be more active and positive. Within the social conditions of contemporary China, the harmonious integration of religion with society may include adaptation to the society, service for the society, and active participation in the existing society with full enthusiasm.

The adaptation of religion to Chinese society first requires harmony among religions. Religion as a social group and organization should achieve harmony within religions, between religions, and with society. In addition, religion has to achieve harmony with other philosophical or cultural systems that exist together or have a connection with said religion. The “form” of harmony in society depends on the “spiritual” harmony of its inner structure. This is namely spiritual and mental harmony that are more difficult to achieve, but more significant. Dialogue, exchange, and mutual understanding should be very important methods for this purpose. Active listening, common ground, and the minimum of peaceful co-existence

should be necessary to the art of understanding. In this process of adaptation, religion should conduct dialogues instead of monologues, consult instead of coerce, and respect others instead of having an arrogant attitude. This process needs a humble, modest spirit and self-sacrifice from religion, especially in China. Actually we find a unique effect of this spirit of self-sacrifice in the form of the resurrection of Jesus Christ in Christianity and the phoenix that is reborn from fire in Indian religions.

The effective method of pursuing harmony through a humble and modest spirit, forbearance, and self-sacrifice also means to serve society in the spirit of a “servant” of religion. The social service of religion can move society and help change the human heart. In the social atmosphere formed by China’s current development, it is already difficult for religion to play the role of “prophet.” The past one-sided wish and aggressive mission of religion in China already bore negative results. With this in consideration, religion in China has chosen the path of silent service and contribution to society. This “gate” seems to be narrow, but proves to be a broad path for religious social development. Objectively speaking, the breakthrough in religious harmony with society starts with social service, charities, and humane concerns of religion. This “love” (benevolence or God’s love) and “good behavior” are admired by many Chinese who suffer from secularization and utilitarianism. The spirit of a “servant” in religion and its practice of social service have brought about the awakening and sublimation of many Chinese in the manner of salutary influence and gradual improvement.

In the process of adaptation and service, religion can have more active participation in regard to social harmony because of its identity as an organic part of the social structure. Religion should be part of society and serve society. But this participation of religion in secular life should not lead to its alienation or degeneration into “commercialism” or “politicization.” Religion should criticize “lust for power,” “material desires,” and “money worship,” and keep to its sacred dimension to give society a place of purity, transcendence, and holiness. Religion should not drift with the tide, but be an example of spotlessness to society and show its noble character and sterling integrity. Contemporary China is just witnessing the adaptation of religion to its society, is realizing the significance of religion’s social service, and is waiting for its more active participation and contribution in the social and cultural construction.

THE ROLE OF RELIGION IN PROMOTING CHINA'S SOCIAL HARMONY: PARTICIPATION, RESPONSIBILITY, AND CONTRIBUTION

The 30-year development from China’s reform and openness allows religion to regain its normal presence and encourages religion to play a more active role with a more positive function in achieving a harmonious society. There are certain enticements of money and material desires and secular alienation by some religious activities. On the whole, religion offers positive spiritual consolation and good advice, and functions for social stability. In order to promote the construction of a harmonious society in China, religion has basically reached the majority in its social, political, and cultural attitudes. As a result, this development also helps the potential tendency for a confluence of ideas, values, and ethics among various religions. This spiritual consensus of religious perspective might gradually change the existing environment of Chinese society and its personal relationship, and offer a cultural impetus to achieve social harmony. This close relationship, instead of creating tension for religion in China, is quite helpful to guarantee the happiness of the Chinese people. It should also bring good fortune for people all over the world.

The significant change of religion in contemporary China is its return to the center of society by overcoming its marginalization over the past century. Its confluence in Chinese culture is recognized by Chinese society and its people. Religious participation, responsibility, and contribution to society resulted in that religion is no more treated as an “alien power,” but accepted as our “own power.” Religion is namely an important part of our “soft power” represented by our culture and heritage. Religion has regained its normal existence in our society and has attracted many people as a spiritual home. As a social system, religion belongs to the organic constitution of our harmonious society. As a cultural tradition, religion should be a positive factor in carrying forward Chinese culture. As a belief, religion maintains the spiritual heritage of human beings. So the social and cultural construction in China requires a virtuous development of religion itself and religious participation to avoid alienation and degeneration by society. Henceforth, the big family of Chinese society should treat religion normally and welcome religion to return to

normalcy. Chinese society should embrace and love religious believers in the way it loves its people, and help them to get out of the “ghetto” of marginalization and isolation from society. The Chinese people now criticize strongly the misunderstanding, discrimination, and bias against religion. Religion is no longer a sensitive social phenomenon in China. There should be no sensitivity in religious affairs now.

The reopening of China pushes the country to face a changeable world based on globalization. The world’s people still worry about the global situation because of the ongoing confrontations, conflicts, and wars in many regions. The Chinese people feel strongly about their responsibility to the international society and are conscious of their duty and participation. With the success in economic reform and rapid development of the national economy and people’s livelihood, the “Chinese characteristics” today may make an unexpected contribution to world peace and harmony. For example, the emphasis and promotion of the concept of “community” should be a possible effort for the co-existence of various nations and various communities. The effort of achieving harmony in multiple situations has made some Chinese scholars think of a “community of religions” from a spiritual perspective, the potential for such a community, and the way to enact it in a Chinese context. This idea is explored from many perspectives and dimensions: faith, spirit, values, ethics, thought, culture, social constitution, and function. The community development reflects the tendency and orientation of human beings. The effort to a community of religion for social harmony is just an attempt for the likelihood and the technique for human “spiritual community,” so as to meet effectively the challenges brought by a new social community in contemporary international development and to conform to the tendency of the day of the development of a world community of civilizations.

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A Constitutional Case Study of the Enforcement of the Beijing Municipal Regulation on Religious Affairs

SHOUDONG (TIMOTHY) ZHANG

Abstract:

The Shouwang Church is a Christian house church with a congregation of 1,000 students and young professionals. It tried to register itself as a legal religious association in 2006, but was rejected by the Beijing Municipality. To accommodate its congregation, the Shouwang Church raised \$5 million and bought a 1,000 square meter apartment in 2011. But the church could not move in because the government did not want other house churches to follow suit: buy properties and make unauthorized churches prosper.

Taking the Shouwang Church as an example, this article will analyze the legislation and enforcement of the Beijing Municipal Regulation on Religious Affairs (Beijing RRA) as a violation of both the Chinese Constitution and the Legislative Law. The Constitution grants every Chinese citizen the rights of freedom of religion and association, but the Shouwang Church was denied the legal status because the Beijing RRA requires pastors be ordained by the municipal religious organization. The Legislative Law allows no legislation that curtails citizens' political rights, but the Beijing RRA has many articles that severely restrict freedom of religion.

The reason why the Beijing RRA is in conflict with the Constitution is a reflection of the current translation of the communist policy into law. The religious policy is based on a leftist ideology that sees religion as superstition and religious people as a negative force for the communist drive. I argue for repealing the Beijing RRA and promulgating the Religious Law by the National People's

Congress to protect freedom of religion. An alternative bill of Religious Law is to be prepared and debated before being introduced into the legislative process of the National People's Congress.

CASE ANALYSIS OF THE BEIJING MUNICIPAL REGULATION ON RELIGIOUS AFFAIRS

Background Information of the Shouwang Church's Registration Attempts

The Shouwang Church is a house church, with more than 1,000 members who are mostly professionals and students in Beijing. With its ever growing congregation and publicity, the government stepped in to compel the landlord to stop renting to the church. At the same time, a real estate broker was forced by the state to breach the contract concerning property purchase by which the church was in desperate need to accommodate its congregation for Sunday services.

Because of these government actions, the Shouwang Church has had to meet outdoors in Zhongguancun Square near a densely populated area every Sunday since April 10, 2011. The church decided to meet publicly until the government allowed them to move in and worship without interference in the building they had purchased. Pastor Kim Tianming, Shouwang Church's senior pastor, declares, "We have worshiped publicly for 16 weeks 'til now despite the government's various attempts to intervene....I have never wavered, nor doubted God's leading." He believes that worshipping in public is "divine guidance," a purely religious practice and not related to politics in any way. He continues that "Shouwang Church's public worship activity is not a strategy or political instrument; instead, it is a testimony of our Christian faith....I see that God is demonstrating His wisdom and guidance through this continued public worship."¹

This, however, is not the first time the Shouwang Church has been forced to worship outdoors because of not being able to meet in a building it purchased. In the winter of 2009, the church was driven out of the Huajie Building and forced to worship outside. Afterwards, the government compromised and

allowed the church to meet in the Laogushi Cafeteria until March 2011, when the government again denied the church the right to meet privately.

Since its establishment in 1993 in Haidian District, the Shouwang Church has had to move multiple times. Places of worship have varied from front yards in rural areas near downtown Beijing to shabby basements in high-rise buildings. Such an unstable “nomadic worship style” motivated the Shouwang Church to purchase a stationary place of worship. The Shouwang Church then raised 30 million yuan (\$5 million), and attempted to purchase a building for worship. Nevertheless, the government intervened and prevented the church from buying and using the building.

The reason for this government intervention was because the city where the church was located contained more than 3,000 house churches. The government feared that allowing churches property ownership might set precedent and disturb the policy of containing the development of official churches.

This incident was not the first time the Shouwang Church had a clash with the government. To become a legal religious entity, Shouwang attempted to register with the government according to the laws and regulations. On June 19, 2005 the elders of the Shouwang Church passed the “The Constitution of the Shouwang Christian Church.” In 2006, it recruited 70 charter members in regulation with the registration application. On July 21, 2006, the church submitted its application with the Religious Affairs Bureau (RAB) of Haidian District. The RAB issued a receipt of application documents and a notice of administrative review of the registration.

On August 11, 2006, the RAB of Haidian District denied the Shouwang Church’s registration application because “the appointed senior pastor of the Shouwang Church is not recognized by the registered religious organization in the city, and it lacks qualified pastors, and therefore, it does not meet the standard listed in Article 10, Sec. 4 of the Regulations on the Registration and Management of the social organizations.” The RAB further advised that the Shouwang Church contact Haidian District’s Three-Self Patriotic Movement Church, the state-owned church.

The Legal Issues

The government did not provide the Shouwang Church any legal explanation when it prevented the church from purchasing the property through the political pressure on the real estate broker. Had the Shouwang Church applied to purchase the church property through a legal process, the application would have been denied. According to Article 18 of the 2002 Beijing Municipal Regulation on Religious Affairs, “to establish a religious place, the religious organization shall apply to the religious bureau in the district or county according to relevant regulations. Neither individual nor organizations shall establish a religious place without approval.” Since the Shouwang Church’s application has been denied, it does not qualify as an organization to apply for a religious place. The church’s senior pastor was not recognized by the registered religious organization in the city. Article 13 in the Beijing RRA says, “The Appointment and Dismissal of any religious ministers shall be conducted by the registered religious organization of the city according to this Regulation, and it shall be recorded in the Municipal RAB.” The “registered religious organization” is Haidian District’s Three-Self Patriotic Movement Church. This church’s mission is to “bring all Chinese Christians under CPC and RAB authority in order to establish national harmony, foreign cooperation and the protection of world peace.” Because of the Three-Self Church’s overwhelming political goals, Shouwang refused to register under the RAB in order to maintain its pure religious status and distance from any political issue. Consequently, the Shouwang Church was denied the right to hold any religious activities.

All of these consequences were caused by the regulations from Beijing. Through the above example, the regulations of Beijing place all “religious ministers, organizations, and activities” under the jurisdiction of the “Committee of the Three-Self Patriotic Movement.”

The Shouwang Church stated that “it is unacceptable both religiously and legally that the registration of our church and the qualification of our pastor shall be authorized by the state-owned church. Therefore, we appealed to the Beijing Municipality according to the Administrative Review Law, to review the decision by Haidian district on October 9, 2006.” On December 5, 2006, the RAB of Beijing issued an administrative review decision, which

affirmed the decision by Haidian District. On June 18, 2007, the Shouwang Church further appealed to the national branch through submitting a document called “The Memorandum of on the Registration of Churches by the Shouwang Christian Church.” Thus far the National RAB has not replied.

THE CHURCH REGISTRATION PUZZLE BETWEEN FREEDOM OF ASSOCIATION AND SEPARATION OF CHURCH AND STATE

Beijing’s Religious Regulations and the Freedom of Association

It is against the constitutional principle of freedom of association that any registered religious organization be required to be under the control of an administrative branch mandated by the Beijing Municipal Regulation on Religious Affairs and the Regulation on Registration and Management of Social Organizations. According to Article 6 of the Beijing Municipal Regulation on Religious Affairs, “to establish a religious organization, it shall follow the relevant regulations on Social Organizations, be approved by the relevant religious bureau, and register with the administration on social organizations.”

According to the Regulation on the Registration of Social Organizations, “to establish a social organization, it shall be approved by its authoritative administrative branch, and its application shall be brought by the organizers” (Article 9). “All Applicants shall meet the following requirements....(5) it has qualified employee” (Article 10).

The Haidian District’s decision on the Shouwang Church’s application cited Article 13 of the Beijing RRA, and interpreted the “qualified employees” in Article 10 as “recognized ministers by registered religious organizations.” As a result, the Regulation on Religious Affairs and the Regulation on Social Organizations were both interpreted so that the RAB of Beijing could deprive religious believers’ the freedom to establish legal self-autonomous religious organizations. Therefore, these laws make it impossible to realize either religious freedom (Article 1 of the Regulation on Religious Affairs) or freedom of association (Article 1 of the Regulation on Social Organizations).

Regulation on Religious Affairs and the Principle of Separation of Church and State

The Regulation on Religious Affairs violates the constitutional principle of the separation of church and state because it requires religious groups to join the state-church system.

Not only is it difficult for religious believers to establish an independent religious organization, but also the Beijing RRA maintains the legal restrictions that religious activities are only legal within registered religious organizations except for a sparse number of people in need of personal religion in their own homes.² More specifically, “the establishment of religious organization shall follow the relevant regulations on registration of the social organizations” (Beijing RRA, Article 6), and the relevant regulations require social organizations to be a legal entity (Regulation on Social Organizations, Article 9). For a social organization to meet the standard of a legal entity, organizers may start the application process of registration only after they obtain approval from their authoritative administrator. The Shouwang Church was kept outside the gate of “the authoritative administrative branch” (the RAB of Haidian District), and was not even able to reach the second stage of the registration application.

After Haidian District RAB denied the Shouwang Church’s application, it strongly suggested the Shouwang Church go to the Haidian District Three-Self Patriotic Movement Committee, which is “similar in operation” to “arrange correlative affairs.” It apparently tried to incorporate the Shouwang Church into its own state-church system.

The purpose of this law is to “regulate social groups under a dual administrative control—political participatory control and managerial executive control.” Both of the control systems are administrative, through which the government regulates the social organizations.³ This “administrative registration with a dual control system” for the nation to regulate social organizations infringes upon the freedom of association and violates the constitutional principle of the separation of church and state. The constitution of our nation states that “no government branch, social group, or individual can force citizens to believe or not believe in a religion; neither can they discriminate against religious or non-religious citizens” (Constitution, Article

36). Therefore, “the government branches” separate themselves from the citizens’ religious lives. They are not to intervene on issues of citizens’ beliefs and their related religious lives. Nevertheless, the government demands that its citizens not only exercise religion in the manner of registered social organizations, but also incorporate their independent religious groups into the state owned churches. As a result, citizens must practice their religions under governmental control. This dynamic diametrically contradicts the constitutional principle of the separation of church and state.

THE CONFLICT BETWEEN THE CONSTITUTIONAL PRINCIPLE OF THE FREEDOM OF RELIGION AND THE “MANAGEMENT OF RELIGIOUS AFFAIRS” BY THE GOVERNMENT

The Freedom of Religion and “Management of Religious Affairs”

Based on the case analysis of the legal process of the Shouwang Church’s registration application, the “authoritative administrative branch” and the “registration bureau” acted as if they were the two gates of the “Building of Freedom of Association.” The citizens seem to have easy access to this building and enjoy constitutional rights; nevertheless, citizens cannot enter through these gates because both gates are imaginary. If the religious regulations of Beijing deprive citizens’ constitutional rights of freedom of association through these two illusive gates, then the executive power of “managing religious affairs” (Beijing Municipal Regulation on Religious Affairs, Article 1) is an example of government unconstitutionally limiting the citizens’ freedom of religion.

The executive power of “managing religious affairs” lacks constitutional basis. The Constitution only states that “religious affairs shall not be controlled by foreign forces.” It does not, however, authorize the government to “manage religious affairs.” The unconstitutional executive realm of this “management” is defined by the Regulations on Religious Affairs of Beijing as “any social public affairs that relates to the national, social, and public

welfare derived from religions.” This definition is both broad and vague. Religious freedom should not be limited by regulations made for the purpose of “managing religious affairs.” The legislature of Beijing gives the government undefined authority, which renders citizens’ “freedom of religion” completely defenseless. This unlimited authority violates both the Constitution and the Legislative Law.

The Regulation on Religious Affairs and the Legislative Law

According to the Legislative Law, the issues pertaining to religious freedom can only be regulated by laws passed by the National People’s Congress. To some degree, the Legislative Law is a law that protects the citizens’ constitutional rights and restrains the government’s legislature power. Article 8 of this law states that “the government has the authority to legislate the following issues: (5) compulsory measures and penalties such as deprivation of citizens’ political rights and restrictions on personal freedom.” Freedom of religion is a basic political right of citizens; therefore, any rules that restrict or limit this freedom must be passed by the National People’s Congress. Regulations are a lower form of rules than laws, and they do not “manage the religious affairs.” Therefore, the Regulation on Religious Affairs is *ultra vires* to limit the religious freedom.

In fact, except for people’s political rights, the local governments are allowed to set up ordinances on issues prior to any national legislation. The Legislative Law states that “except for Article 8 of this law, the provinces, autonomous districts and cities can set up their own local ordinances according to the circumstances and needs prior to any National regulations” (Article 64). Therefore, Article 64 refers to issues that are not under Article 8. Because Article 8 clearly forbids local legislations concerning “the citizens’ political rights,” prior to the People’s Congress and its committees pass any laws, the Regulations on Religious Affairs should be voided as violating the Legislative Law.

Similarly, the Regulations on Religious Affairs were made without the authorization of the People’s Congress. Moreover, the People’s Congress shall not authorize such. The Legislative Law states that “any issue listed in the Article 8 that has not been legislated, National People’s Congress by its discretion can authorize the State Council to regulate issues with the

exception of crime and punishment and sanctions which deprive citizens of political rights and which limit personal liberty” (Article 9).

Therefore, both the Regulations on Religious Affairs by the State Council and Beijing are *ultra vires* legislation, and thus are void according to the Legislative Law.

THE REGULATION ON RELIGIOUS AFFAIRS AND LAW ON RELIGIOUS FREEDOM

Based on the Legislative Law, any *ultra vires* legislation should be revoked. If a law, administrative regulation, local regulation, autonomy regulation, distinct regulation or rule has any of the following circumstances, the relevant organ changes or revokes it in accordance with the limits of power specified in Article 88 of this law: the limit of competence and the violation of the provisions of the superior law (Article 87). “Relevant government branches” are the Standing Committee of the National People’s Congress and the people’s congresses of provinces, autonomous regions, and municipalities directly under the central government; the limitation of the revoking laws is:

- (2) The Standing Committee of the National People’s Congress has the power to revoke administrative regulations contradictory to the Constitution and laws, has the power to revoke local regulations contradictory to the Constitution, laws and administrative regulations....
- (4) The people’s congresses of provinces, autonomous regions and municipalities directly under the Central Government have the power to change or revoke inappropriate local regulations formulated and approved by their standing committees (Article 88).

Therefore, the Standing Committee of the National People’s Congress can revoke the Regulation on Religious Affairs by both the State Council and Beijing. The People’s Congress of Beijing also can revoke the Regulation on Religious Affairs. Both laws should be replaced by the Law on Religious Freedom.

Why are there many laws that go beyond the authorization of the Constitution and Legislative Law? By these laws, such as the Regulations on Religious Affairs, the local government may infringe upon a citizen’s religious freedom and cause social instability. Some argue that these *ultra vires* laws were made because the government is in a transition period of converting the policies issued in the past into current applicable regulations. The past religious policies only reflected the leftists’ viewpoints, which discriminate against religious beliefs and religious people. Despite the fact that the Constitution and Legislative Law have already focused on the protection of citizens’ fundamental political rights, such as religious freedom, the government administration continues to deprive citizens of those rights by making new regulations like the Regulation on Religious Affairs. There is a huge gap between the laws made by the National People’s Congress and the regulations and policies made by government administration. How to shorten this gap is the question that all levels of government administration shall face. Moreover, this is also an area the People’s Congress should supervise. Certainly, Chinese citizens, including the members of the Shouwang Church may contribute something; legislation is not a monopoly of the legislature and government. On the contrary, “each law shall reflect the will of the people, carry on the socialist democracy and ensure the people to take part in activities of legislation through various channels” (Legislative Law, Article 5).

NOTES

1. Tianming Kim, *Of His Will*, 7th online periodical of the Shouwang Church <http://shwforum.wordpress.com/>.
2. Religious citizens can exercise their religions in their own homes to meet personal needs according to the religious doctrines, canons, and customs of that religion. (*The Regulation on Religious Affairs of Beijing*, Article 23).
3. Kaile Yang, “Why it has to be a Legal Entity?—the Legal Analysis of the Registration of Religious Organization (III),” <http://www.pacilution.com/ShowArticle.asp?ArticleID=824>.

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Cults in China: Genuine Threat or Classification of Convenience?

J. GORDON MELTON

Abstract:

Even as language about cults and brainwashing was on the decline in the West, especially North America, in the 1990s it was emerging in China. Such language had originated in American foreign policy circles in the 1950s as a reappraisal of China occurred following the Chinese Revolution and the Korean War, when accusations of the Chinese attempting to brainwash prisoners became useful in altering public opinion about a former World War II ally. By the 1990s, Chinese officials were finding labels, formerly used to denigrate them, useful in combatting dissenting religious groups.

In the wake of China's lifting of its policy of religious suppression imposed during the Cultural Revolution (1966–1976), religion was reborn in China and has enjoyed spectacular success in spite of government policies developed out of the harshly negative and woefully inadequate analysis of religion inherited from 19th century Marxism. Since 1980, three types of religious groups have appeared in China: the five inclusive religious organizations that administer the major religious traditions, a variety of unregistered groups that parallel the five established groups in belief and practice but decline official relationship with the state (the so-called house churches), and a set of more separatist groups which for various reasons have been officially disapproved by the state (the destructive cults).

The situation of the destructive cults—some of which represent foreign-based religions and others groups that use what is perceived as anti-government rhetoric—changed dramatically with the incidents involving the Falun Gong. Viewed as a real threat to government authority, the Falun Gong has been

suppressed and driven underground within China. Like the Peoples Temple in the United States, it has emerged as the ultimate example of a destructive cult.

As these groups lack any significant power in either the political or military realm, and are at best regionally based, they have been designated “destructive cults” in China. They pose no real threat to government authority, but they do threaten the government symbolically as they push for more democratic freedoms and, if only indirectly, call for the implementation of constitutional guarantees of religious liberty and separation of religion and government. In fact, the existence of a growing independent dissenting religious community is forcing the Chinese slowly to alter their policies toward religion.

In the wake of the success of the Chinese Revolution, attitudes toward religion were greatly affected by two major factors. First, in spite of the much more sophisticated attitude toward religion expressed in the various writings of Karl Marx and Frederick Engels, the emergent communist movement in Europe was shaped by the existence of state churches from which leading clerics served as state officials, state power that supported and enforced the dictates of the primary religious institution, and the leadership of the Roman Catholic Church internationally opposed the rise of democratic institutions and labor movements. The argument between the Church and communism tended to reduce the Marxist perspective to the famous observation that religion was a narcotic preventing the masses from opposing autocratic institutions that operated against their own best interests.

Second, Christianity, which had emerged in 20th century China as a vital and growing movement was identified with what the Chinese considered humiliating events beginning with the 1842 Treaty of Nanjing, which opened Chinese ports to Western trade and Christian missions. Over the next century, Christian ministers, some of the best trained professionals in China, often served in official positions for their governments, with their salary supporting their missionary activities. By 1950, the largest of the new Christian churches in China had disconnected itself to the different governments active in China: the True Jesus Church, the Little Flock of Watchman Nee, the Jesus Fellowship, and the China Inland Mission. Chinese officials came to view the whole Christian movement as part of foreign intervention in the country.

Soon after coming to power, the government of the People's Republic moved against those religious institutions led by foreign personnel. Many missionaries understood that their time in China was over and left. Others tried to stay, and were arrested and later expelled. While increasingly hostile toward religion in general, policies remained fluid through the mid-1960s, and hope remained that some accommodation between religion and the new government that now enjoyed the “mandate of Heaven” in China could be reached. Such hope was crushed by the Cultural Revolution and its complete shutdown of religious institutions across the spectrum. Though China had a clause in its constitution stating, “No state organ, public organization or individual may compel citizens to believe in, or not believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion,” that clause has been generally inoperative on a practical day-to-day level, as numerous regulations affecting religion have been given precedent.

Prior to the Cultural Revolution, the religious policies of the People's Republic of China were comparable to those of the Republic of China in Taiwan. After arriving in Taiwan, the government in exile declared martial law and developed a set of repressive regulations relative to religion, especially Buddhism. It particularly singled out the expansive *Yiguandao* movement, which was formally outlawed for many years. The Cultural Revolution with its broad policies aimed at eradicating unwanted elements of both traditional Chinese culture and foreign influence, included a massive attempt to eradicate religion in a rather unprecedented fashion. This included the closure of religious centers of all of China's faiths across the country for a decade (1966–76), which went much further than the measures taken by China's first emperor as he united China culturally and intellectually.

The 1980s became a new beginning for Chinese religions. Churches, mosques, temples, monasteries, and convents gradually reopened. The national organizations of the five major faith groups were revived and integrated into the government structure. A host of new regulations related to religion were promulgated. Religion was revived and manifested a most unexpected vitality. Globally, this revival was observed with keen interest. Buddhist, Christian, and Muslim communities around the world were eager to reestablish contact with Chinese believers and did so at the first

opportunity. Some Christians were quite vocal in expressing their desire that something like the situation that had existed prior to World War II would return, and stood ready to provide assistance to the Chinese church as soon as doors of opportunity opened.

Meanwhile, important changes in Western Protestant Christianity had come to the fore. A rift had developed early in the 20th century among American Christians between those who emphasized a conservative theological outlook that emphasized loyalty to tradition and those who had welcomed new intellectual trends in the emerging fields of geology, biology, sociology, and psychology and emphasized the need to reassess the tradition relative to the new insights they had made available. The two sides, which by the 1970s had become known as the Evangelical and the Ecumenical churches, had somewhat restructured the global Protestant community. The Ecumenical churches, representing the older established Protestant churches, found their home in the World Council of Churches, while the upstart Evangelicals, claiming that they were the inheritors of the Western Christian tradition, found their focus in the World Evangelical Fellowship.

In China, this divergence found a slightly different but analogous presence. With government backing, the older Church of Christ in China, into which the major Protestant missionary churches had converged, received state approval and reemerged around two structures—the Three-Self Patriotic Movement of the Protestant Church in China and the China Christian Council. It eventually joined the World Council of Churches. For many Chinese Christians, the integration of the Protestant movement with the state represented both a theological and ecclesiastical problem that was exacerbated by its joining the World Council of Churches (WCC). Those Christians wishing to remain free of government entanglements and the perceived theological liberalism of the WCC began to form independent church fellowships. The majority of those groups currently termed “cults” or “destructive cults” have emerged from among the independent Christian church fellowships formed over the last 30 years that have wished to remain separate from the Three-Self Church primarily because of its ties to the Communist Party of China and/or its relation to the World Council of Churches, rather than any specific complaints about its theological deviation. The recent articulation of a program of

theological reconstruction that will attempt to provide “a sound explanation of Christian faith in the modern Chinese context” will obviously provide new rationales for separating from it.

This digression into 20th century Chinese religious history has been necessary to provide a context for the emergence of the new religions of China in the last couple of decades. One further digression also seems relevant. In the 1950s, the United States engaged in a “police action” in Korea. At the close of the Korean War, a handful of American prisoners of war returned home after having made anti-American statements during their captivity. A few even stayed behind in North Korea rather than returning home. One rationale offered on the occurrence of this massive offense to American sensibilities was that the prisoners had been subjected to a process of Chinese thought reform, a process of “brainwashing.” Though debunked by several major studies of both former prisoners of the Chinese and of the American POWs, the idea that the Chinese had perfected a set of sinister techniques by which they were able to alter the most basic value orientation of an individual against their will gained traction in popular imagination. It found some favor among a few psychologists already committed to perspectives of psychological determinism, and became a major building block of the relatively swift reversal of American foreign policy toward some key World War II allies. The Chinese government was evil because it possessed the ability to brainwash people, an idea that found preeminent expression in the phrase “Manchurian candidate:” the idea that a person’s free will could be overridden, and they could be controlled to the point of doing horrific acts that they would normally abhor.

Through the 1960s, the United States conducted a wide range of experiments to discover the secrets of brainwashing. Though eventually proving unproductive, the idea that brainwashing was possible remained in the worldview of a small cadre of psychologists who had worked on the issue. At the end of the 1970s, the idea experienced a rebirth relative to religion. Following the change of immigration law in 1965, the United States experienced a dramatic influx of new immigrants from Asia, among whom were a new set of religious teachers who set about building new religions by recruiting members from the host population—mostly young adults in the 18 to 25 age group. A few such groups sought to create a

cadre of leaders by recruiting and quickly training a number of full-time missionary evangelists for their religions and a number of young adults abandoned plans for promising careers in business and the professions for a role in a new unfamiliar religion—some of which also demanded a change in name, dress, and/or lifestyle.

Parents and family members wondered at and worried about what they saw as a sudden change in the life trajectory of their offspring. As they organized to fight the effects of such groups, they adopted the old language of cults picked up from Christian anti-cult groups and from sociologists of religion. As they examined the new “cults,” however, they found previous analyses of the errors of cult life inadequate to gain government assistance in retrieving their family members from the groups. Then in the mid-1970s, one of the psychologists who had worked on the government brainwashing experiments reintroduced the term into a court case involving newspaper heiress Patty Hearst. The Hearst case involved a radical political group, but gave psychologist Margaret Singer the idea of its usefulness to the cult awareness movement, which had gained new steam following the death of the members of the Peoples Temple at Jonestown in 1978. The fact that the Temple had adopted the rhetoric of the Marxist-based liberation theology was merely an added connection.

Through the 1980s, Singer became the leading voice of a group of psychological professionals who argued that new religions, especially the ones with Asian roots like the Unification Church and the Indian guru groups, possessed the Chinese secrets of brainwashing and turned their recruits into brainwashed operatives ready to do the bidding of the groups’ founders. Only some form of forceful outside intervention and the deprogramming of them would allow a return to normalcy.

The brainwashing deprogramming controversy was fought in a number of court cases in the 1980s, and juries showed their attraction to the brainwashing idea by returning a number of large judgments against the so-called cults. Meanwhile, several academic organization—the American Psychological Association, the American Sociological Association, and the Society for the Scientific Study of Religion—issued statements calling into question the scientific credentials of the brainwashing hypothesis. These statements led to a set of court reversals in the early 1990s that largely

ended the controversy in North America although it continues to drag on in Europe where several countries, most notably France and Spain, maintain anti-brainwashing laws on the books.

During most of the 1990s, the use of the term cult or more narrowly “evil cult” (*xiejiao*) in China was not prominent. It appeared in the 1950s, but the rise of the term to describe religious groups in China really came toward the end of the 1990s. It began with the change of status of Hong Kong (1997), which introduced a huge spectrum of new religious groups to the PRC, but then especially appeared with the incident involving the Falun Gong demonstration and protest in Beijing in 1999. However, as early as 1995, the State Council and the Communist Party Central Committee had named several unregistered Christian church fellowships as *xiejiao* and placed them on a list of illegal groups. By the end of 1999 the Standing Committee of the National People’s Congress had passed a “Legislative Resolution Banning Heretical Cults.” While specifically aimed at Falun Gong, then a large national organization, it sought to tie together a spectrum of questionable groups as *xiejiao zuzhi* (a depraved and/or heretical organization).

Tying the western concept of “destructive cult” to the older Chinese term *xiejiao* seems to have originated with spokespersons from the French and American cult awareness movement making contacts in China. Both the French and the American movements were experiencing a decline in popularity and influence, and they hoped to find support in China. With the growth of new unregistered churches, the emergence of a variety of new groups with Buddhist and Daoist backgrounds, and continued unrest among various Islamic sectarian movements, China was in the market for new approaches to get a handle on what was occurring. Scholars were already working on the new religions in tandem with the Religious Affairs Bureau and other government offices.

The 1999 “Legislative Resolution Banning Heretical Cults” initiated a devastating program of suppression of Falun Gong, which has resulted in its disappearance from China’s religious community, although it undoubtedly has a number of individual adherents who continue to practice its meditation techniques quietly in their homes. The resolution has also supplied the basis for moving to a lesser extent against other groups.

It should be noted that in the last decade, *xiejiao* exist in a spectrum of more or less approved religious groupings. China has designated five religious groups that are nationally established religions. In addition, they have recognized a number of other groups for select areas. Most notably is Tibetan Buddhism, which is considered quite distinct from the Buddhism of the China Buddhist Association. Included in the list of recognized religions are the different religions of China's official minority groups, some of which practice a form of one of the five religions and others that have their own individual, traditional religions. Then there are a set of groups that have a limited legality but whose status is in transition, most notably the Eastern Orthodox Church in China, a relatively small but important group from the days of a heightened Russian presence in China.

The largest group whose status is in transition consists of a spectrum of unregistered church fellowships, most of which exist as regional organizations. These groups appear to yearn for a dialogue with the government and seek a way to register without affiliating with the Three-Self Movement. At the moment, the government appears to have what may be described as a live-and-let-live policy toward such groups as a new way to relate to them has been worked out. That new way is grounded in the long-term transition in Chinese religious policies that integrate the perception that religions seem to have a staying power that the first generation of the CPC did not expect. The basis of developing a new policy begins with the insights concerning religion's long-term future, its mass appeal, and its complex nature (as opposed to the rather simplified view of religion that dominated the 1950s and 1960s).

The *xiejiao* are those groups left over when one has considered those groups with some legal status and those groups with a transitioning legal status. They can be further divided into three categories. The first is those foreign groups active in the Chinese diaspora in Taiwan and Southeast Asia that have shown some interest in penetrating China. One such a group is the one that formed around the Vietnamese-born teacher Ching Hai, which mixes Buddhism and the Indian Sant Mat tradition and has a number of Supreme Master Meditation Centers in the countries closest to China. Other similar groups reach into China by converting Chinese who leave the country for travel or business trips. However, as a whole these groups

have made little impact within China outside of Hong Kong, though their numbers are quietly growing as more Chinese encounter different religions in their global travels.

The second group of *xiejiao* is the several groups that were attacked because of their identification with Falun Gong. The 1990s saw an expansion of *qigong* practice in China, Falun Gong being one such group. Another such group, largely unknown in the West, was Zhong Gong, founded by Zhang Hongbao in 1987. In the midst of the crackdown on Falun Gong, the government also declared Zhong Gong an illegal organization, confiscated all of its assets, and arrested its leadership.

The third group of *xiejiao* is the independent unregistered churches that have appeared on the authorities' radar. Amid the spectrum of churches that we might think of as just the unregistered churches in a transitional status, a few groups have drawn attention due to their use of language that might be considered as anti-government, controversies surrounding their proselytizing activities, and/or local disputes over church property. On rare occasion, group leaders have been accused of crimes, from rape to financial mismanagement. Occasionally, the group status has been judged in reference to the more questionable activity by leaders accused of criminal activity.

DISCUSSION

In China, the rise of a variety of new religious movements in the post-Cultural Revolution Era has challenged the vacuum in a guiding philosophy for a country that abandoned Confucianism and now faces a loss of faith in Marxism. In the field of spirituality, Marxism proved naïve in its analysis of religion and shallow in its belief in a quick retreat by religion once socialism arrived.

As China makes a transition in its broad-sweeping policy opposing religion that reached its epitome in the Cultural Revolution, it has struggled to come up with an adequate approach to what is proving an important aspect of social life. In the meantime, it is being forced to make decisions about particular groups deemed to present a problem, and to do so with the whole world watching.

In designating different groups as *xiejiao*, the government calls to mind religious and political groups from China's past that appeared in moments of a ruling dynasty's weakness and new groups whose emergence disturbed the traditional social order more by their simple presence, rather than any particular intention or effort on their part to overturn society. The newer groups challenge older religious hegemonies by offering a wide range of new ways to practice religion that compete with older more familiar ways, draw members away from older groups, and divide families religiously. While some religions have a program for the overthrow of society, most are vague idealized versions of the coming golden age rather than a particular program to overthrow society by more or less violent action. Most millennial groups, for example, look to a supernatural force to bring about their version of the kingdom, the present believers being deemed incapable of such accomplishments.

As a whole, labeling a group *xiejiao* accomplishes nothing in understanding it, predicting its behavior or measuring its threat level relative to the present social order. While all new religions increase the level of religious pluralism and threaten any society with a monolithic or dominant religious ideology, the overwhelming majority of new religions have no plans to implement their religious vision beyond recruiting members into their organization.^c They plan no action to attack the government and have no plans to disrupt society. Labeling a spectrum of groups as destructive cults merely clouds any attempt to discern groups that might actually have a criminal and/or violent agenda.

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Charity and Public Good: an Effective Channel for Religions to Enter the Public Domain

XIAOYUN ZHENG

Abstract:

In traditional Chinese society, religions play a very important role in social charity work. As religions are developing fast in China, especially after the Wenchuan earthquake in 2008, religious works for charity and the public good are becoming ever more active. The government and the public have come to recognize the role played by religions in social services. Nevertheless, in today's China at a time of social transition, how can religions develop in a better manner and find a place in a more open public domain? China does not yet have a complete legal system for charity work. How should religious charity and public good services move forward? What kind of services should they provide? These are all questions that China faces today. The author believes that in a time of social transition where modern charity and public good services are beginning to take shape, all these questions are challenges and opportunities. This is true both for religions in China, as an effective way to show social capital mobilization and service capacities, and for the Chinese government, as it provides another solution to the problem of religious social administration. Although there is still a long way to go and a lot of work to do, we can expect charity and public good services to be effective channels for religions in China to enter the public domain.

THE PROPER PLACE FOR RELIGIONS IN CHARITY AND PUBLIC GOOD SERVICES

In developed Western countries, charity foundations utilizing private wealth for the public good have a long history. They are devoted to providing financial help to research or service projects in areas like education, science, medicine, public health, and social welfare, usually in the legal form of charitable trust companies or non-profit organizations. However, each country and region has developed a social service system according to its specific social and economic conditions. For example, in the United States, NGOs have an essential role, while in the United Kingdom, the government and NGOs work together with social services. In Canada, volunteers take the initiative, but in Singapore, it is the government takes the lead. Multiple social forces are involved in charity work in Hong Kong, and Taiwan's system is that of social welfare. Mainland China is still looking for its own model of religious charity work, and it is very important for religions to find a proper place in the social service system.

Chinese Religions' Long Tradition of Charity Work

The development of charity work has a special connection to religions, which act as a constant, contributing factor. Charity is an important theoretical element in Chinese religions, and charitable works are the manifestation and socialization of this ideal. Buddhist charity has a long history in China. Buddhist organizations during all the dynasties and regimes in Chinese history were actively involved in public good services: building schools and relief centers, providing ships and transportation services, and constructing bridges and mending roads. In recent years, Buddhist organizations in Mainland China have launched charity projects, such as the Project Hope by the Buddhists, Charity Merits Society, and Charity Supermarkets. Charity organizations in Hong Kong and Taiwan, like the Ci-Ji (Tzu Chi) Foundation, the Buddhist Progress Society, and the Hong Kong Gracious Glory Buddhist Foundation, are also actively involved in public services. Such is the case with other religions as well.

Religious Charity and Public Good Service Model Taking Shape in China

China is experiencing a period of social transition from a traditional society to a modern one. There is not yet a complete and mature system of social provision that can cooperate well with institutions of social security, relief, welfare, and charity. Thus, charity and public good organizations will be an important player in public services for some time. Their role should be that of a helper to the country's welfare system and a participant in the construction of a public domain in society. Religious charities, as an important contributor to public service, should also participate in the public domain, providing services of charity and public good for society.

In recent years, religious organizations and religious charity foundations have shown admirable social capital mobilization and relief service capacities in various public events, and their work is much appreciated by the public.

For example, in regions of China where the Southern Buddhist faith has spread, Southern Buddhist organizations are doing a much needed job to solve social problems like drug addiction and AIDS. Although the government has initiated several medical care projects, AIDS prevention and treatment are still a difficult problem in some minority areas. Care and support systems currently only provide limited services, and there is no practical established model to learn from. For these reasons, experiments that involve social forces in care and support services are necessary. Today, Southern Buddhism in China is willing to take part in public services, seeing such work as its mission in this world. Acting as an authority in local minority societies, Southern Buddhism educates people to stay away from drugs and helps with AIDS prevention and treatment. It has developed a unique system of organizational management, service provision, and religious missionary work with its own characteristics. Southern Buddhism as a religion is contributing to economic development, ethnic group solidarity, and social stability in the region.¹ Other religions, like Christianity in Yunnan and Gansu, are also socially active, such as in drug addiction rehabilitation and AIDS prevention services. These are issues where religions have significant social authority among minority peoples. Drug rehabilitation provided by religious organizations has a lower rate of relapse than that by many

other organizations and agencies. Such charity practices is proof that religions not only increase public good services and alleviate differences among social classes, but they also promote a culture of charity and public good on a spiritual level and contribute to the harmonious development of society.²

A unique response system by religious charity and public good services is being established in disaster areas. Religious responses to disasters are creating a response system with many well-tested plans of action. Extraordinary measures have been taken to deal with extraordinary events, so that people's states of mind and daily lives can be recovered. We can better understand responses by religious organizations at the epicenters of disastrous events from this perspective. The first step of recovery is to provide theoretical explanations for disasters, incorporating "abnormal" and "sudden" events into people's understanding of the world.

No matter what "disaster" means in a particular religion, there is a common element of suffering at the center. Loss of loved ones, destruction of one's homeland, and even physical injury and disability can lead to severe psychological damage and emotional distress. So the second aspect of a religious disaster response system is psychological interference, which entails emotional comfort and care. A religious response system will inevitably involve the construction of a psychological interference mechanism, as seen in the help to individuals.

In the psychological recovery process, religions and religious charity organizations can provide material goods as well as some unique services to comfort the psychologically hurt. People from various religions—nuns, monks, Daoist masters, priests, Imams, lay people or volunteers—are in the disaster zones providing psychological services. Moving stories of their love and devotion are remembered by the local people.

In addition, religious responses can help mend the broken interpersonal relationships. Religious organizations, government agencies, and other public good services work together to build a sense of solidarity so that people do not feel alone and helpless. Everyone stands together in the same place. It is not the individual but the community that shoulders the burden and works in the aftermath. A new social network of interpersonal relationships is being formed that incorporates everyone into a self-reliant and interactive community. A strong sense of belonging will grow into a community where people care for and interact with each other, working together to build a new spiritual home.

For those not at the scene, disasters can be a wake-up call for expressions of love. Strangers come together in relief works, hand-in-hand, shoulder-to-shoulder, building a “great wall” to fight against disasters. Religions can appeal to the loving nature of human beings, and encourage them to take part in disaster relief and public good services. “Love without limit” becomes the most frequently used term in the media whenever disaster occurs. The year of the Wenchuan earthquake is known as the year of charity “blowout” in China.

In fact, psychological care and charity relief are the daily works of religions. However, when we talk about religious responses to disasters, we refer to extraordinary measures for extraordinary events. We emphasize the use of a religion’s unique, social capital mobilization and social network for the recovery of order and life.³ In a long history of development, various major religions have formed their own systems of organization and management. In times of urgency, a religion’s effective management is shown in its quick response and mobilization capacities. Organizations like the Buddhist Renai (“Mercy and Love”) Charity Foundation in Mainland China, Jin De Charities of Chinese Catholics in Mainland China, and the Ci-Ji Foundation in Taiwan called on their followers and volunteers to assist the Wenchuan earthquake relief. Groups specializing in planning, liaising, fundraising, human resources, clothes sorting, logistics and transportation, on-site coordination, and media coverage worked together efficiently. Their organized cooperation, effective planning, and implementation left the local government and people with very good impressions.

Religious response systems show important coordination and managing capacities at disaster scenes. The high level of social mobilization ability of religions suggests that they can enter the public domain, and contribute to society with their unique tenets, service modes, and management. They can be of great help in the coordination of social resources.

THE GOVERNMENT’S ROLE IN CHARITY AND PUBLIC GOOD SERVICES

In this time of social transition, modern charity and public good services are just beginning to take shape in China. For religions in China and the Chinese government, problems are both challenges and opportunities. The fast

development of the economy and the society requires that the government take good care of social welfare. However, as China is a large country with a large population, there is too much to do in too short a time. China does not have a complete social welfare system, and in many areas the government and charity organizations need to work together to provide public good services. Both supervision from government agencies and contribution from large charity organizations are necessary; services provided by grassroots organizations are especially important. We need to recognize the role of religions in social services and make the public domain more open to them. The social welfare system needs to incorporate more charity and public good organizations, as part of the construction of a harmonious society. At the same time, the involvement of religions in charity and public good services could provide us with a new perspective to the question of development of religions in China.

Government as the Major Driving Force of Charity Work in the Public Domain

In contemporary China, the government always acts as the major provider and administrator of charity and public good services in the public domain. During the Wenchuan earthquake relief efforts in 2008, the Chinese government played a major role, using urgent administrative methods to deal with urgent situations. Since 2009, as the Ministry of Civil Affairs strengthens its general guidance on charity work with improving coordination and management, the government’s role in promoting charity and public good services has become more evident. With the government as a driving force, a relief mechanism consisting of an alliance of various groups and agencies can develop and grow. The government, charity organizations, and donors can work together to build a national emergency response platform. Previously dispersive and sporadic charity work in China can become more organized and coordinated.

Government’s Duty in Making Charity Laws and Regulations

The government should educate and encourage the public to participate in charity and public good services as their duty. It should also make it possible for more public good foundations and charity organizations to enter the public

domain. At the same time, law enforcement and supervision should be improved so that charity work in China can be guided and protected by the law.

Other than the Regulation on the Management of Foundations issued by the State Council, China does not have a law on public good services. Legal matters on various aspects of public good services can only refer to other related laws or regulations. The absence of a law for charity work to abide by is a serious problem that will greatly hamper the scientific, normative, and legal development of charity and public good services in China. It is urgent that such a law on charity and public good services be enacted as soon as possible.

A mature legal system is helpful for the public to cherish ideas of charity and better understand and participate in public good services. An improved legal environment can provide basis and insurance for the development of charity and public good services. The Law on Charity and Public Good Services should be enacted as soon as possible, providing basic and strategic orientation for their development in China. Independent corporate status of charity organizations should be defined and protected so that their nature, structure, operation, duty, and administration are consistently specified. The relationship between government supervision and the operation of charity organizations should also be clarified, with specified details on the government's duty and modes of supervision. Measures should be taken, such as tax relief, to provide a better environment for the growth of charity and public good services. Supervision on the operational and financial procedures of charity organizations and actions against improper behaviors detrimental to their development should be strengthened as well.

Furthermore, the government should promote a healthy and ordered development of charity and public good services. At present, China is going through a social transition. The differentiation of interests and changes to the social structure have led to a series of problems that the government as well as various social groups need to face and solve. Charity and public good services can provide moral and value conceptions, and help people practice their charitable and moral ideals. It is good for alleviating social conflicts. Various religions have a long history of charity work and unique systems of public good services, as well as rich social resources and high capacity of social mobilization. If they are involved in the public domain, religions can better contribute to the construction of a harmonious society and economic development.

Thus, as the major driving force and administrator in the public domain, the government and various social groups need to cooperate to build a mode of charity and public good services that can fit well with contemporary Chinese society.

CHALLENGES FACING RELIGIOUS CHARITY AND PUBLIC GOOD SERVICES

Operational (especially institutional) insurance is needed for any enterprise to achieve sustainable development. In today's China, religious charity and public good services still face many challenges. Although religions have special social resources, have the ability to mobilize social capital, and are involved in various charity works to serve the construction of a harmonious society, we need to realize that religious organizations have not effectively entered the public domain. Religion's involvement in public services is still low. This fact is seen in the following aspects:

1. Concerning institutional structure, religious charity organizations do not have an independent corporation status within the current frame of administrative law in China. Thus their work in charity and public good services is rather limited.
2. There is neither an effective administrative or supervisory mechanism for the use of religious charity money nor necessary institutional insurance for the economic management of religious organizations.
3. Although religions in China are developing their own mode of involvement in charity and public good services—charity supermarkets and charitable funds—they lack the creativity and initiative taken by a large number of enterprises and philanthropists that have appeared in recent years. The development of religions and utilization of charity resources need to improve, and theoretical systems need to be adapted and renewed.

4. The lack of human resources specializing in charity work is a bottleneck for the development of religious charity and public good services in China. In this area, the division of labor should be more detailed and specified; religious groups need their own staff to work on charity and public good services in order to find their unique path in this thriving area.
5. Cooperation and interaction with international charity and public good services are also problems. Globalization and informatization have made our world much smaller. Many charity and public good services today are cross-border, cross-nation, and cross-culture projects. In recent years, Chinese charity organizations have actively participated in disaster relief projects around the world. Many countries, including China, joined forces to provide charity and public good services after the Indonesian earthquake and tsunami in December 2004, Hurricane Katrina in the US in August 2005, the major earthquakes in Haiti, Chile, and Indonesia in 2010, and the earthquake and tsunami in Japan in March 2011. The Chinese government as well as many NGOs and religious organizations provided different forms of relief and help to these affected areas, and their involvement has been much appreciated by the international community. As religious charity and public services are beginning to gain a good reputation in the public domain in China, such international appreciation can be valuable experience. Nevertheless, there is still a lot to be done for religions in China to learn from international experiences and further develop their own system of charity and public good services.

TRENDS OF DEVELOPMENT IN A TIME OF SOCIAL TRANSITION

What does the future hold for Chinese religious charity and public good services in such a globalized society? The author believes that we can expect to see the following:

1. Charity and public good services will remain an effective way for religions to enter the public domain and secure better opportunities for development. As China's economy and culture develop, further reforms in the social administration system and the improvement of the living standard will prepare important economic, material, cultural, and social foundation for charity work. A legal system of laws, regulations, and policies on charity work is being constructed. More organizations and volunteers are devoting themselves to charity work. More civilians and corporations contribute to charity donations, leading to increasing amounts of charity donation money and larger numbers of people being helped. Charity work helps promote social equality and maintain social stability. It has become one of the core values in the construction of a socialist, harmonious society. Religions are an active force in charity and public services, good for both religions themselves and society at large.
2. There will be higher levels of specialization in religious charity and public good services. As more laws and regulations are enacted and the institutionalization of charity and public good services is gradually perfected, the administration of and participation in such services will see higher levels of a division of labor. At present, more non-religious charity organizations have devoted themselves to social services and have become a major contributor. As the government pays more attention to specializing the human resource base and provides more training programs, charity and public good services will become a new important job provider in the country. We can expect to see higher levels of specialization in this area. The same thing will happen in religious charity organizations.
3. There will be more organization and coordination of charity works, which have hitherto been dispersive and sporadic. Unification and cooperation will help charity and public good services in China better contribute to society. Charity donations have steadily increased in recent years since charity work has developed and the public has become more familiar with the modern concept of charity, indicating

a new phase of growth. The government's role in promoting charity and public good services will be even more evident. The government, charity organizations, and donors will work together to build a national emergency response platform. Religious organizations, as part of the system, will also aim at more unification in charity work. There may even be a "community of religions" as a united charity and public good agency for more active and efficient works.

CONCLUSION

In summary, in a time of social transition when modern charity and public good services are beginning to take shape in China, all those issues are challenges as well as development opportunities. This is true for religions in China, as it is an effective way to show social capital mobilization and service capacities—and for the Chinese government—as it provides another solution to the problem of religious social development and administration. This can also provide a platform for the coordination of social resources. For these reasons, charity and public good will be effective channels for religions to enter the Chinese public domain. At the same time, as globalization proceeds, it can also be an effective way for them to play a role in the public domain of international society. With time, religions in China will develop their unique mode of participation in charity and public good services, and become an important player in the international arena.

NOTES

1. Xiaoyun Zheng, "Mission in This World of Southern Buddhism in China: Charity Work and Public Service," in *Religions in China*, Vol. 6 (2009).
2. Xiaoyun Zheng, et al., "A Dialogue on Religion and Charity," in *Religious Cultures in the World*, Vol. 2 (2011).
3. For details, please refer to Xiaoyun Zheng, et al., "A Dialogue on Religion and Disaster," in *Religious Cultures in the World*, Vol. 4 (2011): 45–49.

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PART FIVE

Chinese and Western
Views of the Status of
Religion in Contemporary
China: Common Ground
or Continued Tension?

National Security and United Front: Two Foci of China's Religious Policy

YIHUA XU

Abstract:

Since the People's Republic of China was founded 62 years ago, China's religious landscapes as well as the Communist Party of China's policy toward religion have undergone significant changes. National security and a united front remain the two major considerations of this policy, even though the relationship between these two considerations has changed over time. This paper divides the history of the CPC's religious policy into four periods, and attempts to provide a new perspective on this history by examining these four periods of interactions between the policy lines of national security and the united front.

CHINA'S RELIGIOUS POLICY—THE ORIGIN OF THE POLICY LINES OF NATIONAL SECURITY AND UNITED FRONT

Since the founding of the PRC, religious factors have greatly influenced China's national security consideration. During the early years of the new government's formation, it is understandable that the CPC regarded religion as a national security issue. Most of China's religious groups either had close ties to the Nationalist Party and the ruling classes or with Western countries, especially those "imported" from the West—the Catholic Church and the Protestant churches, some of which still controlled by their own mission boards.

In the eyes of the new government, religious self-government and control were national sovereignty issues. Therefore it fell under the domain of

national security. With the outbreak of the Korean War (1950–1953), religion became further securitized with a government policy.

However, the new government continued to implement its united front policy formed during the eight years of the War of Resistance against Japan (1937–1945). The essence of the united front policy was either to unify and to mobilize as many people as possible, including religious believers, or to maximize popular support for certain goals of the country or the Party. Based on this united front policy, the “Common Platform,” the Interim Constitution of the new government passed by the 1st Chinese People's Political Consultative Conference (CPPCC) in 1949, secured a legal status for religion in this newly founded socialist country.

Therefore since the early 1950s, national security and a united front have emerged as the two major policy lines of China on religion, even though these two lines took different names and forms. The national security consideration is reflected in the so-called religious accusation and reform campaigns, in the movement against Western religious infiltration, the crack-down on the so-called “Three Forces” (i.e. forces of religious extremism, national separatism, and international terrorism), and the upholding of the “Four Safeguards” (i.e. the safeguarding of the integrity of law, people's interests, ethnical solidarity, and national unity).

In contrast, the united front consideration is embodied in the slogans and policies uniting all religious believers for the common goal of socialist construction, helping religion adapt to socialist society, and treating religion as a positive factor in the building of a harmonious society.

One can say that over the years these two considerations of national security and united front have compensated for each other. Their interaction can be viewed as a good way to examine China's religious policy development.

NATIONAL SECURITY AND UNITED FRONT POLICY LINE DEVELOPMENTS IN THE PAST 62 YEARS

For a country like China, national security and united front policy considerations should not be considered unique. For any country, there is nothing more important than national sovereignty and territorial

security. Two key goals to legitimate governance are economic prosperity and social stability.

The problem faced by the Chinese government is the imbalance between these two policy lines. It needs to prevent national security from becoming a driving force affecting China's religious policy. In the last six decades, this has not been the case as China's religious policy has fluctuated between these two policy lines. This fluctuation has created serious consequences for the development of religions in China.

In general, since the founding of the PRC, we can divide the Chinese government's policy on religion into four main periods. The national security and united front policy lines for each period are presented.

The Formation Period (1949–1957)

The first period included the creating of the two policy lines. During this time, the government's religious policy was primarily influenced by the national security line in comparison to the united front line. Given China's involvement in the Korean War and China's foreign policy in teaming with the Soviet Bloc, the so-called “Soviet Model” became the official position for CPC's religious policy.

China's new government acknowledged that religion would have a long existence, even in a socialist country. This view is fully reflected in a 1953 document that stated that religion in China had five primary characteristics: 1) massive or large number of religious believers, 2) ethnical dimension, 3) international demographic, 4) complexity, and 5) longevity. Therefore, one of the government's religious policy goals was to unite religious people and religious groups through “the United Front of People's Democracy” with the common objective of socialist construction.

The Imbalanced Period (1957–1976)

During the second period, the national security line dominated the scene while the united front line gradually disappeared. Under the influence of Leftist ideology and the “Anti-Rightist Movement,” the CPC's united front work on religions suffered and came to a standstill. The 7th National

Conference on Religious Work held in 1962 denounced religion as a tool of the exploiting classes, and asked the religious affairs officials to treat and view religious issues from the perspective of class struggle. Under these circumstances, “destroying religion once and for all” became the popular slogan of the day. Anti-religious practices reached their peak with the onset of the Cultural Revolution, during which time all religious practices either stopped or were forced to go underground.

The Adjustment Period (1976–1989)

The third period was when China began to open its doors to the outside world. The government's main goal was to establish economic stability and growth. Given these national objectives, the united front policy line was restored and strengthened, while the national security line began to wane. This development was reflected in the CPC's No. 19 Document entitled, “The Basic Viewpoints and Policies Regarding the Religious Issues in the Socialist Period of Our Country.” In brief, it spoke of how China's religious policy, addressing the five major characteristics, must adhere to the united front principle.

During the Adjustment Period, the CPC began giving the two policy lines of national security and a united front equal weight. There was more balanced treatment. At this juncture, the reform policy of China in the religious arena could be summarized with this one statement: “concentrating the will and strength of the masses of religious believers on the common goal of building China into a modern powerful Socialist country is our fundamental threshold and foothold in handling all the religious issues.”¹

The Transitional or Reform Period (1989 to Present)

The fourth period began around the end of the Cold War (approximately 1991) that brought tremendous changes to the pattern of world politics. As some scholars claimed, religion returned from the so-called “Westphalian Exile” to the center stage of international relations.

On many occasions, Chinese leaders reiterated the fact that religion led to the collapse of communist regimes in Eastern Europe and the Soviet

Union. They emphasized how in time, religious issues would also affect China's national unity and territorial integrity. As a result, there were concerns over infiltration and anti-infiltration, peaceful evolution and anti-peaceful evolution.

The Chinese government tried to hold to the traditional policy line of united front by proposing two major objectives for its religious work in the post-Cold War era: guiding religions and religious groups to adapt to the socialist society and managing religious affairs according to the rule of law.

Concerning the legal developments in religion in China, the “Regulations on Religious Affairs” issued by the State Council in 2004 has been regarded as a milestone. We now see the government beginning to take the double track of relying both on laws or regulations and policies.

In a nutshell, one of the defining features of the Transitional Period was that China's religious policy started focusing more on the united front line, and its legal position began taking on more definition.

CONCLUDING REMARKS ON FUTURE TRENDS IN CHINA'S RELIGION POLICY

First, the Chinese government needs to keep a proper balance between the national security and united front policy lines that it has established and defined. As mentioned earlier, since the formation of these two policy lines, they have transitioned through four periods in the past 62 years. With a few occasional exceptions, the general tendency has been a continual shifting of emphasis from national security to united front or from the national security-centered policy to the united front-centered policy. Historical experience indicates that the imbalanced development of these two positions, especially the overemphasis on the national security policy, has brought about devastating consequences to religion as well as governmental religious work in China.

Second, the national security and united front policy lines have changed in the past six decades. For instance, the basic rationale behind the national security policy has transformed from the “Opium Thesis” and “Anti-infiltration Thesis” to the “Non-traditional Security Theory.” The basic

ideas supporting the united front policy have changed from one of social adaptation and coordination to harmonious integration. The united front policy focus on securing the support of the religious elites has now moved to obtaining the support of the majority of religious believers.

It is important to note that the concepts and principles established for the national security and united front policy lines have been universal in that they reflect legitimate concerns within the policy making process of other countries and are just expressed with different terms.

Third, the afore-mentioned tendency of China's government to flip back and forth between the national security and united front policy lines seems inevitable in view of the historical development of both Chinese society and religion in China. With the elimination of the so-called "Religious Sovereignty" issue, the pluralizing of national security interests since the implementation of the Open Door and Reform Policy (late 1970s) and the new policy line of managing religious affairs according to the Rule of Law, China's government has been able to reduce national security pressure in religious areas. This allowed for the consolidation of political foundations to strengthen the united front policy line. The bolstering of the united front position should be viewed as the best means to release national security concerns in the religious arena.

Fourth, the United States started to view religion as a major factor in homeland security after the 9/11 terrorist attacks and the emergence of international religious extremism. The Chinese government understood this from the very beginning.² As a government policy, securitization means pooling all of the recourses to reach certain goals. It offers governments the benefits of obtaining some kind of legitimacy and full power to mobilize the resources at their disposal to promote their policies or to deal with the so-called national security threats. But its indiscriminating application would lead to the unnecessary appropriation of social resources, delusion, obscurity, and deviation of the strategic goals of a country. That in turn would invalidate the effects of securitization itself. Given China's increasing pluralistic national interests, it is both necessary and possible for the government to desecuritize religion by treating religious issues as normal social issues or as part of the normative fabric of society. The government can exercise both its legal approach to religious work and the united front policy

line by detaching religion as a national security concern. The sole purpose would be to make China's religious policy more adequately reflect China's social reality of a "strong state, weak religion," thereby reinforcing the new statecraft of governing the country by the rule of law. This approach would properly confirm China's international commitment and image as a responsible member of the global community.

NOTES

1. The Central Committee of the Communist Party Literature Research Office and the State Administration for Religious Affairs, (eds.), *Selected Works on Government's Religious Work during the New Period* (Beijing: Religious Culture Publishing House, 1995), 60–61.
2. For a comparative perspective on religion as a national security concern in both China and the United States, see Xu Yihua, "Religion in Current Sino-US Relations," *The United States and China: Mutual Public Perceptions*, ed. Douglas G. Spelman (Washington D.C.: Kissinger Institute on China and the United States, 2011), 119–120.

The Party State and Religious Plurality

ANDRÉ LALIBERTÉ

Abstract:

I discuss the different ways to look at China's religious plurality qua diversity, in contrast to pluralism, that are used to describe the sociological reality of religion in contemporary social life in the People's Republic of China (PRC) and that the Communist Party of China (CPC) has to contend with. I briefly note that China has deep religious diversity, to borrow from Will Kymlicka's description of the different kinds of cultural cleavages that contemporary societies know. This includes religious diversity among Han Chinese, the 55 national minorities of China, and the new residents of China. I then move to the concept of diversity within religions used by Rajheev Bharagava to describe the plurality within China's officially sanctioned religions and others. After presenting these examples of religious plurality understood in a comparative context, I move to the changes in Chinese self-understanding of religious plurality by presenting the recent discussion of Vincent Goossaert and David Palmer on how the state has dealt with the "religious question" in modern China with the invention of the categories of "superstition," "secret societies," and the five religions. I conclude that the CPC stands at a crossroads. On the one hand, there are signs that it is opening up and is willing to display more flexibility in its management of religious affairs by encouraging the revival of traditional culture. On the other hand, there are signs that some cultural nationalists want to end this limited form of diversity by promoting a hegemonic discourse on national identity.

INTRODUCTION

I will comment on how the Communist Party of China (CPC) responds to China's religious plurality. The main point I want to make is that while

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the CPC sees some value in the vitality of religion in Chinese society, it is unsure how best to respond to this reality. I argue that one of the main reasons is that Chinese religions are very diverse and complicated, similar to those in many European countries and unlike those in the Middle East and North Africa. My remarks will expand on this, and will be divided into two parts. I will briefly review some ways to look at the religious plurality of China and how the CPC responds to that plurality.

I chose the term plurality, which describes a sociological reality, instead of pluralism, which is a normative and political idea. Sociologically, China experiences religious plurality because it is as diverse as any society in its religiosity. It is important to remind ourselves of this reality to measure the challenges that the CPC faces. All of the presentations yesterday and this morning touched on this issue; they discussed the various challenges the government faces in regard to Christianity and other religions. However, pluralism is a different matter. It is the recognition that there is no absolute truth out there; no truth is superior to another. This does not sit easily with religious faith, and pluralism, as a philosophical approach, has often struggled against the religious establishment to establish itself separately and to promote concepts like freedom of conscience. Historically, the CPC had some issues with pluralism because this idea is premised on the principle of uncertainty, while the CPC is confident that it has an immanent knowledge of the laws of historical development. Historical materialism is a functional equivalent to natural law, and it has acquired the status of dogma. As such, it cannot be abandoned. Yet, the CPC has proven repeatedly its capacity to rethink the impossible, such as when it embarked on the path of opening and reform in 1978. Will it be as bold in regard to religion?

CHINA'S RELIGIOUS PLURALITY

Religious plurality is known by at least two dimensions. There is diversity between different religions and diversity within religions. To start with, China has experienced for centuries diversity among different religions, to borrow loosely from Will Kymlicka's description of multiculturalism in Canada.¹ China has religions that developed from the indigenous

traditions, religions that came and acclimated to China, and new religions that evolved during the course of China's intensified contacts with the outside world since the 19th century. Of the first group of religions, it includes Daoism and what social scientists call "popular beliefs" (*minjian xinyang*). Among the religions of the Han people, we can add the indigenous traditions of the minority peoples, such as the Bon religion among Tibetans and shamanism among Koreans.

Among the religions that came from outside China, Jewish, Christian, and Muslim believers have been in the country a thousand years; Buddhism has flourished in China for two thousand years, while it is almost gone from the country of its origin, India. These religions have been in China for so long that we can consider them an integral part of China's religious ecology. This is similar to the way that Christianity, an offshoot of a Jewish sect in the Middle East, evolved into a European and American religion before expanding worldwide. We can also consider Tibetan Buddhism as a world religion because it was imported on top of the native Bon religion.

In addition to these indigenous traditions and world religions influenced later by Chinese culture, one has to include the new religions since the late 19th century. We can identify two categories: new religions that emerged in China involved in moral cultivation and philanthropy, called redemptive societies by historian Prasenjit Duara² and new religions from abroad. Often syncretistic in nature, they evolved into associations that engaged in philanthropy and moral cultivation along with their purely religious activities. Some of these religions, like *Yiguandao*, are prospering in Taiwan and in the overseas community. Some of the recent religions originated abroad, such as the Baha'i and the Church of Latter-day Saints.

Were we to limit ourselves to this account of religious diversity we would miss some important nuances. We can refer to what Rajeev Bhargava calls diversity within religions, which he distinguishes from diversity between religions.³ Bhargava uses that concept not only to describe the diversity of ritual and devotional practices within Hinduism and Islam, but also to take into account the reality of Hindu caste divisions. Chinese society has never instituted castes, but there has been a variety of schools of thoughts and practices among people labeled as Daoists or Buddhists in China. Contrary to Catholicism that admits a supreme religious authority, Daoist

and Buddhist monastic orders do not have a single leadership. More significantly, the elementary form of religion in China is communal religion, which evolved around village temples and in cities around guilds and other groups. These communal religions are the most ancient of China, and over centuries they borrowed from Daoism, Buddhism, and Confucianism. The object of devotion to local historical personalities may vary across regions, but people worship deities like Guan Gong or the God of Wealth all over the country. The basic rituals—the burning of incense, the use of spirit money, and the dissemination of morality books—are so widespread that we can call this the basic Chinese religion. This elementary form of religion, to borrow from the felicitous phrase of Robert Weller, expresses the unity in diversity of Chinese religion.⁴

However, as Yang Ching-kun wrote in his study of Chinese religion, we miss an important feature of religion in China if we overlook the moral, ethical, and political dimensions. This brings us to the subject of state control of religion. Archeological evidence suggests that the monarchs of early kingdoms claimed divine status. When Qin Shihuangdi established the first Chinese empire, the prevailing religious cosmology posited a heavenly bureaucracy that mirrored the bureaucracy ruling on Earth. Although the emperor was not divine, he was responsible for specific forms of worship appealing to the gods to ensure prosperity and protection. With a few exceptions, such as the promotion of Buddhism as the state religion during the early Tang Dynasty, the emperors did not favor one monastic community over another. However, we should not think that this was a policy of non-interference. The rulers granted legitimacy to the communal religions and after the Song Dynasty, Confucianism represented the basic canon for the civil examination. Moreover, the state persecuted religious sects that had fallen foul of the dominant Buddhist and Daoist clergies. Because the emperor was responsible for determining the legitimate form of religiosity, any organization that seemed to be independent from this supervision was considered a political challenger.

This concern was understandable; China's history includes many uprisings led by people who claimed a mandate of heaven and based their legitimacy on religious scripture to mobilize their followers. In the 19th century, a man claimed to be the brother of Jesus triggered the Taiping

Rebellion, seeking to establish the Celestial Kingdom of Heavenly Peace. At the time, this was the deadliest civil war. The Taiping Rebellion has opened in China a religious question that is the object of a book on state and religion in China since the mid-19th century by Vincent Goossaert and David Palmer.⁵ This question has haunted the CPC since its beginning, but unfortunately I do not have the time to expand on this important issue. Therefore, I will limit my remarks to the current mechanisms the state uses to deal with religion.

THE COMMUNIST PARTY AND ITS RESTRICTED RELIGIOUS PLURALISM

The Constitution of the PRC proclaims freedom of religions and the right to believe or not to believe. It remains silent on the free exercise of religion. The CPC stands as the supreme arbitrator on religious affairs, but it is not an impartial one because the CPC promotes atheism. At the political level, the CPC leadership promulgates directives for religious work, and communicates them to the relevant national associations via its United Front Work Department. The State Administration for Religious Affairs (SARA) implements the CPC's guidelines at the national level, and serves as a conduit between the Party and the national patriotic religious associations. Seven national religious associations represent the interests of religious believers, according to the government. One association serves all Chinese Buddhists, regardless of their ethnicity and their particular affiliation to one of the three main schools of Buddhism, one for all Daoists, and another for all Muslims. Catholics and Protestants have two patriotic associations to serve the interests of believers and the clergy. This structure, as suggested before, does not serve all the believers or adhere to many forms of religions. No national association can promote all of the interests of those who practice communal religions or those who believe in an unrecognized religion.

As an organ of the government, the SARA also relays the directives promulgated by the CPC to the lower levels of state organs dealing with religious affairs. It includes a general office of management and seven departments that dealt with specific religious matters, as will be discussed below.

It also includes three centers that produce research on religious affairs, services to religious associations, and training for cadres in the lower administrative levels of religious affairs. The SARA has a committee that maintains regular relations with the CPC to ensure compliance with political directives, as well as an affiliated journal, *China Religions*, to keep the public informed about its activities, and a publishing house, the Religious Culture Publishing House, which promotes high quality research on religious from the perspective of history and social sciences. Most of the staff in the SARA have received training at the Institute of World Religions, and are widely read on the theology, history, economy, and politics of religions. Another unit, the China Religious Culture Communication Association (*zhonghua zongjiao wenhua jiaoliu xiehui*), promotes understanding between the religious associations based in the PRC and their counterparts in Hong Kong and Taiwan. The *jiaoliu xiehui* was especially active in organizing the World Buddhist Forum in Hangzhou in 2006 and in Wuxi in 2009, in coordination with Buddhist associations from these two other areas.

The four departments devoted to specific religious affairs are divided as follows. One deals with the Buddhist and Daoist associations of China; the second department deals with the affairs of Chinese Christians and their four associations. The third department works on Muslim affairs, and the fourth department deals with other religions. That means it looks after the religions that do not have an organization but have followers residing in China, such as Judaism and Christian Orthodoxy. It also deals with the “heretical” religions. Two other departments of the SARA deal with external relations, including relations with the Hong Kong Special Administrative Region (HKSAR), the Macau Special Administration Region (MSAR), Taiwan, and the religious associations. This structure of control is simplified at lower levels, as religious and ethnic affairs fall within the responsibility of the same unit. The provincial bureaus do more than merely transmit the directives from above to bureaus below them. They also do surveys on religious activities at the provincial level, in coordination with provincial religious associations.

The bureaucracy of religious affairs relies increasingly on scientific study of religion at all levels. The Institute of World Religions has a remarkable body of increasingly sophisticated scholarship on religion in China and

the outside world. Some of its graduates now work in the SARA, and find themselves in positions to provide sound advice to political leaders. An impressive number of scholars at the cutting edge of social sciences and disciplines in the humanities, such as history, improve our collective knowledge of Chinese religions and contribute to the dissemination of that knowledge at the international level, as the present event here demonstrates. Obstacles still remain; the academic structure for religious studies remains weak because most universities have yet to establish a department of religious studies and most experts on religions are in philosophy departments. Most studies on religion look at religion before 1949 and the esthetics and material culture. Signs are nonetheless encouraging when we consider the increasing number of studies on the subject and the interest of readers to know more.

The bureaucracy for religious affairs does not enjoy a high status in the state administration. Religious affairs rank very low in the priorities of all levels of government when one goes through the annual reports of provincial, prefecture, and district levels of government. This fact could give hope to religious believers who wish the state not to intervene in religious affairs, but this overlooks the fact that other branches of government are interested in the activities of religious associations. For example, the public security bureaus at all levels keep a close watch on the activities of groups with unclear legal statuses. However, the interaction with the state can also have some more positive dimensions, from the perspective of religious associations and believers. Many local governments see opportunities in encouraging the expansion of religious activities; they can improve local revenue through tourism and contribute to social stability, via involvement in philanthropy.

This situation is leading many local governments to open up and display more flexibility in their management of religious affairs. Municipal governments accept that believers of non-recognized religions can practice their faith. For example, followers of *Yiguandao* can practice throughout the country. The same holds true for Mormons, who consider themselves believers in a non-Christian religion and seek recognition as such, and for adherents to Baha’i. This greater flexibility has a rationale. Adherents to these religions are often Taiwanese or foreign residents, and the local authorities’ accommodation serves local interests. Still, these signs are encouraging; in particular, the desire of the Chinese authorities to gain the goodwill of

Taiwanese elites may encourage them to adopt a policy of greater religious tolerance. For the moment, local governments have adopted a pragmatic approach. They let groups of devotees in popular beliefs register as Daoist or Buddhist associations or look the other way if they register as cultural associations. As Ji Zhe has noted for Buddhism, this tolerance creates an increasingly expanding gray area of religious practices that diverge from the orthodoxies promoted by the official religions.

As any casual observer to Chinese Buddhist temples will note, visitors worship and behave in ways that do not always fit the regulations established by local Buddhist associations. For example, people burn god money and pray in front of deities that belong to a pantheon of what was until recently called “feudal superstitions” at temples that are registered as Buddhist. The revival of these “popular beliefs” represents an important trend. Internal CPC documents suggest that one of its missions should be the preservation of traditional culture. Should we infer from that statement that the state is about to recognize “popular beliefs” as the sixth religion or as the “Chinese religion” as some sociologists have argued? The CPC has recently invited experts to discuss that possibility but after rounds of discussion and deliberation, they have not supported such a change.

Another intriguing possibility has emerged lately: declaring Confucianism as the sixth religion. The revival of Confucianism represents a daunting challenge, however. To start with, there is no Confucian clergy, and, therefore, no basis to create an association that resembles the Buddhist or Daoist associations of China. Moreover, the rehabilitation of Confucius raises issues of legitimacy for non-Chinese populations within the PRC, who follow the tenets of their own religions. All of these debates revolve around the issue of China’s national identity. The promotion of Chinese popular beliefs and Confucianism by some intellectuals reflects their desire to rehabilitate what they view as a Chinese essence. Considering the importance of nationalist ideas among some segments of China’s youth, this possibility of a recuperation of religion remains attractive to some. However, how could the Chinese government hope to attract the allegiance of national minorities if it promotes religious values that stem from one culture among many?

If such trends go too far, they could put an end to the existing, if limited, form of diversity. Some intellectuals who are ardent supporters of national

studies, for example, aim to purify China of all foreign influences. A typical view among them is that Buddhism is not really a Chinese religion because it originated in India. With that logic, Islam and Christianity are not Chinese either. It is easy to see how quickly the view that China should recover its heritage from foreign influence can evolve into an expunging of these views by changing values. This trend reminds us of Hindu nationalists, who claim that Muslim and Christians are former Hindus that need to be converted back. Such views are marginal today, but one should not assume that they become more popular among people who are deeply nationalistic. So far, such trends are the expression of a tiny and marginal minority, but influential academics do support the growth of these studies. The people who hold such beliefs have the right to express them, of course, as long as they let people who have different views disagree with them without fear. Let us hope that theirs is only just one voice among many who are more inclusive.

Certainly, the CPC has many options to look around in rethinking its approach to the management of religious diversity. The Nationalist Party, during its rule in China until 1949 and in Taiwan until the 1980s, applied the policy of regulation previously described. However, as the reality of religious diversity could assert itself freely during the process of democratization on the island, the government has come to realize that religion is too complicated and disorderly to regulate. Moreover, authorities have recognized that they could benefit from religions in the realms of philanthropy and social cohesion. The CPC could also revisit the approach used under the Qing Dynasty, when a minority ruling class that was not ethnically Chinese dominated China, and adapt it to the present reality.

Which option will the CPC choose? I will present three possible scenarios: muddling through, limited reform, and overhaul. The CPC can decide to continue with the actual policy of limited recognition and local authorities can make accommodations to specific situations, according to the needs of investors from Hong Kong, Taiwan, and other countries. The government can adjust policy in the margins with greater accommodation towards house churches and a more or less greater support to communal religions, which it celebrates as elements of folklore. In the scenario of limited reforms, Confucianism can receive recognition as a sixth religion or, in a variant of that approach, the state can recognize popular beliefs as an

official religion. This would open the door to the recognition of a variety of religious practices at the local levels, but it would be unlikely to go as far as including organized religions like *Yiguandao*, as long as the CPC remains wary of organizations that could possibly compete with them in terms of membership. The last option represents the approach used in Taiwan over the last 20 years. There, the government only requests that religions meet certain criteria like the existence of scriptures, a statement of fundamental beliefs, membership, and finances. Of course, to make such a scenario possible, such religions must have the ability to organize and their followers the possibility to meet. Under current conditions, groups who do not seek recognition and organize their activities in an informal way stand a chance to reach the point where they meet the criteria set up by authorities. Trying to reach tacit recognition with local governments may open up possibilities as well, but such ad hoc arrangements are always likely to unravel when political conditions change. Moreover, the Taiwan model evolved out of a process of democratization.

There remains a fundamental difference between the approaches of the CPC and the government in Taiwan: the CPC promotes atheism and its cadres must be non-believers. A change in that rule may open up new avenues in the management of religious affairs. There are no signs that this is bound to change at the higher levels of the CPC. However, anecdotal evidence suggests that some exceptions are possible; cadres who belong to national minorities could maintain their beliefs. The recent behavior of Han Chinese cadres points to another possibility: cadres can continue some religious practices if they are not recognized as such by the authorities and if they are seen as important aspects of Chinese culture that the state values. This approach, however, is fraught with problems, as the case national studies just discussed demonstrate. The case of Falun Gong provides an even more dramatic example. In the late 1990s, many retired cadres joined that particular group of *qigong*. For them, this was not a contradiction with their commitment to atheism since Falun Gong was not recognized as a religion. It is tragic turn of events that this practice has been stigmatized as a heretical religion.

CONCLUSION

Many people have shown in the last two days that the existing approach to managing relations with religion has limitations. The CPC is unlikely to adopt the same approach as the United States in its relations with religions. There are no particular reasons to limit ourselves to the American model because there exist many ways to approach the proper way to respect the freedom to believe and practice religion while ensuring that no religion controls the government. Even Canada, which is next door, differs significantly from the United States in how it deals with religious diversity. The differences are even more striking when we look at the United Kingdom and France, even though these countries are liberal democracies with a broadly shared Christian heritage. China can look to models of relations between the government and religions in societies that have a cultural legacy that is closer to its own heritage in Taiwan, South Korea, and Japan.

Most importantly, we have to remember that not only are these approaches different from each other, but also each one of these models of relations between state and religion is not static. If there is one feature that all contemporary societies share, it is that the relation between religions and public authorities require constant renegotiations, accommodations, and mutual acceptance of change, as religion themselves change and societies' views on religion change. China has proven in its recent past that once a dogma has failed in economic development, it can change course rapidly and decisively. The CPC stands at a crossroads in its management of religious affairs. There is mounting evidence that local governments embrace the reality of a more visible religiosity in the public sphere and benefit from the activities of religious institutions that set up philanthropy and moral cultivation. It remains unclear how this will translate at higher levels of governments.

NOTES

1. Will Kymlicka wrote about aboriginal people as Canada's first nations, the descendants of British and French settlers as the Canadian and Quebecois nations, and then Canada's new immigrants. See *Multicultural citizenship: a liberal theory of minority rights* (Oxford University Press, 1995).

2. Prasenjit Duara, *Sovereignty and authenticity: Manchukuo and the East Asian modern* (Lanham: Rowman and Littlefield, 2003).
3. Rajeev Bhargava, "States, religious diversity, and the crisis of secularism," *Open Democracy* (2011) <http://www.opendemocracy.net/rajeev-bhargava/states-religious-diversity-and-crisis-of-secularism-0>.
4. Robert Weller, *Unity and Diversity in Chinese Religions* (Basingstoke: Palgrave Macmillan, 1987).
5. Vincent Goossaert and David A. Palmer, *The Religious Question in Modern China* (Chicago: University of Chicago Press, 2011).

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Religious Freedom, Doctrine, and Regulation of the State—A Case Study of the Religious Groups Act Draft of Taiwan

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Abstract:

Religious beliefs predate the state in time and go beyond the boundary limit of the state in space. In their respective natures, while religion belongs to the spiritual and heavenly mysterious realm, the regulatory framework of the state resides in the secular world. The inherent conflicts and pragmatic compromises between religion and the state hence co-exist with the history of mankind in Western and Eastern societies. The tensions between religion and state in many situations result in forms of legal control or protection enforced by the constitution, laws or regulations. The magnitude of control reflects the relationship and attitude of the state toward religion at the time. This paper focuses on the newest legislative effort made by the government of Taiwan to enact the Religious Groups Act Draft (RGAD) to regulate religious groups. This paper consists of six parts. The paper first casts a glance at the present facts and phenomena of religious groups in Taiwan. It will be followed by a brief introduction of the history of governmental control implemented by legislation, which covers the one century old history of the Republic of China (Taiwan) to the present, from the perspective of Taiwan. While many judicial and administrative efforts were made for the legal frameworks of religious legislation, most of them proved to be futile. The third part of the paper will give a short summary of these efforts to

bridge the gap between the obsolete religious legislations and the newest RGAD. The fourth part will examine the structures and main context of the RGAD. Some provisions of the RGAD, for example the almost mandatory, hierarchical structure and the name and property issues of the religious groups, will be closely presented to lay the foundation of the discussions in the next part. The fifth part will turn to some critical perspectives raised by the author and his peer commentators toward the RGAD. The last part, the conclusion, will summarize the paper and reinforce the core theme of the paper.

A GLANCE AT RELIGIOUS GROUPS IN TAIWAN

A “Religious Miracle” may be the best term to describe the prosperous developments of the religious activities in Taiwan. Taiwan, also known as Formosa (the beautiful island), is indeed a “Religious Inland.”¹ In accordance with the 2010 government statistics, there are 27 categories of religions in Taiwan.² The Temple category, representing Daoism and Buddhism, and the Christianity category, signifying Protestantism and Catholicism, are the two major branches. It is worth noting that religious groups are still increasing. For example, on this tiny island there are 11,875 registered³ temples, of which 2,438 or 25.8 percent developed over the last decade. On average, there are 691 religious groups in each county. The average number of temples in municipal cities was 41 in 2010, an average increase of 7 temples from 2000.

Daoist temples amount to 78.3 percent of all religious entities, making it the largest group. Buddhist temples occupy 19.6 percent of the pie, ranking second. Nevertheless, in this temple category, only 412 temples are registered as a Fiscal Juridical Person,⁴ while there are still 11,463 temples⁵ that have not completed the Juridical Person registration. These unregistered temples can be broken down into the following respective volume and percentages: Daoism 9,296 (78.28 percent); Buddhism 2,333 (19.65 percent); and Yiguan Daoism 207 (1.74 percent).

In 2010, there were 3,336 churches in Taiwan. Compared with 10 years ago, this number had increased by 240 churches or by 7.8 percent. Among these churches, 2,552 or 76.50 percent were Protestant and 740 or 22.18

percent were Catholic. In terms of Juridical Person registration, 1,397 or 41.88 percent of churches are registered, while 1,939 or 58.12 percent of churches have not finished the procedure. According to the 2010 government registration record, there are 6,464 theological workers in service. Among these workers, Taiwanese citizens make up 5,290 or 81.84 percent and foreign nationals make up 1,174 or 18.16 percent.

THE RELIGIOUS REGULATORY HISTORY OF TAIWAN⁶

Even in 1912, the very beginning of its establishment, the Republic of China (Taiwan) had already enacted and implemented a religious law.⁷ Today in its legal regulatory framework, Taiwan has one legislation, the Temple Supervision Ordinance (TSO) of 1929, and one administrative regulation, the Temple Registration Regulation (TRR) of 1936. Observably, these are obsolete. This deficit in the legal framework attracts regulatory efforts, either legislative or administrative. Nevertheless, none of them has proved to be successful. The following part will give a short retroactive illustration to these religious regulatory histories.

The Interim Ordinance of Temple Management (IOTM)

On June 20, 1912, within one year of the Republic of China's founding, the Ministry of Home Affairs⁸ of the Interim Government enacted and implemented its first religious regulation: the Interim Ordinance of Temple Management⁹ (IOTM). The hasty passing of the Ordinance was motivated by political considerations that made the religious regulatory devices a high priority to Yuan Shikai's government. In short, the IOTM was aimed at two political goals. First, Dr. Sun Yat-sen, founder of the Republic of China, abolished the Monk Officer System,¹⁰ and encouraged Buddhists to set up autonomous temples, which resulted in the establishment of the Buddhist General Assembly of China. Hence, the Buddhists had a political preference for Sun and his Nationalist Party. This caused political disadvantages for Yuan Shikai. Second, Yuan attempted to mobilize the property of temples to expand his military forces, which went against Buddhism and

therefore failed at the first attempt. However, during April or May of 1912, Yuan observed what his military mobilization plan had accomplished. This granted him the space to control religious groups, mainly Buddhist temples, by enacting the IOTM. Regretfully, the first religious legislation of the new, promising state was motivated by political ambition.¹¹

When we look at the contents of the Interim Ordinance of Temple Management, the key purpose of this roughly made ordinance was to control temple property. This control was done by vesting the right of property disposal to the temples' monk masters. This framework gave Yuan's government the convenience to mobilize a temple's property through its control of the monk master. However, this property management linkage with the monk master was eventually followed by more religious legislation. Today, property remains one of the most important issues in religious management.¹²

The Temple Regulatory Ordinance (TRO) and the Revision (RTRO)

On October 29, 1915, the Ministry of Home Affairs promulgated the Temple Regulatory Ordinance (TRO).¹³ The TRO substantially expanded on its predecessor, the IOTM. The ordinance had six chapters that covered general principles, property, monks, registration, penalty of the temples, and miscellaneous provisions. This new legislation¹⁴ still reflected the authoritatively regulatory or controlling philosophy of Yuan's government that deemed itself as the supervisor and regulator of religion by adding some strict provisions therein. For example, the TRO stipulated that temples not only register with the local authority, but also had approved their internal, doctrinal meetings. In accordance with the TRO, even the contents of the lectures delivered by monks were restricted and could result in a penalty. It well manifested the desperate desire of the government to regulate or control religious groups.

In 1921 during military government controlled periods, another religious legislation, the Revised Temple Regulatory Ordinance (RTRO), was enacted into law. While the RTRO did modify and bring some leniency to the TRO, it nevertheless still kept the same tone of the government as supervisor and regulator.

The Temple Management Ordinance (TMO)

On January 25, 1929, after the Nationalist Party (KMT) government effectively controlled all of Mainland China, it promulgated the Temple Management Ordinance (TMO) as its first religious legislation. Nevertheless, the unification and stability of the state did not bring freedom to the TMO. Many provisions of the TMO strongly reflected the controlling philosophy of regulatory periods set by the KMT. For example, Article 4 stipulated that temples would be dissolved if they destroyed doctrines, offended moral custom or violated the (Nationalist's) "Party Governance." Article 6 required that the (Nationalist's) "Party Principles" be incorporated into the operation rules of schools and libraries established or managed by temples. The most noticeable provision of the TMO was its model of temple property management. Unlike its predecessors, the TMO mandated that temple property be managed by the Temple Property Management Committee that was organized by and consisting of monks, domestic groups, and the municipal authority.¹⁵

However, the TMO survived less than one year. The main reason is the fact that it was neglected, and lacked the nature of religion. To succeed the TMO, a new law, the Temples Supervision Ordinance (TSO), was promulgated in December 1929, the same year as the TMO. Currently, the TSO is the sole, valid legislation governing religious matters in Taiwan.

The Temples Supervision Ordinance (TSO)

The TSO is a tiny legislation consisting of 13 articles. The purpose of the TSO is to allow the government to join in the operation of religious groups. Again, the major contents of the TSO aim at the financial and property management of temples. For instance, Article 5 through Article 10 cover the disposition and supervision of temple properties. These provisions limit the usages of temple properties to proclaim religious doctrines, carry disciplines, and have normal, routine expenses. The real estate and religious instruments cannot be modified or disposed of without passing a resolution from a religious meeting or without being granted approval by a governmental authority. Financial statements, temple expenses, and operations by

religious groups have to be publicized and filed with a governmental authority every six months. The TSO also grants the government the power to abolish or expel the managing monk master and bring a case to court if there is any violation to the provisions.

Since its enactment, the TSO, as the only surviving religious legislation, has carried the heavy burden to administrate or regulate matters pertinent to religious groups. Many problems have arisen since its application. Almost every provision of the TSO has been asked to have interpreted by the Judicial Yuan, the highest judicial authority in Taiwan. The only exception is the abovementioned Article 9, which requires religious groups to file and publicize their financial statements and expenses every six months. However, in the real world, almost no religious groups follow this. Therefore, no questions from religious groups, interpretations or implementations were enforced by a governmental authority since the TSO's enactment. In reality, the government indeed does not enforce the TSO closely at all. For example, many temples have not established or operated charity institutions in accordance with Article 10. Nevertheless, the government has never enforced the stipulation of Article 11 to expel a monk master.¹⁶

Furthermore, the TSO is apparently far behind the needs of modern religious groups. In practice, common management institutions like the "Assembly of Believers," the "Management Committee," and the "Board of Directors" as administrators of a foundation or Fiscal Juridical Person organization are not covered by the TSO. This causes a dilemma to delineate and supersize internal structure, power, and responsibility of these religious groups. In theory, the TSO has at least three fundamental deficits. First, the TSO has long been criticized that it only supervises temples and not churches, which obviously is against the equal rights of the constitution. Second, the government is designed to supervise using various powers to interfere in the internal affairs of religious groups, which contradicts the principle of separation of church (religion) and state.¹⁷ Third, the TSO follows earlier religious legislation, and stresses the regulation of temple property, which negatively turns the nature of religion from sacred to material.¹⁸ For these reasons, the TSO is a target to be amended.

JUDICIAL AND LEGISLATIVE EFFORTS TOWARD RELIGIOUS REGULATIONS

Judicial Efforts

The TSO is obsolete in both of theory and practice. In its long history, various efforts have been made to furnish reasonable interpretations to refresh its function. Such efforts basically were achieved by judicial interpretation administered by the Judicial Yuan to examine the constitutionality of the TSO. The earlier judicial interpretations were made to declare and keep the constitutional legitimacy of the TSO. For instance, Interpretation No. 200 denoted that Article 11, the expelling provision, of the TSO is to ensure the necessity of furthering public interests. The Judicial Yuan in this interpretation held:

The legal purpose of the rules of Article 11 of the Temples Supervision Ordinance (TSO), regarding the replacement of the temple administrator where the raising of funds for construction of a temple is concerned, is consistent with the TSO, which is to protect the temple property and to promote relevant public interests. Therefore, such objective is not in contravention with the purpose of the Constitution to protect the property rights of the people.¹⁹

Interpretation No. 460, considered the following issue: does the Ministry of Finance directive declaring that a structure used as a “house of worship” is not a “residence” as defined in Article 9 of the Land Tax Act for tax exemption purposes constitute discrimination against any particular religion and thus is in violation of the constitutional provision guaranteeing freedom of religion? The Judicial Yuan concluded that a building used as a temple is not the owner’s residence as defined by the Land Tax Law. Such application enforced by the taxation authority did not contradict the equal rights or the freedom of religion articles of the Constitution.²⁰

However, a recent interpretation changed this attitude. Recently, The Judicial Yuan seems softer on the religious issue. This attitude has led to some interpretations favorable to religion. A good example is Interpretation No. 573. On February 27, 2004, the Judicial Yuan, through the Grand

Justices Meeting, the sole constitutional interpretation decision maker, delivered this influential interpretation. The interpretation confirmed the legitimate legality of the TSO by stating the following:

The Temples Supervision Ordinance (TSO)²¹ at issue was enacted pursuant to the former Standard Act for the Law and Rules, but was passed by the Legislative Yuan after an article-by-article review and discussion, and promulgated and implemented by the Nationalist Government on December 7, 1929. Subsequently, despite the promulgation of the preparatory procedure for the implementation of the Constitution on January 1, 1947, the TSO at issue remained unchanged or un-repealed and continues to be applied today. Moreover, not only the post-Constitution Legislative Yuan also considered it a good law, this Yuan has repeatedly reviewed it in various cases on record. Hence it should be regarded as an existing and effective law that regulates certain rights and obligations of the people.²²

However, the Grand Justice Meeting continued its interpretation relying upon various articles of the Constitution: Article 13 on religious freedom; Article 15 on property rights protection; and Article 23 on proportion and rule of law principles. It declared Article 8 and subparagraph 1 of Article 2 of the TSO unconstitutional. The Judicial Yuan held:

The freedom of religious belief and property right of the people are both guaranteed under the Constitution, as clearly provided for under Articles 13 and 15 thereof, respectively. The State is not barred from regulating, by means of law, the management or disposition of the property owned by a religious group. In doing so, however, the principles of proportionality and clarity of law under Article 23 of the Constitution should be complied with. Article 8 of the TSO provides that, with respect to any kind of temple not listed in Article 3 thereof, the disposition or modification of its real properties or ritual objects shall be made by means of a resolution reached by the religious society to which such temple belongs and subject to approval by the authorities-in-charge. Such provision, in putting restraints on the autonomy

and property right of such religious organizations, fails to give considerations to the autonomy of a religious organization, differences in internal management mechanisms among such organizations, as well as their needs to manage properties for purposes of missionary work or preaching. As a result, more than necessary restrictions have been placed upon religious activities. Furthermore, in respect of the approval by the authorities-in-charge, the procedure and requirements for relevant applications are wanting, which is against the principle of clarity of law, not to mention whether it is indeed necessary to adopt prior approval by a government agency as a regulatory means in this regard. They are in violation of both the aforesaid constitutional provision and the purpose of protecting the freedom and rights of the people. In addition, according to Article 1 and Article 2-I of said TSO, Article 8 thereof merely applies to some, but not all, religions, which is contrary to such constitutional principles of religious neutrality and religious equality as should be carefully upheld by the State. From the date of this Interpretation, Article 8 and Article 2, Paragraph 1, of said TSO shall become void within two years.²³

With the mandating characteristics of the Judicial Yuan's interpretation, the TSO is hence only partially effective today. This fact opens the door for government to make efforts to enact a new law governing religious groups.

Legislative Efforts

The Draft Temples Regulation (DTR) of the Taiwan Province

In 1969, the Taiwan Provincial authority drafted the temples regulation. However, the DTR, being strongly protested by Buddhists, was not implemented. The DTR was a more comprehensive attempt at religious regulation. Although the DTR did reflect and encompass the recent practices of religious groups—the “assembly of believers” mechanisms—it still could not gain support from religious groups, especially Buddhists. The major concerns of the Buddhist community focused on two issues. First, the DTR gave the government strong regulatory power to intervene on the internal management system by enforcing reputational blame, suspending the

managing power or expelling the responsible monk master. Second, the DTR only regulated Buddhist temples and ignored other religious groups like Protestants, Catholics, and Muslims.

The Draft Temples and Churches Regulation (DTCR) of the Ministry of the Interior

In 1979, the Ministry of the Interior made another effort to draft the Temples and Churches Regulation (DTCR). The DTCR was passed by the Executive Yuan, the highest administrative authority of Taiwan. The DTCR had 26 articles. It was again refused by religious groups for the same reason of intervention on internal affairs, raising the constitutional issue of the freedom of religion. It is worth noting that the DTCR patterned itself after a foundation type of organization, adopted the Religious Juridical Person concept, regulated that every religious entity be established as an organizational type of Fiscal Juridical Person, and required the entities to form a board with at least three missionaries or monks. Compared with all its predecessors, the DTCR was a modern legislation that first covered all categories of religious groups. However the DTCR was not accepted. This time the reasons majorly arose from its new design of internal organization mentioned above that could not match all religious practices. The arbitrary discretionary power of the government was another source of disagreement from religious groups.

The Religion Protection Act (RPA)

In 1983, the Ministry of the Interior drafted the Religion Protection Act (RPA). Not surprisingly, the RPA was turned down in the early stage of communication with leading religious leaders even though this draft was the first one that used the term “protection” in the legislative name.

The Religious Groups Act Draft (RGAD)

If we look back to the surrounding political environment backgrounds of all legislative or administrative attempts illustrated above, people will hardly believe the outcome of these efforts. The surprise arises from the facts that the Nationalist Party overwhelmingly dominated the congressional Legislative Yuan in those years. This historical evidence teaches us

that the essence of the obstacles to religious legislation can all resort to the regulatory ideology of the government in preparing such legislations. Content rather than legislation is the key point to the successes. Learning from history, the Ministry of the Interior in recent days is more open to adopting opinions from religious groups. Seminars and meetings have been sponsored by the Ministry to gather information to continue this unfinished work.

In the most recent developments, there are several drafts, either initiated by the government or a respective congressperson, waiting in Congress to be examined. The most promising one is the Religious Groups Act Draft (RGAD), which received the Interior Committee's approval on April 6, 2009. We will extensively introduce the RGAD in the following part.

A BIRD'S-EYE VIEW OF THE RELIGIOUS GROUPS ACT DRAFT (RGAD)

Although the government of Taiwan has failed many times, it has constantly made efforts in religious legislation. The most recent one is the Religious Groups Act Draft²⁴ (RGAD). According to the government authority, the RGAD is to resolve the issues of diversified regulatory frameworks, deficiencies in handling situations, and protection of religious freedom.²⁵ On April 6, 2009, the Interior Committee of the Legislative Yuan passed the Religious Groups Act Draft.²⁶ The RGAD consists of 37 articles, which are divided into seven chapters. We hereby introduce the RGAD's structure and respective provision in a bird's-eye view. The critical analysis then will be discussed in the Part V.

Chapter I: General Principles

Chapter I, consisting of Articles 1–7 of the RGAD, describes the legislative purpose,²⁷ regulating authority,²⁸ definition and classification of a Religious Group,²⁹ Religious Juridical Person³⁰ registration requirements of Religious Group, bureaucratic levels of national Religious Groups,³¹ limitations of Religious Juridical Persons,³² registration certificate documentation,³³ and

definition of religious sects.³⁴ This chapter involves the general principles of the RGAD. It touches the sensitive area of religious belief and raises a lot of queries that we will discuss below.

Chapter II: Monasteries, Temples, and Churches

Chapter II, including Articles 8 and 9 of the RGAD, stipulates the definition,³⁵ registration process, requirements,³⁶ and bylaws³⁷ of monasteries, temples, and churches. Some believe it to be a response to constitutional interpretations of the Judicial Yuan³⁸ regarding the issues of religious neutrality and religious equality by adding “churches” under the coverage of the RGAD. Although Chapter II seems to face fewer challenges at the Committee meeting it still generates several issues. For example, subparagraph 1 of Article 9 requires that religious groups' bylaws contain their organizations of management and managerial methods. The problem is not every religious sect has such explicit organization or needs such organization. In addition, subparagraph 1 of Article 8 commands religious groups for actual religious activities to obtain ownership or a permit for the use of the land and the building. This is not easy for a new or small religion.

Chapter III: Religious Associations

Chapter III, covering Articles 10 through 14, provides the definition,³⁹ category,⁴⁰ threshold of formation,⁴¹ permission to establish,⁴² and bylaws of religious associations.⁴³ The structure of this chapter is very similar to the Civil Association Act. While such an outline may be convenient for the regulating authority to manage religious associations, it nevertheless raises basic questions. Will a religious group accommodate itself to the RGAD? By doing so will a religious group lose its autonomy? Will the “invisible” hands of the government stretch too much by putting micromanaging provisions in the RGAD? These questions are all about the core of religious freedom and not easy to answer.

Chapter IV: Religious Foundations

Chapter IV contains Articles 15 to 18 of the RGAD. The chapter respectively provides the definition,⁴⁴ category,⁴⁵ process of permission,⁴⁶ bylaws,⁴⁷ managing organization,⁴⁸ and monitoring organization⁴⁹ of religious foundations. From the viewpoint of the Taiwan Civil Code, a Private Juridical Person is either an association or a foundation. An association is the aggregation of people, and a foundation is the aggregation of funds. The constituents decide the legal nature and, in turn, require the respective registration. The model adopted by the RGAD is similar to this administrative method established by the Civil Code. However, it is obvious that neither associations nor foundations may embrace the identical characteristics of religious groups. Religious groups are composed of a unique human constituency—the believer and a special constituent of religious purpose property. The RGAD, by copying the internal administration and registration pattern of common Juridical Person under the Civil Code, is surely not able to reflect the unique and sensitive nature of religious groups. This is the major intrinsic fault of the RGAD.

Chapter V: Property

Chapter V of the RGAD covers Articles 19 through 27, which constitute the major part of the Act. It stipulates the management of real estate⁵⁰ and funds,⁵¹ requirements for acquiring specific public land,⁵² accounting,⁵³ annual reports,⁵⁴ exemption of income tax,⁵⁵ land exemption from the increment tax,⁵⁶ exemption from the Estate and Gift Tax,⁵⁷ and dissolution of the Religious Juridical Person.⁵⁸ This chapter causes great disputes. The contention arises especially from the provisions related to the privileges to acquire public land and tax exemption of religious groups. Pursuant to Article 21(1) of the RGAD, a Religious Juridical Person that has continuously used public land not for public use but for religious activities for at least five years before the implementation of this Act may submit relevant documents to the regulatory authority for a transfer of land management agencies, in accordance with the public property for sale management regulations. Some religious groups are squatters, and have no authority to use public land. By relying on this public land pur-

chasing privilege, they have a right to acquire this specific public land. Environmental protection groups have strongly protested the Draft in this respect for fear that water and soil will suffer greater destruction.⁵⁹ This controversial provision is an “invention” in the RGAD. It is a weird and alien clause, which has nothing to do with the purpose of the RGAD. By contrast, the tax exemption privileges provisions stipulated in Articles 24 and 26 of the RGAD serve only to reaffirm the identical regulations of tax law which may not necessary enact here.

Chapter VI: Religious Buildings

In Chapter VI, Articles 28 and 29, respectively cover the definition, usage, house tax, and land value tax exemption of religious buildings.⁶⁰ In order to adapt to practical situations, a Religious Juridical Person is allowed to use condominium buildings as religious buildings by getting the approval of the regulating authorities.⁶¹

Chapter VII: Supplementary Provisions

Chapter VII is the last part of the RGAD. This chapter, consisting of Articles 30 through 37, provides the supplementary matters. For instance, a Religious Juridical Person may run other affiliated businesses approved by the regulating authority⁶² or establish advanced religious teaching research institutions.⁶³ To solve a great problem encountered by religious groups, most of them Buddhist, the RGAD contains the provisions that under certain conditions a charnel house or cremation facility may be considered part of a religious building.⁶⁴ The RGAD in this supplementary chapter, however, provides that regulating authorities may check and report to the counsel as well as manage those non-established or non-registered religious persons or groups,⁶⁵ which is dubious because it breaches the consensus of freedom of religion protected by the constitution.

The representative or member of the managing organization or monitoring organization of a Religious Juridical Person that commits a specific crime may be removed from office.⁶⁶ If a Religious Juridical Person violates the regulation, the tax privileges are cancelled.⁶⁷

The issue of a charnel house or cremation facility causes a lot of debate. Before the RGAD, most charnel houses and cremation facilities that were affiliated with monasteries, temples or churches did not comply with the Regulation of Funeral and Interment Management Act. Therefore, these facilities are still illegal or unlawful. If the Legislative Yuan passes the RGAD, these facilities will be immediately legalized. The existing funeral and interment associations are sure to be displeased with this result.

Although a Religious Juridical Person may establish advanced religious teaching research institutions, they cannot grant degrees without first complying with the education law. Functionally, this article does not have any pragmatic meaning.

SOME CRITICAL PERSPECTIVES OF THE RGAD⁶⁸

Legislative Purpose

Article 1 of the RGAD reads: “This Act was enacted to protect the freedom of religion and maintain the sound development of religious groups.” According to this provision, these are the two legislative goals of the RGAD. The first goal of protecting the freedom of religion is a reclaim of the freedom of religion protection clause stipulated in Article 13 of the Constitution, which brings no new meaning. The second goal of maintaining the sound development of religious groups is seminal. However, its meaning should not be exaggerated by the phrasing. Its meaning rather is best understood by examining the respective provisions enacted in the RGAD under the equality and neutrality of religion concept embraced in the freedom of religion principle.

The well-established constitutional right of the freedom of religion contains at least five components: (1) freedom of religious belief; (2) freedom of religious behavior; (3) freedom of religious association and autonomy in management; (4) equality and neutrality of religion; and (5) separation of church (religion) and state.⁶⁹ The equality and neutrality of religion element requires that the state does not provide benefits or disadvantages for specific religious groups.⁷⁰

Transfer of Public Land not for Public Use

Article 21 of the RGAD stipulates: “A Religious Juridical Person that has continuously been using public land not for public use for religious activities for at least five years before the implementation of this Act may, in accordance with the public property for sale management regulations, submit relevant documents to the said land management agencies through its regulatory authority for a transfer of land by sale.” Subparagraphs 2 and 3 of the article respectively say: “The land used for religious purposes in the preceding paragraph shall be given priority in urban planning or changes in land use arrangement. Development and changes of urban planning at all levels of government shall follow the principle to maintain the integrity of existing legal religious lands and buildings.”

As we pointed out, from the historical perspective, religious property is always the first priority of concern by religious groups and the government. It seems that the RGAD is no exception. While subparagraph 3 can be regarded as neutral in nature, subparagraphs 2 and 3 together give religious groups the tremendous benefit of being able to purchase public lands that had been occupied without permission. These two subparagraphs apparently contradict the equality and neutrality of religion component embodied in the freedom of religion. It is no wonder that this article has aroused a fierce debate on both of its justification and necessity, which became the biggest obstacle that caused the delay in the RGAD’s legislative completion.⁷¹

Three reasons may summarize the delay caused by suspicious motivation. First, upon close examination the article has nothing to do with the goals of the RGAD to “protect the freedom of religion and maintain the sound development of religious groups.” Second, minority religious groups are in a more inferior position than the dominant groups to enjoy benefits. The simple reason is that dominant religious groups have enough resources to buy, deal with or influence the relevant decision-making government authority. The marginal groups, on the other hand, do not even get the chance to apply for a candidate. Third, the article is an “invention” independent of the existing legal regulatory frameworks.

Ironically, and pitifully, the long awaited religious legislation enacted for the purpose of protecting freedom of religion and maintaining

sound development of religious groups proved to be a tool to acquire public lands.

Registration Systems: Names, Sect Categories, Enabling and Merits Principles

Name

Articles 4 through 9 of the RGAD are the main provisions governing the registration of religious groups. Article 5 of the RGAD provides: “Within the same administrative region, similar Religious Juridical Persons of the same level shall not bear the same name.” It is understandable that the article aims at distinguishing groups as a convenience to the governmental administrator. However, practically it opens a gate for religious groups either to expel each other or to compete for orthodoxy. Among religious groups, a name has extraordinary importance in addition to the basic function of differentiating. In short, a name serves as a badge of orthodoxy or special commitment, which defines the sects of religious groups. Therefore, Article 5 of the RGAD will eventually cause expulsion and competition among similar religious groups. It may also result in additional complexity to the already confusing names of religious groups. This concern will be even worse if we consider the provision of Article 7: “The religious sects referred to herein are religious organizations characterized by independent teachings, purpose, scripture, and ritual according to their historical heritage, and are classified as separate for statistical purposes by the regulatory authority in the central government.”

Subparagraph 1 of Article 8 brings another concern about religious groups’ names. It stipulates that “monasteries, temples, or churches refer to legal buildings directed by abbots, clergy, or other administrators for religious purposes with actual religious activities, and the Religious Groups that obtain the title to which land and building or a permit for the use of which land and building.” This is an important definitive clause in the RGAD. However, this provision will generate problems. A religious group having no building assets will not qualify as a legal “religious group” under the RGAD. Even a religious group owning building property will also be excluded from the definition if the building does not

fully meet the legality requirement. It is surprising that this legal building requirement is obviously contrary to the common meaning of “religious group” known to the public.

Enabling and Merits Registration Requirements Issues

Articles 29 and 33 of the RGAD adopt the merits principle in governing various registrations. Such provisions that require merit examinations are understandable. Nevertheless, if we consider the sensitive nature of religious legislation, they deserve a second look. For instance, Article 29 regulates: “A Religious Juridical Person may, without compromising public safety and environmental tranquility or violating building- or land-use and apartment building management acts, zone the buildings it owns as Religious Buildings within the scope permitted by the regulatory authority.” The problem comes from the merits requirement—no compromise of public safety and environmental tranquility or violation of building use, land use, and the apartment building management acts—which relies on the government’s discretion. Hence, it gives rise to the intervention issue. The better approach would be a provision that adopts the enabling requirements in granting certificates or the recording of registration, which is in accordance with Interpretation No. 490 of the Judicial Yuan.

Article 33 is another example in this issue. It reads: “A Religious Juridical Person may, with the permission of regulatory authority, establish advanced religious teaching research institutions; the processing of conditions of permit, required forms and supporting documents, review procedures, annulment of permit, and other rules to comply with shall be determined by the regulatory authority.” This provision again is able to invoke the issue of undue censorship of religious teaching by the government. A repairing amendment may adopt a provision that targets physical requirements only.

Article 6 of the RGAD provides: “The regulatory authorities shall issue the registration certificate and seal to Religious Groups that complete their registration or are established pursuant to this Act.” Article 36 of the RGAD stipulates: “City or county (town) regulatory authorities shall check and take note to counsel and manage the individuals or groups not established or registered as Religious Juridical Persons pursuant to this Act yet frequently hold actual external religious activities in the name of religious faith.” If these articles

were implemented accordingly, the relevant religious groups or individuals would find out whether they are “licensed or certificate bearing” and “legal or lawful.” Such provisions again are understandable from an administrative viewpoint enforced by the government. However, it will produce two issues. First, it will require high social costs to implement this regulatory requirement. Second, the provision will bring disadvantages to those with limited resources, who usually are small groups or individuals. Such a license system will hinder individual driven religious activities, such as preaching the Gospel on the street, at parks, and at homes by Christians. This not only is contrary to Christian teachings of the Bible, but also is contradictory to the direct application of the freedom of religion.⁷²

Internal Autonomy Management

During the discussion at the Interior Committee of the Legislative Yuan, members suggested adding the term “autonomy” to Article 1 of the RGAD.⁷³ This discussion was initiated by the Catholic representatives who argued that Catholicism, having a set of rigorous systems, should be treated differently from other religious sects.⁷⁴ The Presbyterian Church offered the same idea.⁷⁵ Nevertheless, the Committee deemed the term unimportant, and did not adopt this suggestion.

The first paragraph of Article 9 of the current RGAD provides:

The bylaws of monasteries, temples, and churches shall contain the following items: I. Name; II. Purpose; III. Religious affiliation; IV. The organization of management and managerial method; V. The titles, quota of persons, authority of office, and means of generating and dismissing office personnel of the Representatives of the Juridical Person; where the term of office is applicable, the term of office; VI. Types of property and their method of management and operation; its financing, accounting, and disposition of real estate, or procedures for establishing the order and burden of responsibility; VII. The main office and branch office locations of the Juridical Person; VIII. Procedures for amending the bylaws.

The policy behind Article 9(1) is a unification of the internal administrative system convenient for government supervision. However, the efficacy of such a policy and provisions is quite doubtful on two counts. First, it may contradict freedom of religion in the sense of intervention on the internal autonomy management of religious groups. It is questionable whether the similar clauses will infringe on the “self-decision right” (Selbstbestimmungsrecht)⁷⁶ of religious groups. Second, when we look at the practices of the internal management systems administered by many Taiwanese religious groups, they do not match the requirements at all. Based on this fact, two issues may develop. One is that religious groups may be forced to comply with the paperwork required by the RGAD while administering with the original system, creating many illegal practices. The second is that opponents may be able to intervene and disturb the internal administration of other religious groups, through the government’s enforcement power of penalties, suspensions, and exclusion of the current responsible management. The application of this provision may open Pandora’s Box.

Bureaucratization and Hierarchy Implications

However, greater dispute comes from Article 4(2) of the RGAD, which reads: “A national religious group may establish branches or sublevel organizations under the supervision and guidance of which Group.” Plus, Article 8(2) provides: “Founders or representatives of monasteries, temples, or churches shall take their application, bylaws, and other necessary documents to their respective city or county (town) regulatory authorities for registration; affiliated monasteries, temples, and churches that account for more than half of all city or county (town) administrative regions shall register with the regulatory authority in the central government.” Even though Article 4(2) employs the term “may,” it still implies that the government encourages or prefers the bureaucratization of religious groups for easier communication or control. These provisions outline the bureaucratic structure of the RGAD. The bureaucratic structure of religious groups diagramming personnel relationships becomes the hierarchy system. They are the two sides of one coin that religious groups shall avoid.⁷⁷

Although bureaucratization and hierarchy are common in secular groups, such as the state or a corporation, these two systems represent quite

different meanings and evaluations as far as religious groups are concerned. The best example is that according to the Bible, bureaucracy is a critical sign of a fallen church.⁷⁸ The calling is made by the Holy Spirit to overcome this hierarchy situation within the church.

Despite the fact that hierarchical practices prevail in both Catholic and Protestant churches, they are not compatible with the teachings of the Bible.⁷⁹ In the churches that claim the Bible as the sole standard of their teaching, the bureaucratization and hierarchy designs in the RGAD will greatly impair the religious and spiritual beliefs of their followers. Apparently, in this regard, the provisions of the RGAD trespass the realm of religious beliefs and doctrines. Hence, these provisions contradict the protection of freedom of religion presented in the Constitution. This bureaucratization and hierarchy contradiction issue is the most obvious and direct issue that undermines the constitutional right of religious freedom. The example well discloses the difficulties of religious legislation in dealing with religion. Above all, it is an attempt of an earthly system to regulate heavenly affairs, which deserve much more leniency and caution.

CONCLUSION

The religious beliefs pre-existed the state in time and beyond boundary limits of the state in space. In their respective nature, while religion belongs to the spiritual and heavenly-mysterious realm, the regulatory frameworks of the state reside in secular world. The inherent conflicts and pragmatic compromises between religion and state hence co-exist with the history of mankind in Western and Eastern societies. The tensions between religion and state in many situations result in forms of legal control or protection enforced by constitutions, laws or regulations. The magnitude of control reflects the relationship and attitude of the state toward religion at the time. With over a century of religious legislation in Taiwan, we find that the state, represented by different governments, has not adjusted itself to the world's modern, common norm of religious legislation. Too often the government deems itself the supervisory regulator or protector. This ideology has penetrated nearly all religious legisla-

tion, in drafts and in existing laws. Though great improvements have been made in the governmental attitude toward religious groups, especially in the past 20 years, further efforts should be continued. Considering the unique, sensitive nature of religious legislation, we assert that prudence should be required for the governmental regulatory devices pertinent to religions and their constituents, the religious groups.

After a thoughtful examination of both the theoretical and practical perspectives of the Religious Groups Act Draft (RGAD) on constitutionality, necessity, and justification, we find that the RGAD contains considerable defects in various provisions. These defects, deserving a second thought, include but are not limited to: (1) the legislative purposes in Article 1; (2) the transfer issue of public land not for public use in Article 21; (3) the name and sect categories in Articles 4–9; (4) the registration systems of merits and enabling in Articles 6, 29, 33 and 36; (5) the internal management structure of Article 9(1); and (6) the bureaucracy or hierarchy concerns in Articles 4(1) and 8(2). In short, the RGAD in its present version is neither theoretically plausible nor practically sound. This important Draft shall therefore be scrutinized thoughtfully before it can be put into law. This can best be done by following the principle of freedom of religion, which encompasses all aspects and contents of religious beliefs, religious behaviors, religious organization and autonomy, and the separation of state and church.

APPENDIX

A BILL OF THE RELIGIOUS GROUPS ACT

*Translated by May Chai, and revised by Ezra Wu and Daniel Yuan
Chapters Reviewed and Approved by the Interior Committee*

CHAPTER I. General Principles

ARTICLE 1 This Act was enacted to protect the freedom of religion and maintain the sound development of religious groups.

ARTICLE 2 The regulatory authorities referred to herein are the Ministry of the Interior Affairs at the central government level, the city governments at the city level, and the county (town) governments in the county (town) level.

ARTICLE 3 Religious Groups herein are the self-operated organizations for the propagation of their religious teachings with their activities, which can be classified into the following three categories:

- I. Monasteries, Temples, and Churches.
- II. Religious Associations.
- III. Religious Foundations.

ARTICLE 4 A Religious Group that completes its registration or is established pursuant to this Act is a Religious Juridical Person.

A national Religious Group may establish branches or sublevel organizations under the supervision and guidance of which Group.

ARTICLE 5 Within the same administrative region, similar Religious Juridical Persons of the same level shall not bear the same name.

According to the regulation of treaties, agreements, or other laws, the use of affiliated Religious Group names shall be subject to the approval of their religious superiors.

ARTICLE 6 The regulatory authorities shall issue the registration certificate and seal to Religious Groups that complete their registration or are established pursuant to this Act.

ARTICLE 7 The religious sects referred to herein are religious organizations characterized by independent teachings, purpose, scripture, and ritual according to their historical heritage, and are classified as separate for statistical purposes by the regulatory authority in the central government.

CHAPTER II. Monasteries, Temples, and Churches

ARTICLE 8 Monasteries, temples, or churches refer to legal buildings directed by abbots, clergy, or other administrators for religious purposes with actual religious activities, and the Religious Groups that obtain the title to which land and building or a permit for the use of which land and building.

Founders or representatives of monasteries, temples, or churches shall take their application, bylaws, and other necessary documents to their respective city or county (town) regulatory authorities for registration; affiliated monasteries, temples, and churches that account for more than half of all city or county (town) administrative regions shall register with the regulatory authority in the central government.

Provisions of qualifications for registration, required forms and supporting documents, review procedures and other items to comply with in the preceding paragraph are determined by the regulatory authority in the central government.

ARTICLE 9 The bylaws of monasteries, temples, and churches shall contain the following items:

- I. Name.
- II. Purpose.
- III. Religious affiliation.
- IV. The organization of management and managerial method.
- V. The titles, quota of persons, authority of office, and means of generating and dismissing office personnel of the Representatives of the Juridical Person; where the term of office is applicable, the term of office.

- VI. Types of property and their method of management and operation; its financing, accounting, and disposition of real estate, or procedures for establishing the order and burden of responsibility.
- VII. The main office and branch office locations of the Juridical Person.
- VIII. Procedures for amending the bylaws.

In addition to items set forth in the preceding paragraphs, the bylaws of monasteries, temples, or churches shall set forth reasons for dissolution with its procedures, the re-legation of remaining property after dissolution, and other necessary matters.

When the quota of representatives for the Juridical Person (fifth subparagraph, first paragraph) exceeds three, no more than one-third of its constituent shall be spouses or relatives within two generations lineally and one generation collaterally by blood or by marriage.

CHAPTER III. Religious Associations

ARTICLE 10 Religious Associations refer to entities composed of individuals or associations for the purpose of practicing religious teachings.

Religious Associations are classified into two categories: national, and city or counties (towns).

City or county (town) Religious Associations that are composed of groups shall be founded by no less than 10 groups; those that are composed of individuals shall be founded by no less than 30 individuals.

National Religious Associations that are composed of associations shall be founded by no less than 30 associations that account for more than half of all city or county (town)

administrative regions; those that are composed of individuals shall be founded by no less than a 100 individuals whose permanent residences are registered in more than half of all city or county (town) administrative regions.

ARTICLE 11 The planning and establishment of a Religious Foundation shall be through the Founders' submission of an application, a bylaws draft, a roster of Founders, and other necessary documents to the regulatory authority for a permit.

Provisions of qualifications for application, required forms and supporting documents, review procedures and other rules to comply with in the preceding paragraph are determined by the regulatory authority in the central government.

ARTICLE 12 Once permission is given for the planning and establishment of the Religious Association, a Founding Meeting shall be held within six months to elect Preparatory Committee members to form the Preparatory Committee; once preparations are completed, an Inaugural Meeting shall be held within three months.

If the Inaugural Meeting in the preceding paragraph cannot be held for any reason, it may be extended one time under the approval of the regulatory authority for no more than a period of three months; if the Inaugural Meeting is still not held at the end of the approved period, the original planning and establishment shall be null and void.

The regulatory authority shall be notified of the Founding Meeting, Preparatory Meeting, and Inaugural Meeting and send attending personnel.

ARTICLE 13 Religious Association shall be established within 30 days following the Inaugural Meeting and submit bylaws and résumés of elected officers to the regulatory authority for establishment permit.

- ARTICLE 14** The bylaw of Religious Association shall contain the following items:
- I. Name.
 - II. Purpose.
 - III. Religious affiliation.
 - IV. Region of organization.
 - V. Address.
 - VI. Mission.
 - VII. Organization.
 - VIII. The rights and obligations of members.
 - IX. Membership enrollment, termination, and dismissal.
 - X. The titles of Member Representatives, Managing Organization or Monitoring Organization, and their quota, authority of office, term of office, selection and dismissal from office.
 - XI. Meetings.
 - XII. Types of property and their method of management and operation, financing, accounting, and disposition of real estate or procedures for establishing the order and burden of responsibility.
 - XIII. Procedures for the amendment of bylaw.
- In addition to items set forth in the preceding paragraphs, the bylaw of Religious Associations shall set forth reasons for dissolution with its procedures, the relegation of remaining property after dissolution, and other necessary matters.
- The quota for the Managing Organization in the tenth subparagraph of the first paragraph shall be an odd

number no less than five and no more than 31, in which no more than one-third of its constituent shall be spouses or relatives within two generations lineally and one generation collaterally by blood or by marriage

The quota for the Monitoring Organization shall be one-third of that of the Managing Organization and shall have the same term of office.

No more than one-third of the Monitoring Organization constituents shall be spouses or relatives within two generations lineally and one generation collaterally by blood or by marriage.

CHAPTER IV. Religious Foundation

- ARTICLE 15** Religious Foundations refer to entities established with specific funds for the purpose of promoting religion-related public, charitable, educational, medical, and social welfare work.
- Religious Foundations are classified into two categories: national and city or counties (towns); funds of the Religious Foundation are determined by their regulatory authorities.
- ARTICLE 16** The planning and establishment of a Religious Foundation shall be through the Contributors' submission of an application, a bylaw, and other necessary documents to the regulatory authority for a permit.
- Provisions of required forms and supporting documents, review procedures and other rules to be complied with in the preceding paragraph are determined by the regulatory authority in the central government.
- ARTICLE 17** The bylaw of Religious Foundations shall contain the following items:

- I. Name.
- II. Purpose.
- III. Religious affiliation.
- IV. Managing Organization and its method of management.
- V. The titles of the Managing Organization, its quota of persons, means of generating office personnel, term of office, end-of-term reelection, and the processing of no reelection upon expiration of office.
- VI. The titles, quota of persons, term of office, and means of generating office personnel for the Monitoring Organizations where applicable.
- VII. The authority of office for the Managing Organization.
- VIII. Types of property and their method of management and operation, financing, accounting, and disposition of real estate or procedures for establishing the order and burden of responsibility.
- IX. The main office and branch office locations of the Juridical Person.
- X. Procedures for amending the bylaw.

In addition to items set forth in the preceding paragraphs, the bylaw of Religious Foundations shall set forth reasons for dissolution with its procedures, the relegation of remaining property after dissolution, and other necessary matters.

- ARTICLE 18** The Executing Institution of a Religious Foundation shall be determined by the Managing Organization in its bylaw.
- The quota for members of the Managing Organization of a

Religious Foundation shall be an odd number no less than five and no more than 31, in which no more than one-third of its constituent shall be spouses or relatives within two generations lineally and one generation collaterally by blood or by marriage

The quota for the Monitoring Organization of a Religious Foundation, where applicable, shall be one-third of that of the Managing Organization and shall have the same term of office.

No more than one-third of the Monitoring Organization constituents shall be spouses or relatives within two generations lineally and one generation collaterally by blood or by marriage.

CHAPTER V. Property

- ARTICLE 19** An inventory of a Religious Juridical Person's real estate acquired through donation, purchase, or gift shall be sent to the regulatory authority for its future reference; the same applies when there are changes.

The real estate in the preceding paragraph shall be registered in the name of the Religious Juridical Person and shall be managed by the its bylaw-determined authorized management personnel.

- ARTICLE 20** The management and disposition of the property and funds of a Religious Juridical Person shall be based on its bylaw regulations.

The management of the property and funds of a Religious Juridical Person shall be subject to the supervision of the regulatory authority; its methods of supervision shall be determined by the regulatory authority.

- ARTICLE 21** A Religious Juridical Person that has continuously been using public land not for public use for religious activities

for at least five years before the implementation of this Act may, in accordance with the public property for sale management regulations, submit relevant documents to the said land management agencies through its regulatory authority for a transfer of land by sale.

The land used for religious purposes in the preceding paragraph shall be given priority in urban planning or changes in land use arrangement.

Development and changes of urban planning in at all levels of government shall follow the principle to maintain the integrity of existing legal religious lands and buildings.

ARTICLE 22 The accounting system of a Religious Group shall be on the accrual basis. However, those under a definite size or those that have been approved by the regulatory authority may adopt an accounting system on the cash basis.

The fiscal year of a Religious Group shall start and end with the calendar year and shall keep an accounting book and its profit-seeking business income tax shall be assessed accordingly.

The definite size in the first paragraph shall be determined by the regulatory authority.

ARTICLE 23 A Religious Group shall submit a settlement of annual accounts or a report of revenue and expenses within six months following the end of the year to the regulatory authority.

ARTICLE 24 A Religious Juridical Person, with the exception of those having the sale of goods and income through services or affiliated organizations, may be exempt from filing the income tax return according to relevant provisions in the Income Tax Act.

Private or for-profit business donations to a Religious Juridical Person may be listed as Itemized Deductions, or

as an expense or loss, according to relevant provisions of the Income Tax Act.

Income and interests generated from donations may be exempt from income tax according to relevant provisions of the Income Tax Act.

ARTICLE 25 A Religious Juridical Person may apply for non-taxable status of land value increment tax for its privately or jointly bestowed land specific for direct use in religious, educational, medical, public, charitable, or other social welfare. But if the land is subsequently transferred to a third party, the land value increment tax shall be assessed based on the increment in value from the original decreed value prior to the transfer or the present value at the time of previous transfer.

ARTICLE 26 Land privately or jointly bestowed specific for direct use in religious, educational, medical, public, charitable, or other social welfare may be excluded from the value of gross estate or total amount of gifts according to the Estate and Gift Tax Act.

ARTICLE 27 The residual properties of a Religious Juridical Person after its dissolution and discharge of debts shall be vested in other Religious Juridical Persons, or Juridical Persons in educational, cultural, or social welfare.

If in the bylaws there is no such provision as that in the preceding paragraph, residual properties shall be vested in the main office of the Juridical Person, or local autonomous organizations at its address.

Chapter VI. Religious Buildings

ARTICLE 28 Religious Buildings refer to buildings that have obtained usage licenses according to the Building Act for religious activities.

For societal development needs, Religious Buildings conforming to the stipulation for the land zoning control may, with the approval of regulatory authority, be used by others.

Religious Buildings owned by a Religious Juridical Person for its religious activities may be exempt from house tax pursuant to the House Tax Act, and its lot exempt from land value tax pursuant to the Land Tax Act. The same applies to Religious Buildings which are rented out, the entire income of which is used for religious purposes.

ARTICLE 29 A Religious Juridical Person may, without compromising public safety and environmental tranquility or violating building- or land-use and apartment building management acts, zone the buildings it owns as Religious Buildings within the scope permitted by the regulatory authority.

CHAPTER VII. Supplementary Provisions

ARTICLE 30 A Religious Juridical Person may, in accordance with its bylaws, run religion-related public, charitable, educational, medical, and social welfare affiliated businesses or other affiliated businesses approved by the regulatory authority. Such affiliated businesses shall conform to its purpose of establishment.

Affiliated businesses in the preceding paragraph that should obtain approval or permission from regulatory authorities in its field shall, in accordance with the law, obtain approval or permission from regulatory authorities in its field. Furthermore, its businesses shall be subject to the supervision of the regulatory authorities in its field.

ARTICLE 31 If a Representative or member of the Managing Organization or Monitoring Organization of a Religious Juridical Person is involved in crimes as determined by juridical authority of fraud, threatening, gambling, violence, offenses against morals, or offenses against sexual

autonomy in religious activities, the regulatory authority shall remove him from his office in accordance with the seriousness of the incidents.

ARTICLE 32 The regulatory authority may order a Religious Juridical Person violating provisions in Articles 19, 20, 22, or 23 or severely violating its bylaws to make improvements by a set date; in accordance with the seriousness of the incidents, entire or partial provisions in Article 24 through Article 26 and Article 28 shall not be applied to those not making the improvement by the date.

ARTICLE 33 A Religious Juridical Person may, with the permission of regulatory authority, establish advanced religious teaching research institutions; the processing of conditions of permit, required forms and supporting documents, review procedures, annulment of permit, and other rules to comply with shall be determined by the regulatory authority.

The advanced religious teaching research institutions in the preceding paragraph conferring degrees recognized by the Ministry of Education shall be run according to education-related acts.

ARTICLE 34 Prior to the implementation of this Act, any cremains or cremation facility that have been affiliated with monasteries, temples, or churches for over 10 years shall be considered as part of the Religious Building. However, this is not applicable to Religious Buildings zoned by ownership.

The ways of management and usage of the cremains or cremation facility considered as part of the Religious Building in the preceding paragraph shall be determined by the central regulatory authority. Damaged sites may be reconstructed to its original scale at the original site.

(Articles Conferred with and Passed by the Party Caucus of the Legislative Yuan on May 21, 2009)

ARTICLE 34 Prior to the implementation of this Act, any cremains or cremation facility that have been affiliated with monasteries, temples, or churches for over 10 years shall be considered as part of the Religious Building. However, this is not applicable to Religious Buildings zoned by ownership.

The ways to manage and use the cremains or cremation facility considered as part of the Religious Building in the preceding paragraph shall be determined by the central regulatory authority. Damaged sites may be reconstructed to its original scale at the original site according to relevant laws.

ARTICLE 35 A Religious Group registered according to other laws prior to the implementation of this Act, after its bylaws have been amended according to this Act and reported to the regulatory authority for future reference, shall be considered as a Religious Juridical Person registered or established pursuant to this Act and issued a Religious Juridical Person registration certificate and seal.

When issuing a Religious Juridical Person registration certificate and seal, the regulatory authority shall record and send a written request to its original registration authority to cancel or annul such registration. A written request shall be sent to the Court to annul the Juridical Person originally declared and requested for.

Real estate owned by a Religious Group, registered or established as a Religious Juridical Person according to provisions in the first paragraph, may change its registration to being owned by a Religious Juridical Person through the application of a change in registration name; the same applies to real estate presently used by the Religious Group, which was registered in the name of a natural per-

son or in a name other than that of a natural person prior to the implementation of this Act.

Matters needing attention, such as the amendment of bylaws and the submission of required forms and supporting documents in the first paragraph, and the application procedures in the third paragraph, shall be determined by the central regulatory authority.

(Article deleted)

(Article deleted)

ARTICLE 36 City or county (town) regulatory authorities shall check and take note to counsel and manage the individuals or groups not established or registered as Religious Juridical Persons pursuant to this Act yet frequently hold actual external religious activities in the name of religious faith.

The counseling and management in the preceding paragraph shall be framed by the city or county (town) or be stipulated by autonomy laws.

ARTICLE 37 The effective date of this Act shall be determined by the Executive Yuan.

NOTES

1. The term was first illustrated by Professor Rei Lin in a seminar. See Li-shing Huang, *Record of the Seminar on Religious Freedom and Religious Legislature* (Republic of China: The Ministry of the Interior, August, 2010), 25.
2. All statistical data in this paper are cited from The Ministry of the Interior, *The Taiwan Statistical Data Book 2010*.
3. Many more religious groups are not registered with the government in Taiwan. Religious groups with home temples appear everywhere in Taiwan, from the cities to the countryside.
4. A Fiscal Juridical Person is an organization that consists of establishing certain property for deliberating not-for-profit activities. It is similar to a charitable foundation or fund.

5. Among these temples, according to their managerial frameworks, the supervisors or managers number 5,804 and the commissioning type is the remaining 5,659.
6. The Republic of China was established in 1911 in Mainland China, and relocated to the island of Taiwan in 1949. The religious regulatory history of Taiwan, therefore, covers the efforts made in both periods. For a good introduction of religious regulatory history, see Haiyuan Chiu, *Religious and Social Transformation*, Vol. 2 (2006): 214–24.
7. The Interim Ordinance of Temple Management (IOTM), see discussion below.
8. The Ministry of Home Affairs was a top level ministerial agency succeeded by the Ministry of Interior.
9. No. 19 Government Bulletin (June 20, 1913): 131–2. (reprinted version).
10. Under this institutionalization system, the management authority of the temple rested upon monk officers appointed by the government.
11. See Ming Fu, *The History Perspectives of Temple Regulations*, No. 8 (August 1979): 6–12.
12. Haiyuan Chiu, *Religious and Social Transformation*, Vol. 2 (2006): 215.
13. No. 1249 Government Bulletin (October 30, 1915): 1308–1313 (reprinted version).
14. It is worth noting that the Congress did not function from January 10, 1914 to Yuan's failure to establish himself as emperor of a new dynasty. The TRO was not rectified by the Congress later. Therefore, legally speaking, the TRO was not a valid law.
15. The policy behind this provision had two factors: (1) the emerging movement for temples to establish schools and (2) the welcoming atmosphere for government reform of religious groups.
16. Ben-shuan Lin, "The Distinction between the Religious Act and Religious Entities Act," *National Policy*, No. 152 (November 1996): 4–5.
17. The Western countries with a historical dominance by the Catholic Church or the Protestant Church denote the subject in the jargon of "church and state." When convenient, this paper will adopt interchangeably a more comprehensive term: "religion and state."
18. Some translated versions use the "Statute for Temple Registration" instead of the Temples Supervision Ordinance.
19. Holding of Interpretation No. 200 of the Judicial Yuan (November 11, 1985).
20. Holding of Interpretation No. 460 of the Judicial Yuan (July 10, 1998). "Under Article 6 of the Land Tax Act, reasonable tax reduction or exemption may be allowed for land used for such purposes as religion and reasonable homesteads, in order to develop the economy, encourage land utilization and promote social welfare. The second sentence of the Article grants the administrative authorities the power to establish the criteria of and procedure for such reduction or exemption. While the term 'homestead land' is explicitly defined in Article 9 of said Act, the law is silent on the meaning of 'residence.' The view expressed by the Ministry of Finance in its directive Tai-Tsai-Shui-Tze No. 31627 (March 14, 1983) that 'a structure on land used as a house of worship is not land used

for 'residence' for own use as defined in Article 9 of the Land Tax Act' is a negative construction of the term 'residence' made by the competent authority in applying the aforesaid statute, and is consistent with the legislative purposes of the Land Tax Act, without going beyond the scope of the concept of residence. It is thus not in conflict with the doctrine of taxation by law as embodied in the Constitution. Furthermore, the directive is applicable to all religions without distinctions, and does not bring about any discrimination in taxation between different religions. It is therefore not contrary to the intent expressed in Articles 7 and 13 of the Constitution."

21. Some translated versions use the "Act of the Supervision of Temples" instead of the Temples Supervision Ordinance.
22. Holding of Interpretation No. 573 of the Judicial Yuan (February 27, 2004).
23. Holding of Interpretation No. 573 of the Judicial Yuan (February 27, 2004).
24. A translation is attached here as an appendix of this paper. Congress member Chau-shun Huang also presented a counter draft to the Legislative Yuan. See Legislative Yuan Bulletin, No. 24: 73.
25. The legislative explanation of the RGAD was given by Deputy Minister Mei-chu Lin to Congress. See 1998 Legislative Yuan Bulletin, No. 24: 74.
26. The original version by the Administrative Yuan (Cabinet), the version by Congress member Chau-shun Huang, and the version passed by the Interior Committee are collected in 1998 Legislative Yuan Bulletin, No. 24: 80–127.
27. RGAD §1: "This Act was enacted to protect the freedom of religion and maintain the sound development of religious group."
28. RGAD §2: "The regulating authorities referred to herein are the Ministry of the Interior at the central government level, the city governments at the city level, and the county (town) governments at the county (city) level."
29. RGAD §3: "Religious Groups herein are the self-operated organizations for the propagation of their religious teachings with their activities, which can be classified into the following three categories: I. Monasteries, Temples, and Churches. II. Religious Associations. III. Religious Foundations."
30. RGAD §4(1).
31. RGAD §4(2).
32. RGAD §5(1): "Within the same administrative region, similar Religious Juridical Persons of the same level shall not bear the same name." RGAD §5(2): "According to the regulation of treaties, agreements, or other laws, the use of affiliated Religious Group names shall be subject to the approval of their religious superiors."
33. RGAD §6.
34. RGAD §7: "Religious sects... are religious organizations characterized by independent teachings, purpose, scripture, and ritual according to their historical heritage, and are classified as separate for statistical purposes by the regulating authority in the central government."
35. RGAD §8(1).

36. RGAD §8(2) and §8(3).
37. RGAD §9 (1): “The bylaws...shall contain the following items: I. Name. II. Purpose. III. Religious affiliation. IV. The organization of management and managerial method. V. The titles, quota of persons, authority of office, and means of generating and dismissing office personnel of the Representatives of the Juridical Person.... VI. Types of property and their method of management and operation; its financing, accounting, and disposition of real estate, or procedures for establishing the order and burden of responsibility. VII. The main office and branch office locations of the Juridical Person. VIII. Procedures for amending the bylaws.”
38. Interpretation No.573 of the Judicial Yuan (February 27, 2004).
39. RGAD §10(1).
40. RGAD §10(2).
41. RGAD §10(3).
42. RGAD §11(1): “The planning and establishment of a Religious Foundation shall be through the Founders’ submission of an application, a bylaws draft, a roster of Founders, and other necessary documents to the regulating authority for a permit.”
43. RGAD §§12–14.
44. RGAD §15(1).
45. RGAD §15(2).
46. RGAD §16(1): “The planning and establishment of a Religious Foundation shall be through the Contributors’ submission of an application, a bylaw, and other necessary documents to the regulating authority for a permit.”
47. RGAD §17(1): “The bylaw of Religious Foundations shall contain the following items: I. Name. II. Purpose. III. Religious affiliation. IV. Managing Organization and its method of management. V. The titles of the Managing Organization, its quota of persons, means of generating office personnel, term of office, end-of-term reelection, and the processing of no reelection upon expiration of office. VI. The titles, quota of persons, term of office, and means of generating office personnel for the Monitoring Organizations where applicable. VII. The authority of the Managing Organization. VIII. Types of property and their method of management and operation, financing, accounting, and disposition of real estate or procedures for establishing the order and burden of responsibility. IX. The main office and branch office locations of the Juridical Person. X. Procedures for amending the bylaw.”
48. RGAD §18(1) and §18(2).
49. RGAD §18(3) and §18(4).
50. RGAD §19(1): “An inventory of a Religious Juridical Person’s real estate acquired through donation, purchase or gift shall be sent to the regulating authority for its future reference; the same applies when there are changes.” RGAD §19(2): “The real estate in the preceding paragraph shall be registered in the name of the Religious Juridical Person and shall be managed by the its bylaw-determined authorized management personnel.”
51. RGAD §20(1): “The management and disposition of the property and funds of a

Religious Juridical Person shall be based on its bylaw regulations.” RGAD§20(2): “The management of the property and funds of a Religious Juridical Person shall be subject to the supervision of the regulating authority.”

52. RGAD §21(1).
53. RGAD §22.
54. RGAD §23.
55. RGAD §24.
56. RGAD §25.
57. RGAD §26.
58. RGAD §27(1): “The residual properties of a Religious Juridical Person after its dissolution and discharge of debts may be vested in other Religious Juridical Persons, or Juridical Persons in educational, cultural, or social welfare.” RGAD§27(2): “If in the bylaws there is no such provision as that in the preceding paragraph, residual properties shall be vested in the main office of the Juridical Person, or local autonomous organizations at its address.”
59. 1998 Legislative Yuan Bulletin, No. 24: 128.
60. RGAD §28.
61. RGAD §29.
62. RGAD §30(1): “A Religious Juridical Person may, in accordance with its bylaws, run religion-related public, charitable, educational, medical, and social welfare affiliated businesses or other affiliated businesses approved by the regulating authority. Such affiliated businesses shall conform to its purpose of establishment.”
63. RGAD §33(1): “A Religious Juridical Person may, with the permission of regulating authority, establish advanced religious teaching research institutions.”
64. RGAD §34(2): “Damaged sites may be reconstructed to its original scale at the original site according to relevant laws.”
65. RGAD §36(1): “City or county (town) regulatory authorities shall check and take note to counsel and manage the individuals or groups not established or registered as Religious Juridical Persons pursuant to this Act yet frequently hold actual external religious activities in the name of religious faith.”
66. RGAD §31: “If a Representative or member...is involved in crimes as determined by a judicial authority of fraud, threatening, gambling, violence, offenses against morals, or offenses against sexual autonomy in religious activities, the regulating authority shall remove him from his office depending on the seriousness of the incidents.”
67. RGAD §32: “The regulating authority may order a Religious Juridical Person violating provisions in Articles 19, 20, 22, or 23 or severely violating its bylaws to make improvements by a set date; in accordance with the seriousness of the incidents, entire or partial provisions in Article 24 through Article 26 and Article 28 shall not be applied to those not making the improvement by the date.”
68. Major content of this part is excerpted (and rewritten) from Ezra Yungsheng Wu, “Rethinking on Religious Legislative—A Perspective from the Freedom of Religion,” (presented at the Religious Freedom, Doctrines and Regulatory Frameworks of State Forum, Taipei, October 23, 2010). It was later modified

- and collected in Fu-chu Chou, *The Religious Freedom, Doctrines, and Regulatory Frameworks of the State* (2010), 21–52.
69. Ezra Yungsheng Wu, “Rethinking on Religious Legislative—A Perspective from the Freedom of Religion,” in *The Religious Freedom, Doctrines, and Regulatory Frameworks of the State*, ed. Fu-chu Chou (2010), 36. Wu comprehensively summarized the works of contemporary scholars in Taiwan to understand the components and meanings of the freedom of religion under the Constitution.
 70. Holding of Interpretation No. 490 of the Judicial Yuan (October 1, 1999). Yuanhau Liao, “Freedom of Religion: the Third Part—the Separation of State and Church,” *Yue Dan Law Classroom Magazine* (October 2006): 30–36. Liao discusses the dilemma and danger of implementing the freedom of religion.
 71. 1998 Legislative Yuan Bulletin, No. 24: 128.
 72. Jua-an Yian, “Can Caesar Regulate God? A Legal Regulatory Theory Perspective on Religious Legislative,” *Yue Dan Law Review* (1997): 34–43.
 73. RGAD §1.
 74. 1998 Legislative Yuan Bulletin, No. 20: 243.
 75. 1998 Legislative Yuan Bulletin, No. 16: 289.
 76. “Self-decision right” (Selbstbestimmungsrecht) means that religious associations can determine the management of their institutional framework, personnel, administration promoting, funding, and undertaking according to their own religious teachings; and the country must respect this. Bernd Jeand’Heur and Stefan Korieth, *Grundzüge des Staatskirchenrechts* (Boorberg, 2000). Cited in Yue-dian Hsu, “The Delineation of Religious Freedom and Administrative Management,” *The Religious Freedom, Doctrines, and Regulatory Frameworks of the State*, ed. Fu-chu Chou (2010), 57.
 77. It is strongly asserted that the institutionalization by the government is the source of corruption in religious groups. “What is required, then, to avoid corruption of religion is not substantive neutrality but rather non-institutionalization of religion.” Laura Underkuffler, “The Separation of the Religious and the Secular: A Foundational Challenge to First Amendment Theory,” *Williams and Mary Law Review*, Vol. 36, Iss. 3 (1995).
 78. “You (the church in Pergamos) also have some who hold in like manner the teaching of the Nicolaitans.” Rev. 2:15, *The New Testament Recovery Version*, Living Stream Ministry. The Nicolaitans mean the ones who practiced the hierarchy of the initial church and taught it in the degraded church.
 79. In Judaism, the same question was raised. Gidon Sapir claims, “It seems that the history of perverse and corrupt religious establishment in medieval Europe was not the result of state deviation from a position of neutrality, but rather the institutionalization and bureaucratization of religion. Religious functions became corrupt because established religion as such gained political prerogatives, including coercive powers, functioned as an arm of the political state, and at times created its own political state.” Gidon Sapir, “Religion and State—A Fresh Theoretical Start,” 75 *Notre Dame Law Review*, 579 (1999): 603.

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