

Freedom of Religion in China under the Current Legal Framework and Foreign Religious Bodies

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I Introduction

China is a country with long history of religious practices. Taoism was originated in China and was established as a religion in the late Eastern Han Dynasty, which is around 25-220 AD. Buddhism was introduced from India during the Han Dynasty, traditionally in the 1st century. Islam can be dated back to a mission in 651. Christianity had existed in China as early as the 7th century AD, and disappeared for hundreds of years. Then, it was re-introduced at the end of the Ming dynasty in the 16th century. The most famous of the Jesuit missionaries was Matteo Ricci, an Italian mathematician who came to China in 1588 and lived in Beijing in 1600.

A great diversity of new religious movements is thriving across China. However, after the establishment of PRC, it seems that many foreign religious bodies do not really understand how to conduct their religious activities in China.

This paper, through introducing the legal framework that concerns freedom of religion in China, examines the characteristics of China law relating to the administration of freedom of religion and foreign religious bodies, and offers some thoughts on the conducts and activities of foreign religious bodies. Part two of the paper introduces the legal framework of Chinese law in relation to freedom of religion. Part Three of the paper investigates the relevant laws and regulations and examines the characteristics of the current legal framework. Part IV offers some concluding thoughts and advice on foreign religious bodies' conducts and activities in China.

II Present Situation and Legal Framework

China is a country with many different kinds of religion. Nowadays, there are mainly five different kinds of religion teachings, namely the Buddhism, the Taoism, the Islam, and the Roman Catholic and the Protestant Churches of Christian Religion. Altogether there are more than one hundred million believers and this number is still fast growing. China also has more than 300 thousand clerical persons, more than three thousand religious bodies and more than eighty five thousand places for religious activities.¹

The legal framework in China for the protection of freedom of religion includes the laws promulgated by the People's Congress or the Standing Committee of the People's Congress, and administrative regulations promulgated by the State Council and the implementation rules of the various ministries.

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¹ The statistics are from the website of the State Administration for Religious Affairs of PRC.

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The most important law is the Constitution of PRC (amended in 2004), which protects the equal voting rights of the citizen who are of different religion believes,² and the freedom of religion of citizens.³ Article 36 of the Constitution provides,

Citizens of the People's Republic of China enjoy freedom of religious belief.

No State organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.

The State protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State.

Religious bodies and religious affairs are not subject to any foreign domination.

In addition, the protection of freedom of religion can be found in other laws, such as the Law of the PRC of China on Regional National Autonomy (amended in 2001); the General Rules of Civil Law (1986); the Law of Education; the Labor Law; the Compulsory Education Law; the Law on the Election of Deputies of National People’s Congress; the Organic Law of the Rural Residents Committees of PRC; the Law of Advertisement. These laws protect the property of religious bodies, the separation between religion and education, the equal education opportunities of the citizens with different religious backgrounds, the respect for the customs and religious beliefs of each ethnic groups, the equal opportunity of citizens for employment and non-discrimination against any religion in advertisement.

Relevantly for the religious bodies, especially foreign religious bodies, there are two important rules and regulations, and they are the Regulations on Religious Affairs (2005, State Council of PRC) and the Rules for the Implementation of the Provisions on the Administration of Religious Activities of Aliens within the Territory of the People’s Republic of China (2000, State Administration for Religious Affairs).

III Characteristics of China Freedom of Religion Administration

A Freedom of Religion and the Religious Bodies

One of the main characteristics of China law relating to freedom of religion is that it is administrative in nature.

Firstly, the freedom of religion should not be used as a tool to disrupt public order in China.⁴ This is a most important aspect of the law used the by the Chinese government to administer the religious activities. The Chinese government is afraid of the foreign domination of the religious activities,⁵ because of China’s past history of foreign bullying in the 19th century.

² Article 34 of the Constitution provides, “All citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence, except persons deprived of political rights according to law.”

³ Article 36 of the Constitution.

⁴ Paragraph 3 of Article 36 of the Constitution.

⁵ Paragraph 4 of Article 36 of the Constitution.

Secondly, the Chinese government administers the establishment, alteration and cancellation of registration of religious bodies and religious education institutes. According to the Regulation on Religious Affairs, a religious body is regarded as a kind of association and shall be subject to the Regulations on Registration Administration of Associations.⁶ Usually, this kind of registration is handled by the Ministry of Civil Affairs or the local authorities of civil affairs.⁷ In practice, this is impossible because the registration requires the approval from the Department for Religious Affairs and the Department for Religious Affairs usually will not approve it. If an institution for religious education is to be established an application should be made to the religious affairs department of the State council or provincial religious affairs department of the People’s government if the religious body is only a provincial religious body.⁸

Thirdly, the Chinese government administers the sites for religious activities. The building of any temple, church, or monastery or mosque should be subject to approval of the religious department of the government at county level.⁹ Even for the preparation for the establishing such site an approval should be sought before any such activity can take place.¹⁰ The religious affairs department has the right to supervise and inspect the site to make sure that the activities conducted at the site are in compliance with the laws and regulations of PRC.¹¹

Fourthly, the Chinese government administers the personnel of religious bodies. According to the Regulation, any appointment of religious personnel or vacating or leaving of the chief religious post shall be reported to the religious affairs department at or above county level.¹²

In summary, through the administration on the incorporation of religious bodies, the establishment of religious sites for religious activities and the appointment and retirement of religious personnel, the government maintains a kind of control to make sure that the activities conducted by various religious bodies are lawful.

B Freedom of Religion and Activities of Foreigners

Because of China’s past history of being bullied by the aliens during the 19th century, China became a bit xenophobic. After the establishment of PRC, the government started to administer the freedom of religion and the activities of many foreign religious bodies in China.

In 2000, the State Administration for Religious Affairs issued the Rules for the Implementation of the Provisions on the Administration of Religious Activities of Aliens within the Territory of the People’s Republic of China to regulate foreigner’s religious activities in China. This kind of administration includes the following aspects:

For religious activities, according to the Rules, foreign religious personnel may preach and expound the scripture at the lawfully registered sites for religious activities but only after being invited by Chinese religious bodies that are recognised at or above the level of province, autonomous region or

⁶ Article 6 of the Regulations on Religious Affairs provides, “The establishment, alteration, or cancellation of registration, of a religious body shall be registered in accordance with the provisions of the Regulations on Registration Administration of Associations.”

⁷ Article 6 of the Regulations on Registration Administration of Associations (1998)

⁸ Article 8 of the Regulations on Religious Affairs.

⁹ Article 13 of the Regulations on Religious Affairs.

¹⁰ Ibid.

¹¹ Article 19 of the Regulations on Religious Affairs.

¹² Articles 27 and 28 of the Regulations on Religious Affairs.

municipality under the direct administration of the Central government. Foreigners with other status other than religious personnel need an invitation and an approval at or above the level of province, autonomous region or municipality under the direct administration of the Central government before they may preach and expound the scripture at the registered sites.¹³ This means, usually, any foreign religious body that wishes to conduct religious activities in China should have relationship with a contacting Chinese religious body. These relationships are generally regarded as friendly contacts and as being cultural and academic exchanges.

For publications of foreign religious bodies, foreign religious bodies are prohibited from bringing or importing their religious printed matter, or audio-visual products or other articles if the amount exceeds that which can be regarded as sufficient for personal rational use. Nor are such publications permitted if the contents of these articles are detrimental to Chinese national Security and public interests of Chinese society.¹⁴ This means that foreign missionaries and other religious people cannot distribute the pamphlets or brochures freely anywhere in China, and any publication of the foreign religious bodies is subject to censorship.

For Chinese going abroad to get training as religious personnel or inviting foreigners to come to China to study at Chinese religious institutions, they all require approval from the national religious bodies and should be recorded at the State Administration for Religious Affairs.¹⁵ If a foreigner teaches at a Chinese religious institution, it should be subject to a specific measure issued by the SARA.¹⁶

For foreign missionaries, the following activities may be prohibited:

- (1) appointing religious personnel among Chinese citizens;
- (2) developing religious followers among Chinese citizens;
- (3) preaching and expounding the scripture at the sites for religious activities without permission;
- (4) preaching and expounding the scripture or conducting religious gathering activities at the places outside the lawfully registered sites for religious activities;
- (5) conducting religious activities in which Chinese citizens are admitted to participate at the temporary sites for religious activities, except that the Chinese religious personnel are invited to preside the religious activities;
- (6) producing or selling religious books and journals, religious audio-visual products, religious electronic goods or other religious articles;
- (7) distributing religious promotion materials;
- (8) other missionary activities.

In summary, Chinese laws relating to administration of foreign religious activities show the controlling nature of the law and foreign religious activities are usually regarded as cultural or academic exchanges with local Chinese religious bodies.

IV Concluding Thoughts

¹³ Article 6 of the Rules.

¹⁴ Article 12 of the Rules.

¹⁵ Articles 13, 14 of the Rules.

¹⁶ See Methods of Engaging Foreign Professionals by Religious Institution.

China is a country with fast growing number of religious believers now. It is highly likely, perhaps certain, that it will create more and more challenges to the Chinese government in its desire and policy to closely administer all the religious activities. As part of the big religious family of the whole world, foreign religious bodies will have more and more interaction with Chinese religious believers and religious bodies. Both the Chinese government and foreign religious bodies should take stock of the practical situation and should find a way to promote such interaction.

China is a vast country with the largest population in the world and it is also a country with long history based upon a centralized system. This kind of centralized system determines the characteristic of many Chinese laws and their administrative nature. In order to maintain the level of control that is considered is necessary to make sure the society is being run in good order, sometimes the law may appear to be somewhat repressive.

Given the legal framework and the characteristics of China law in relation to freedom of religion, if foreign religious bodies wish to promote close and lawful interaction with the Chinese religious believers and religious bodies, they should first seek cooperation with the Chinese government in order to practice its religion in China.

Because of the centralized system of China, China is a country with more power in the central government. Therefore, foreign religious bodies which seek to practice their religions in China should try to approach the government from top level instead of the local level so that an approval from the top level can be sought before any religious activity can be conducted. This kind of top-down method may be more effective for foreign religious bodies to conduct their activities in China.

Lastly, if foreign religious bodies can obtain an approval from the Department for Religious Affairs, foreign religious bodies should try to seek cooperative Chinese religious bodies to cooperate in order to conduct religious activities or should seek some Chinese believers to register the religious body in China first before their religious activities in China. Although it is not proper for religious body, it is indeed like establishing a joint-venture in China.

Thank you.