

# RELIGIOUS BELIEVERS AND THE 'SOCIALIST SPIRITUAL CIVILIZATION'

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In the new Constitution of the People's Republic of China, approved by the Fifth Session of the Fifth National People's Congress on December 4th, 1982, the religious issue is spelled out in detail for the first time. The section dealing directly with religion is Article 36, and it is four paragraphs in length with a total of 130 characters. An English translation of the Article is as follows:

*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.<sup>1</sup>*

As an introduction to a detailed analysis of Article 36, we shall first attempt to place it in proper historical perspective, drawing upon texts of the previous Constitutions of the PRC. As for the analysis itself, we shall make reference to comments and observations of Chinese leaders as well as foreign friends of China in an effort to give a more comprehensive overview of this complex issue.

## HISTORICAL SURVEY

Since its foundation thirty-three years ago, the PRC, along with its emphasis on socialistic revolution and the dictatorship of the proletariat, has also stressed national unity in the formulation of policy. United Front structures have consequently received attention and support from the central government. It is in this context that the policy of freedom of religious belief has also been explicitly stated. As far back as September of 1949, the Chinese People's Political Consultative Conference (CPPCC) in Article 5 of their Common Programme listed among the freedoms enjoyed by the people of the PRC 'freedom of religious belief.'<sup>2</sup>

During the years following Liberation, the opinions of various groups throughout the country were actively sought as part of the process in formulating the first Constitution. At the time, the young Republic looked towards the USSR to provide models for both legal and economic structures. In its treatment of religious matters, the Russian Constitution of 1936 (Article 124) not only legislated the separation of Church and State, but also added an explicit statement of the separation of school and Church. It went on to affirm that the rights of all citizens included the right to worship freely as well as the right to engage in anti-religious propaganda. Obviously, when China was drafting its own legal code, pressure to introduce a specific mention of the right to engage in anti-religious propaganda was quite strong. However, in an effort to avoid alienating its masses of believers, the drafters of the Chinese Constitution reduced the text to the simple statement: "Citizens of the People's Republic of China enjoy freedom of religious belief" (Article 88).<sup>3</sup>

This broad, general statement left ample room for a variety of interpretations when applied to the life and activities of believers in the concrete. It gave a lot of latitude to the Bureau of Religious Affairs to restrict and limit the interpretation of the Constitution when it deemed such to be necessary for political reasons. Yet, Article 88 remained the constitutional guarantee that allowed for the continuance (no matter how limited), of religious worship until 1966.

1966 marked the beginning of the Cultural Revolution. During this decade of turmoil, the radical leftist group then holding power set out to change the Constitution, claiming justification for such an initiative on the grounds that it was merely "combining the ideas of the leading organizations and those of the masses". In actuality, both the United Front and the CPPCC had been held in disregard by the radicals long before the attempted amendment of the Constitution. In January of 1975, a new Constitution was adopted by the Fourth National People's Congress. This was a much shorter version of the original, containing in all thirty articles. Along with the usual freedoms (speech, assembly, etc.), Article 28 added the 'freedom to strike'. This Article then goes on to specify 'freedom to believe in a religion and freedom not to believe in a religion and (freedom to) propagate atheism.'<sup>4</sup>

No religious voice was raised in reaction to the Article. At the time the organized religious communities of China were still in a state of disorder, their members dispersed by the force of the Cultural Revolution. However, foreign observers did not fail to remark on the provocative tone of the phrase introduced by the radicals: 'the freedom

to propagate atheism'. This addition, placed in the context of the reaffirmation of religious freedom, offered no corresponding right to religious people to propagate their own religious convictions.

Three years later, in March of 1978, the Fifth National People's Congress amended the Constitutional texts, especially those that were expressive of the more radical policies that prevailed during the Cultural Revolution.<sup>5</sup> When dealing with the religious issue, however, the Constitution of 1978 brought only slight changes in emphasis, and, in Article 46, retained the exact wording of the previous one.<sup>6</sup> Although the text of the Constitution was not altered, in practice there was a much welcomed relaxation of restrictions imposed during the previous decade. Chinese leaders did not hesitate to depart from the 'ultra-leftist' position, and allow a broader application of the general 'policy of religious freedom'. Thus, the five major religious groups in China, representing several million adherents, were given an opportunity to express themselves after many years of repression. Not only did this serve to relax a great deal of tension among the masses, but also helped to unite them in the government's modernization drive.

In September of 1980, a Commission for the Revision of the Constitution was established by the Third Plenary Session of the NPC. Opinions were solicited from different quarters. Religious representatives to the CPPCC united to propose that open reference to the right to propagate atheism be dropped from the Article devoted to 'freedom of religious belief'.

## **A WELCOMED IMPROVEMENT**

Among the 103 members appointed to the Revision Committee were some well-known religious leaders. Bishop Ding Guangxun, Zhao Puchu and the Baingen Lama Erdini were among those who pressed for the restoration of Article 88 of the 1954 Constitution. The draft of the new Constitution, when published in April of 1982 by the NPC Standing Committee, gave evidence of their success. The original text was restored and explicit reference to the 'propagation of atheism' was removed. The President of the Chinese Buddhist Association Zhao Puchu stated in an interview with the official Xinhua News Agency on May 10th that the reference to the right to propagate atheism was deleted because it was not a balanced nor accurate reflection of China's basic policy of religious freedom, and it 'prevented the policies on religion from being correctly applied.' Zhao Puchu was later quoted in the People's Daily as saying that the former text now deleted "...provided a basis for the prohibition of

religious activities." In the same article another Buddhist leader, Zheng Guo, offered similar comments, noting that for the ruling Communist Party, which is in fact atheistic, to stress the propagation of atheism in the section on religious belief 'could easily cause misunderstanding'. The deletion, Zheng felt, 'would eliminate anxieties among religious believers and the masses, and will be conducive to strengthening unity among the people.'

What surprised observers was the length of Article 36, especially since none of the religious leaders seemed to have been pressing for greater detail or elaboration.<sup>7</sup> Zhao Puchu, interviewed by Xinhua in May, indicated that the Revision Committee had not only accepted the proposal of the religious leaders but also 'made some supplementary provisions' and as a result 'religious people are very satisfied with it.' In July, the National Committee of the CPPCC met to discuss the draft. After the meeting, it was reported that a number of religious leaders agreed that the draft helped to clarify the religious policy issue and was 'a definite improvement over the 1954 Constitution.' During the final discussion of the draft Zhao Puchu was quoted as saying that the proposed text 'fulfills the wishes of religious circles within the country'. (Xinhua, 28 Nov., 1982)

Peng Zhen, Vice-Chairman of the Revision Committee, in an address to the NPC Standing Committee on April 22nd, commented that the proposed text not only restored the original phrasing of the 1954 Constitution, but also was a 'clearer and more concrete' statement. Peng saw the phenomenon of religion to be 'an objective fact and a question of social ideology' but added that believers and non-believers in China have, politically, 'one thing in common; they are all patriotic supporters of socialism.' The Deputy Secretary-General of the same Committee, Hu Sheng, based his remarks on a like concern for unity when he stated that the draft of the text on religious freedom 'reflected the will of the broad masses of people, including those who believe in religions... The aim (of the draft) is to provide better State protection of religious activities.'<sup>8</sup>

## **MIXED REACTION TO ADDITIONAL PROVISIONS**

The addition of three paragraphs of clarification to the original Constitution represents no new material that cannot be found in official Party and Government statements published throughout the last three years. However, the decision to legislate and codify the policy of religious freedom on such a high national level does seem to confirm the determination

of the authorities to continue its implementation, despite strong opposition from certain radicals within the Party, and a 'laissez-faire' attitude from local cadres anxious not to antagonize believers in popular religions at the grass roots level.<sup>9</sup>

By way of opening comment on the additions to the Constitution, it is helpful to consider two modifications of the original draft made by the deputies of the NPC. The first change touches on a delicate point. The third paragraph of the draft originally read: 'No one may use religion to carry out counter-revolutionary activities or activities that disrupt the public order.' The approved text reads: 'No one may make use of religion to engage in activities that disrupt public order...' UCA News quoted in its May 5th edition the concern of some outside observers that the phrase 'counter-revolutionary activities' would appear to be too open to arbitrary interpretation. During the Cultural Revolution many incidents could be cited when such abuses had taken place, and innocent believers had been falsely accused and condemned as 'counter-revolutionaries'.

Religious believers will surely welcome the change of tone in the final version of the Constitution. However, deleting the phrase 'counter-revolutionary activity', does not imply a change in government policy. The Preamble of the New Constitution states clearly that 'the Chinese people must fight against those forces and elements, both at home and abroad, that are hostile to China's socialistic system and try to undermine it,' and Article 28 of the Constitution deals specifically with the suppression of 'treasonable and other counter-revolutionary activities.' What is encouraging, on the other hand, is that it was not deemed necessary to repeat in explicit terms the same warning in an article on religion, as if the two were naturally inter-related.

The final paragraph of Article 36 has drawn some attention because of apparent political and diplomatic overtones. In the Draft, the text read: 'No religious affairs may be dominated by any foreign country.' The approved version now reads: 'Religious bodies and religious affairs are not subject to any foreign domination.' Leaving aside the difference in wording given in two separate English translations of the text by the Beijing Review, it seems that the intention of the legislators was to add a further clarification by specifying 'religious bodies'. It seems to leave no doubt that the legislators are determined to forbid any authorized religious groups from entering into relationships with foreign religious organizations and communities that might be judged as dominating or controlling.

Vice Chairman Peng Zhen's only comment on the final paragraph:



("No religious affairs may be controlled by any foreign power"), when presenting the draft to the NPC Standing Committee last April, was: "All religions in China are self-propagated, self-administered and self-supported by Chinese believers" (Xinhua, 28 April, 1982).

Most foreign observers thought that the paragraph was intended as a warning to the Vatican. Bishop Michael Fu Tieshan of Beijing seemed to confirm this last May, when he was quoted as saying that the draft's concluding paragraph "is supportive of the desire of Chinese Catholics to run their churches independently", and that "some foreign churches are undermining our efforts to run our churches independently in an attempt to control them".<sup>10</sup>

According to Xinhua News Agency (1 July, 1982), Bishop Michael Yang Gaojian was even more explicit. The Bishop denounced the efforts of the Vatican to exercise authority over China's churches, saying China will run its religious affairs independently. This was followed by a direct quote from the Bishop: "Chinese churches were once subjected to the control of the Vatican as a tool of colonialism. Since the founding of the People's Republic, however, all our clergy and laity have stood up to struggle against imperialism, encourage patriotism, free our churches from the control of the Vatican and administer them independently. However, some hostile forces inside foreign churches who have never reconciled themselves to our victory are trying to interfere with and sabotage our churches in an attempt to put them under their control again. This can never be tolerated".

Some observers point out that warnings against possible interference from abroad may also be making reference to the Buddhist situation in Tibet, where the influence of the self-exiled Dalai Lama is very great. When the Dalai Lama, during a recent visit to Western countries, was received by the Mayors of both Rome and Paris, the Chinese embassies in both cities issued formal protests, stating: "The Dalai Lama is not only a religious personality, but an exile involved in political activities".<sup>11</sup>

What seems to be clear from all of this is that the expressions 'foreign domination' or 'foreign control' could easily be interpreted to suit different political situations. And while in principle Catholics need have no cause for concern since the communion of faith and the nature of the Church's global unity implies neither domination nor control of one local Church over another, even by the See of Rome, still, in the concrete, how are such relationships viewed by the authorities in Beijing? Does the Article on religious belief guarantee that a Chinese Catholic

would be able to maintain his spiritual ties with the Pope of Rome? Again, would a Catholic who refuses to become a member of the Patriotic Association be considered acting against the new Constitution? After reading the draft, foreign observers raised these and similar questions. The final approved version, however, provided no answers. There was a suggestion, at the time, put forward by a Hong Kong magazine in an effort to counterbalance the tone of the final paragraph. It asked that the following clause be added to the existing text: "...but religious bodies may entertain international fellowship".

There was also some mixed reactions to the wording 'legitimate religious activities' found in paragraph 3 of the article. The same magazine presented the proposal made on this point by a group of concerned church people under the sponsorship of the Hong Kong Christian Council. The suggestion was to drop the word 'legitimate', and reformulate the paragraph to read: 'The State protects religious activities, but no one may use religion, etc....'<sup>12</sup> This suggestion, which also would have helped to emphasize that the State's religious freedom policy refers specifically to 'religious activities' and not superstitious practices, was not taken into account. The question remains. Would 'legitimate' (or 'normal' as it was later translated by the Beijing Review) activities for which State protection is assured include only those held in officially designated churches, those reopened with government approval, or would they also include religious prayer and Mass services held in the home?

Prof. Ren Jiyu, director of the Institute for Research on World Religions and of the Institute for Atheism, speaking while the Constitution was in its final stages of preparation said: "In some areas where religious people live in a compact community, there were cases in which people who do not believe in religion were despised and discriminated against. The draft revised Constitution forbids such discrimination". He also praised the stipulation that no one may use religion to carry out activities that disrupt public order, harm the health of citizens or obstruct the educational system of the State. "In some localities there were people who tried to substitute religious education for primary education, and witchcraft for medical care, both in the name of religious belief. Such malpractice must be stopped with the reinforcement of the Constitution".<sup>13</sup>

## **RELIGIOUS FREEDOM AND CITIZENS' RIGHTS**

Peng Zhen, when commenting on that part of the new Constitution that is devoted to the 'socialist spiritual civilization', made the point that 'the requirements for building such a civilization are implied in

many of the Articles on the fundamental rights and duties of citizens.' The same might be said of the policy on religious freedom. Religious freedom cannot be confined to merely one article of the Constitution. The articles on fundamental rights and duties also have grave implications for a truly comprehensive application of Article 36. For a better understanding of how the Constitution treats the needs of religious believers as a whole, it is necessary to study articles that make reference to or have strong implications for religious believers.

In Article 34, religion is mentioned explicitly. This article spells out the people's right to vote and stand for election, a right granted to 'all citizens of the People's Republic of China...who have reached the age of 18...regardless of nationality, race, sex, occupation, family background, religious belief.' Again, Article 35, where it is stated that all citizens 'enjoy freedom of speech, of the press, of assembly, of association,' while religion is not specifically mentioned, it is certainly not meant to exclude believers. However, official interpretation of 'legitimate' religious activities, as well as police regulations that aim to maintain 'public order' may easily be invoked to curb any expression of religious belief. In Article 4, the new Constitution assures national minorities of State protection of their 'lawful rights and interests.' There is no mention of religion here, although that religion is deeply embedded in the way of life of some minorities is an often acknowledged fact. Bainqen Lama Erdini, in praising the wording of Article 36, also expressed his satisfaction with Article 4, noting: 'History shows that national suppression is the root cause for national splits.' (Xinhua, 7 May, 1982.)

Article 19 has to do with education. In its fourth paragraph an interesting new principle is introduced. "The State encourages the collective economic organizations, State enterprises and undertakings and other social forces to set up educational institutions of various types in accordance with the law." The corresponding article in the draft had also specified that its purpose was to wipe out illiteracy, universalize primary education and develop secondary, vocational and higher education. It may be assumed that, while this explanation of purpose has been dropped, the purpose remains the same. It is interesting to note that while the draft had spoken of 'non governmental bodies' in general, the final text includes 'other social forces' as well. Will it now be possible, then, for religious organizations to make a contribution to this formidable educational task? Will they be allowed to take some initiative, for example, in the area of vocational training or in the fight against illiteracy?



Another important matter that must be considered is that of family planning (Article 25 and 49). While the urgent need to limit population growth may be beyond challenge, the methods pursued by the State in its family planning policies do not appear to have any regard for possible moral objections arising from the religious beliefs of individual citizens. Article 49 makes it an obligation for both husband and wife to practice family planning. It is to be hoped that for people who, for reasons of conscience, have objections to the present methods imposed by local authorities, suitable alternative methods may be proposed or allowed.

Article 47 also deserves some attention. It assures citizens 'the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits'. This is an expansion of Article 52 of the 1978 Constitution. A few new words have been added, specifying that to obtain State encouragement and assistance a citizen's 'creative endeavours' must be 'conducive to the interests of the people.'<sup>14</sup> Again, there is some fear that interpretation of 'interests of the people' may, in practice, limit scientific research and artistic expression, confining it to the official ideological line. With reference to religion, would some forms of scientific research or literary creativity based on religious history or personal religious experiences be 'discouraged' as being 'non-conducive to the interests of people?'

Article 49 introduces for the first time in the history of Constitutional texts some fine statements on relationships within the family unit. Paragraph 3 makes it the responsibility of parents to 'educate' their children. There can be no disagreement with such a principle on the part of religious believers. Yet in a social system in which the State advocates a unique type of education based on the ideology of the ruling Party, (Article 24), the question arises as to the manner in which religious believers are expected to 'educate' their children? Are they duty-bound to reinforce in the home the same materialistic world-view advocated by the State? Are they expected to teach what may run counter to their deep convictions? Do they risk being labeled law-breakers by educating their children in their own religious beliefs?

Other examples may be given where Constitutional statements find ready acceptance in principle, but may provoke some questions when applied to concrete situations. For instance, Article 54 states the obligation of citizens to safeguard the security and interests of the Motherland, and then enjoins on them to safeguard its 'honour' as well. They are warned that they must not commit acts 'detrimental to the...honour and interests of Motherland'. How does one assess an individual act as being 'detrimental' to the honour of the country, and, thereby, contrary to

the Constitution? 15

Article 46 states: 'Citizens of the PRC have a duty as well as the right to receive education.' There can be no argument with this statement. Yet, a religious believer may well be concerned about the kind of education he is being legislated to receive, and whether or not it will make demands on him to abandon his own religious beliefs.

## THE 'SOCIALIST SPIRITUAL CIVILIZATION'

This brings us to the core of the new constitution. In the two reports he gave to the NPC in April and November, Peng Zhen underlined several points which cannot be overlooked: "The Preamble of the draft of the revised Constitution affirms the adherence to the four fundamental principles of socialism, the people's democratic dictatorship, Marxism-Leninism and Mao Zedong Thought, and the leadership of the Chinese Communist Party". And again: "The Chinese people will continue to uphold the four fundamental principles in the future and build China into a socialist country..."; "To uphold the four fundamental principles, it is most important to adhere to the leadership of the Chinese Communist Party and the socialist road".

Expanding on the meaning of China's "People's Democratic Dictatorship", Peng Zhen stated confidently: "Our State system and social system provide both legal and practical guarantees that our citizens enjoy extensive and genuine freedoms and rights. ...Democracy among the people is one aspect of the people's democratic dictatorship; the other is dictatorship by the entire people over their enemies. The function of the State as an instrument of dictatorship cannot be abolished at this time". Such a function will imply "...suppression of treasonable and other counter-revolutionary activities and striking at dangerous criminals who deliberately attempt to undermine and overthrow the socialist system... ..The targets of this dictatorship are no longer complete reactionary classes, and the number of targets has dwindled".

On the other hand, stressing the role of the NPC, Peng Zhen said: "The opinions of the Party and the people can only become law and the will of the State when adopted and decided by the National People's Congress or its Standing Committee. The Party leads the people in formulating the constitution and laws and it also leads them in observing them". Peng Zhen defines PRC as "a socialist State of the people's democratic dictatorship led by the working class..." (Art. 1). He also said that the new Constitution "can also prevent the distortion and abuse of the proletarian dictatorship".

Peng Zhen repeated that "the drafting was done under the overall guidance of the Four Cardinal Principles, namely adherence to the socialist road, to the people's democratic dictatorship, to leadership by the Communist Party of China, and to Marxism-Leninism and Mao Zedong Thought; these Cardinal Principles form the common basis for the advance of the people of all our nationalities in unity".<sup>16</sup>

The Constitutional text finally approved added a new article (Article 24) to the draft, expanding on the concept of "socialist spiritual civilization". To education, science, public health with physical culture, and culture it devoted also separate articles. The original draft had all these topics in one composite.

The ample commentary on Article 24 given in Comrade Peng Zhen's speech to the NPC underscores its importance in formulating overall policy. It touches on the principles and ethical values which, by tradition, have always been the concern of organized religions. The first part of Article 24 reads: "The State strengthens the building of the socialist spiritual civilization through spreading education in high ideals and morality, general education and education in discipline and the legal system, and through promoting the formulation and observance of rules of conduct and common pledges by different sections of the people in urban and rural areas". Peng Zhen comments: "Efforts must be made to imbue more and more citizens with high ideals, moral integrity, general education, and a sense of discipline". Believers of the great religious groups can wholeheartedly commit themselves to such a task. However, they may be put off by the stress on the ideological aspects of building the socialist spiritual civilization when Peng Zhen finds it necessary again to remind his fellow deputies that "First of all, Marxism-Leninism and Mao Zedong Thought is our fundamental guiding ideology. This is expressed in the Preamble as one of the Four Cardinal Principles".

The second part of Article 24 deals with civic virtues and some concrete objectives of the education which the authorities intend to stress. It reads: "The State advocates the civic virtues of love for the Motherland, for the people, for labour, for science and for socialism; it educates the people in patriotism, collectivism, internationalism and communism and in dialectical and historical materialism; it combats capitalist, feudal and other decadent ideas." The five civic virtues mentioned basically correspond to the "five requirements" adopted in the Common Programme of the early years of the People's Republic. Added emphasis is now given to "Love for Socialism". As Peng Zhen explains:

"In the conditions prevailing then, it was not yet opportune to put forward 'Love for Socialism' as a requirement in the Common Programme". The fifth 'requirement' was expressed, in 1954, as 'care of public property'.

As for the general educational objectives of the State, there is no doubt that 'patriotism' and perhaps 'internationalism' may be considered as grave moral obligations for all good citizens, but non-Marxist citizens are likely to be shocked to discover that they are expected to undergo an equally compelling education in 'collectivism, communism and in dialectical and historical materialism'. In the Constitution of 1978 the personnel of organs of State were obliged to 'earnestly study Marxism-Leninism-Mao Zedong Thought' (Article 16; see also Article 11 of the 1975 Chart). Now this obligation is expanded to include all citizens. Could this not easily become a means of applying psychological pressure and patterns of discrimination for believers of religion, should they resist the all pervading efforts of the State educational structures to indoctrinate them into a materialistic world-view?

These days it is often stated with emphasis that the policy of freedom of religious belief applies to citizens but 'is not suitable for Party members.' The reason given is that "Party members cannot also be theists or believe in religion, because these represent contradictory beliefs."<sup>17</sup> While acknowledging the logic of this statement, one wonders why is it not also recognized that it is 'not suitable' for religious believers to accept the world-view of atheistic dialectical materialism and atheistic historical materialism? Commenting on the fact that Article 24 calls for ideological education in Communism for all the people, Peng Zhen reiterates that "Communist ideology is the heart of the socialist spiritual civilization". And he adds without hesitation: "Now that we have established the socialist system, we should and can strengthen nation-wide education in Communism among cadres and the people, with everyone taking part."

In the text published in April, the corresponding sentence of the draft (Article 22) mentioned educating the people "in the ideas and ethics of patriotism, collectivism, internationalism and communism". It is not known who proposed the addition of the phrase 'and in dialectical and historical materialism.' Peng Zhen draws the obvious conclusion: "Education in Communist ideology should take the form of helping a growing number of citizens acquire a dialectical and historical materialist world outlook and the work ethic of serving the people wholeheartedly..." Here again, 'the work ethic of serving the people wholeheartedly' is an ideal Christians, for instance, have had enjoined on

them by Christ himself. Why then make it appear as a consequence of acquiring a materialistic world outlook? Does a believer have to renounce his faith to achieve such an ideal?

At this point it is helpful to call to mind the 'Important Resolution' on the History of the Chinese Communist Party approved in June 1981 by the Party's Central Committee, which acknowledged the impossibility for certain groups of religious believers to accept dialectical and historical materialism. The Resolution stated: "To uphold the four fundamental principles does not mean that religious believers should renounce their faith but that they must not engage in propaganda against Marxism-Leninism and Mao Zedong Thought and that they must not interfere with politics and education in their religious activities."<sup>18</sup> This seems to be a sensible statement that shows consideration for the legitimate feelings of believers, one that is, however, not to be found in the Constitutional text. It is to be hoped that the same understanding will be applied when implementing the new Constitution.

## **A STEP IN THE RIGHT DIRECTION**

It is encouraging to read in the Constitution (Article 38) that the personal dignity of citizens is to be considered 'inviolable'. One would also agree with the general statement of Article 33 which, after stating that all citizens of the PRC are equal before the law, adds that "every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the Law."

To assure the credibility of the legal system in the PRC, national leaders today stress that even the Communist Party is not above the Constitution (cf. Article 5). On the other hand, the whole structure of the PRC rests on the Party. On the level of day to day existence, this fact gives rise to two obvious dangers. First, some may still be tempted to consider themselves above the law, because they are part of the structure that holds supreme power in the country. This type of feudalistic mentality which tends to creep into the minds of cadres and of people in authority has often been denounced by the present leadership who are well aware of possible abuses in this area. There is also the second danger that not enough effort be made to take into account basic human needs and the respect of personal dignity, on the grounds that China is a country of democratic dictatorship. This could happen in cases where duties legally imposed cannot be honestly fulfilled without destroying personal dignity. This failure could then be used as legal ground to justify depriving people of common rights.



In closing, one cannot forget that China, too, has cast its vote of approval in the United Nations for the November 1981 Declaration on Freedom of Religious Belief. The ample preamble and the seven articles of the 'Declaration on all forms of intolerance and discrimination based on religion and belief' was in preparation for two decades. After much debate consensus was reached and the text finally adopted by the UN Third Committee. Several of its provisions are not included in the 'policy of religious freedom' of the PRC. There is little doubt that China has some way to go if it wants to attain the level of the internationally accepted standard in this matter.

However, the new Constitution of the PRC should prove a step in the right direction. It is in itself a remarkable improvement over its predecessors. It will become a powerful instrument for social progress and modernization in the country if it is implemented with fairness and magnanimity. Then it will prove to be the foundation for a stronger unification of peoples of all nationalities and different ideological backgrounds.

## NOTES

1. An English translation of the text of the new Constitution was published in Beijing Review (BR), no. 52, 27 Dec. 1982, pp. 10-29, while the draft had been given a different translation in BR, no. 19, 10 May 1982, pp. 27-47.

2. Cf. A.P. BLAUSTEIN (ed.), Fundamental Legal Documents of Communist China, Rothman & Co., S. Hackensack, 1962, p. 36.

3. Constitution of the People's Republic of China, Foreign Languages Press, Peking, 1961, (Rev. Trans.), pp. 47. R.C. BUSH, Religion in Communist China, Abigdon Press, New York, 1970, p. 15 ss.

4. The Constitution of the People's Republic of China, Foreign Languages Press, Peking, 1975. p. 51. Cf. A.S. LAZZAROTTO, in Mondo e Missione (Milano), May 1975, pp. 281-3.

5. The texts of the three Constitutions of the PRC, with other documents and comments by the staff of the periodical "The Seventies Monthly" (Qishi Niandai Yuekan), were reprinted under the title China's New Democracy, Cosmos Books, Hong Kong, 1979.

6. The Constitution of the People's Republic of China, Foreign Languages Press, Peking, 1978, p. 35. Cf. L. GOODSTADT's comment in

Hong Kong Law Journal, v. 8, III, Sept. 1978, pp. 287-307. This Constitution is said to have been "adopted in a hurry": BR, no. 18, 3 May 1982, p. 15.

7. Shortly after the draft was published in April 1982, Bishop Ding Guangxun was quoted as saying to some visiting Lutheran leaders that the new article would be a simple statement of the 1954 Constitution: Asian Lutheran News, no. 4, April 1982.

8. The speeches of Peng Zhen and Hu Sheng can be found in BR, no. 19, 10 May 1982, pp. 18-26 and no. 18, 3 May 1982, pp. 15-18.

9. An authoritative commentary to the "policy of religious freedom" appeared in Chinese in Red Flag (Hong Qi), no. 12, 16 June 1982, pp. 2-8; for an Eng. transl. cf. Religion in The People's Republic of China, Documentation, no. 9, Oct. 1982, pp. 6-13.

10. Xinhua, 10 May 1982. Bishop Fu described Art. 35 of the Draft as "comprehensive and fair", underlining the phrase that "no public organization or individual shall compell...".

11. UPI, 5 Oct. 1982. Cf. BR, no. 46, 15 Nov. 1982, p. 3. While efforts to convince the Dalai Lama to return continue Chinese authorities in Tibet are again accusing "certain people", of "using religious activities" to carry out sabotage; cf. AFP, 2 Nov. 1982.

12. Ching Feng (Hong Kong), XXV, no. 3, Sept. 1982, p. 174. Cf. also Tripod (Ding), no. 9, 1982, pp. 71-2.

13. Xinhua, 28 Nov. 1982. It seems rather surprising that, while official policy is clearly for suppression of crude superstitious practices, this fact is not mentioned at all in the Constitutional text. On the other hand, the comment of Prof. Ren Jiyu seems to link witchcraft with religious belief, as if the two were naturally linked.

14. Art. 14 (of 1978 Const.), though praising the "hundred flowers" policy of 1957, stated that "all cultural undertakings must serve the workers, peasants and soldiers and serve socialism". The State's encouragement for "creative works" and for "other cultural pursuits" was stated also in Art. 95 of the 1954 Constitution.

15. An accusation levelled against Mgr. Dominic Tang on this account did not impress public opinion as being warranted.

16. An English translation of the lengthy Report of Peng Zhen to the NPC before the approval of the Constitution was printed in BR, no. 50, 13 Dec. 1982, pp. 9-23.

17. Cf. BR, no. 24, 14 June 1982, p. 35; the same was stated vigorously in the quoted Red Flag article.

18. Resolution on CPC History (1949-1981), Foreign Languages Press, Beijing, 1981, p. 81. Opening his Report to the NPC on Nov. 26, 1982, Peng Zhen stressed that the Resolution, with other documents adopted by the 12th Party Congress, "provide a sound basis for revising the Constitution". Already in April, when presenting the Draft, Hu Sheng had mentioned that the Resolution had been taken as the "guiding principle" for the revision work.



*Cultivate virtue in your interior: Joy is in its midst.*