

## ***Commentary on the New “Regulations on Religious Affairs”***

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**A**s seen elsewhere in this issue of *Tripod*, new *Regulations on Religious Affairs* have been issued, which will come into effect on March 1, 2005. They will replace those entitled *Regulations on the Management of Venues for Religious Activities*, in effect since January 31, 1994 (cf. *Tripod*, No. 79, pp. 48-51). The new regulations are divided into seven chapters containing altogether 48 articles, while the old regulations contained only 20 articles and no chapter divisions.



Although the regulations are directed towards all five religions in China, we are for the most part concerned about their meaning for the Chinese Catholic Church. First of all, the regulations were not issued “out of the blue.” They have evolved from previous sets of official documents. In addition to expanding the 20 articles of the 1994 regulations, the new ones encompass the contents of a circular on improving religious work issued by Party Central and the State Council on February 5, 1991 (cf. *Tripod*, No. 66, pp. 18-27), as well as at least 55 local sets of regulations concerning religious affairs issued by provincial, autonomous regional, and municipal governments throughout the 1990’s. Within the Catholic Church, a similar thing happened before the Chinese bishops passed the “Three Systems” documents in March 2003 (cf. *Tripod*, No. 130, pp. 5-36). Preceding it, on August 17, 1999, Party Central issued Document 26 entitled: “On Strengthening Catholic Church Work in the New Circumstances” (cf. *Tripod*, No. 116, pp. 33-40). Thus there was a gradual buildup extending over a period of

years before the regulations were finally issued. However, they have not yet attained the status of laws regarding religion.

Perhaps we can label the “Three Systems” documents as being internal to the Church and the new regulations as external to it. Both sets of documents indicate a systematization and a tightening up of government supervision over religion.

The seven chapter headings for the 48 articles of the regulations are: General Principles (5 articles), Religious Organizations (6 articles), Religious Venues (15 articles), Religious Clergy (3 articles), Religious Properties (8 articles), Legal Responsibilities (9 articles) and Appendices (2 articles). From this, one can see that the bulk of the Regulations have to do with religious organizations, venues, properties and legal matters. The impression one gets is that the regulations are quite technical. They deal in a detailed way with the “nuts and bolts” of such matters as the registration, de-registration, disbanding, and consolidation of religious organizations and venues, and the compensation for the demolition or removal of religious sites and properties.

My colleague Anthony Lam has pointed out that some articles lean in the direction of religious freedom. For instance, Article 38 provides for the investigation into possible criminal activity on the part of a civil servant, who, in the discharge of his duties of supervision over religious affairs, abuses his authority, or practices favoritism or fraud. While this article seems more favorable to religious believers, for Catholic believers at least there are more restrictive articles. Article 4 states that each religion must adhere to the principle of the independent running of their religion. Article 7 states that the contents of religious publications should not violate the principle of the independent running of the religion. Article 41 states that the registration of a religious organization or venue can be cancelled if they violate the principle of the independence of the religion. The principle of independence is emphasized in at least three articles in the regulations.

These articles present a dilemma for Catholics because to be in good standing Catholics must be united to, and not independent of, the Holy Father in Rome. Now Catholics can pray for the Holy Father. And the first issue for 2005 of the *Catholic Church in China*, the magazine of the official church, published a translation of the Holy Father’s instruction “Mane Nobiscum,

Domine" opening the Year of the Eucharist. However, China's Catholics are still not allowed to have direct contact with the Holy Father.

The most sensitive issue at the present time is the selection of bishops in the Chinese Catholic Church. Many bishops are quite elderly, and are looking for successors from among the younger clergy. The Catholic Church's Code of Canon Law (Canon 377) states that it is the prerogative of the Holy Father to appoint bishops, or confirm those lawfully elected. This cannot be done publicly in today's China. The problem is with the phrase "Chinese religions are not subject to foreign domination (Article 4)." But what constitutes "foreign domination"? The regulations do not tell us. If the Holy Father appoints a bishop, is this necessarily to be considered "foreign domination"? Apparently the 172 nations or states, which have diplomatic relations with the Holy See, do not think so. Or does the government want Catholics to change their faith, and separate themselves from the Holy Father? This would put them in danger of being no longer considered Catholic. Thus more explanation about the meaning of the terms "foreign domination" and "independence" in the regulations is needed.

Moreover, there seems to be a contradiction between the Church's "Three Systems" documents and the government's regulations. The "Three Systems" documents advocate the "democratic" running of the Church, whereas the new regulations emphasize the management or supervision of religious affairs by the religious affairs departments of the government (Article 5).

However, let us, for the sake of argument, imagine the scenario of the clergy of a diocese gathering together to select a new bishop candidate to become the next bishop of their diocese. This is a normal Catholic Church tradition, practiced throughout the world. Then having elected their candidate, the clergy discover that he is not acceptable to the local religious affairs bureau because they have their own candidate, different from the one chosen by the priests. How will the deadlock be broken? Will the bureau officials lock the door of the room where the clergy are gathered, and not let them out until they vote for their candidate? Can such a scenario unfold today? I think that it is quite possible. But is this democracy? Is this running the Church "democratically"? Thus there seems to be a conflict between the democracy of the "Three Systems"

documents of the Church, and the supervision of the recent regulations document of the government.

Article 39 states that if the normal religious activities of a religious organization or venue are interfered with, then the religious affairs departments should take corrective action. Or if someone encroaches upon the lawful rights of a religious organization or venue, then that person bears civil responsibility for the act. But what if the religious affairs department itself interferes in the “normal religious activity,” as could happen in the hypothetical case presented above? Would the religious affairs department take corrective action against itself? Or, can we imagine that a religious believer, citing Article 46 of the regulations, which permits the filing of an application for reconsideration, or even a lawsuit, if specific administrative acts of religious affairs departments are unacceptable, actually filing such an application or lawsuit? Would a Chinese priest have the temerity to bring the local religious affairs bureau to court for interference in the Catholic clergy’s “normal religious activity” of selecting their next bishop? Thus, the question arises: who interprets the regulations?

While some articles do appear more open and more favorable to religious believers, still the overall impression given is one of a tightening of control over religious affairs. Article 5 seems to me to be the key article. In it religious affairs departments are granted complete management over religious affairs. There is the danger that the Church will become a state run church (*guanban jiaohui*). Moreover, the supervision, or management (*guanli*) of the article, tends to gradually turn into control (*kongzhi*).

The Chinese government can be assured that Chinese religious believers love their country, and would do nothing to harm it. Rather, they yearn for the day when China will become a prosperous and powerful country among the nations of the world. And yet, the overall impression given by these regulations is that the government does not really trust the religious organizations or believers within China’s borders. Therefore, such organizations and believers must be “controlled” by regulations and religious affairs departments. Rather, China should consider granting more religious freedom, not less. It should ask itself if such institutions as religious affairs departments, and their related religious patriotic associations



are really needed anymore. China must be one of the few countries in the world which still has such government departments.

And can the state really control religion anyway? Religion is a spiritual matter. As the Lord said: "The wind blows where it wills, and you can hear the sound it makes, but you do not know where it comes from or where it goes; so it is with everyone who is born of the Spirit." (Jn. 3:8). Many Chinese citizens are looking for spiritual answers. The material benefits brought by the present economic boom are not completely satisfying. Many citizens seek spiritual solace in a religious faith. I think that China would develop even more healthily and more rapidly if its citizens enjoyed real religious freedom, and not the controlled version that exists there today.

One of the best attitudes towards religion ever exhibited by a person in authority, I think, was that of Gamaliel the Pharisee, as related in Chapter 5 of the Acts of the Apostles. It is an attitude to consider adopting by anyone in authority. After the arrest of some of the apostles, Gamaliel stood up in the Jewish assembly, and after citing the failure of previous rebellious groups, said: "So now I tell you, have nothing to do with these men, and let them go. For if this endeavor or this activity is of human origin, it will destroy itself. But if it comes from God, you will not be able to destroy them; you may even find yourselves fighting against God." (Acts 5: 38-39).