

The Impact of the National Security Law on Religious Groups: a Brief Commentary

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The National Security Law (NSL) of the People's Republic of China was passed on July 1, 2015 at the 15th meeting of the Standing Committee of the 12th National People's Congress.¹ It consists of seven chapters and 84 articles. Although the central government repeatedly affirmed that Hong Kong, as a Special Administrative Region, is not subject to this new law, there are a few articles directly related to the HKSAR. The first one is Article 11. It reads:

Citizens of the People's Republic of China, all state organs and armed forces, each political party and mass organization, enterprises, public institutions and other social organizations, all have the responsibility and obligation to preserve national security.

The sovereignty and territorial integrity of China cannot be encroached upon or divided. Preservation of national sovereignty and territorial integrity is a shared obligation of all the Chinese people, including compatriots from Hong Kong, Macao and Taiwan.

In addition, Article 15 is also applicable to any area under the concept of “China”, regardless of whether it is a special administrative region or not. Article 15 reads:

The State persists in the leadership of the Chinese Communist Party, maintaining the socialist system with Chinese characteristics, developing socialist democratic politics, completing socialist rule of law, strengthening mechanisms

¹ Citations in English of the 2015 National Security Law in this article are based on <http://chinalawtranslate.com/2015nsl/?lang=en>

for restraint and oversight of the operation of power, and ensuring all rights of the people as the masters of the nation. The State guards against, stops, and lawfully punishes acts of treason, division of the nation, incitement of rebellion, subversion or instigation of subversion of the people's democratic dictatorship regime; guards against, stops, and lawfully punishes the theft or leaking of state secrets and other conduct endangering national security; and guards against, stops, and lawfully punishes acts of infiltration, destruction, subversion or separatism by foreign influences.

Obviously, the above two articles aim at suppressing any kind of independence movement, including "Independent Hong Kong". The following Article 40 directly relates to Article 23 of the Basic Law of Hong Kong. Considering the situation of the Hong Kong Government nowadays, it is unlikely they can push the legislation of Article 23. We cannot neglect, however, the importance of this article.

Article 40: All levels of local people's congress and standing committees of people's congresses at the county level or above ensure compliance with and enforcement of national security laws and regulations within that administrative region.

Local people's governments at all levels follow laws and regulations to manage national security efforts in that administrative region.

The Hong Kong Special Administrative Region, and Macao Special Administrative Region shall fulfill responsibilities for the preservation of national security.

The Impact of the NSL on the Catholic Church in China

Two articles directly affect the religious life of the Catholic Church in China. They are Articles 27 and 77 respectively. According to Article 27,

The State lawfully protects citizens' freedom of religious belief and normal religious activities, upholds the principle of religions managing themselves, preventing, stopping and

lawfully punishing the exploitation of religion's name to conduct illegal and criminal activities that endanger national security, and opposes foreign influences' interference with domestic religious affairs, maintaining the normal order of religious activities.

The State shuts down cult organizations in accordance with law, preventing, stopping, lawfully punishing and correcting illegal and criminal cult activities.

What is worrying is that the central government has elevated "the principle of religions managing themselves" to the level of national security. In the past the slogan was just an argument at the grass roots level of the Church people. Now it becomes part of the national law. It opens the possibility that in the future anybody who disagrees with the principle of self-management of religions can get into legal trouble. (Bp. Ma Daqin is a case in point.)

At the same time, the paragraph "preventing, stopping and lawfully punishing the exploitation of religion's name to conduct illegal and criminal activities that endanger national security" is also very unfair to religious groups. Surely most people will agree that citizens should not "conduct illegal and criminal activities that endanger national security". However, the government does not give warning to the academic field, the business field, the political field, or the sports field. But it singles out religion. That is discriminatory and totally unacceptable.

Another section worth mentioning is Chapter VI, Article 77: Duties and Rights of Citizens and Organizations: Citizens and organizations shall perform the following obligations to preserve national security. Point 2 and point 6 read as follows:

- (2) Promptly reporting leads on activities endangering national security;
- (6) Keeping state secrets confidential

Regarding liturgical practice or religious heritage, religious communities have had to implement certain kinds of mysterious tradition; not everything can be disclosed. For the Catholic Church, spiritual direction should be kept confidential. Confession is strictly

confidential. So if this article is not clarified, it will cause great problems to the Church in China.

Two Relevant Documents

To understand the National Security Law, we should not neglect two related documents. The first one is the “Anti-Secession Law” (《反分裂國家法》) which was passed on March 14, 2005 at the 3rd meeting of the 10th National People's Congress.² Article 1 of this law clearly states that “this Law is formulated, in accordance with the Constitution, for the purpose of opposing and checking Taiwan's secession from China by secessionists in the name of ‘Taiwan independence’, promoting peaceful national reunification, maintaining peace and stability in the Taiwan Straits, preserving China's sovereignty and territorial integrity, and safeguarding the fundamental interests of the Chinese nation.” Article 2 reads:

There is only one China in the world. Both the Mainland and Taiwan belong to one China. China's sovereignty and territorial integrity brook no division. Safeguarding China's sovereignty and territorial integrity is the common obligation of all Chinese people, the Taiwan compatriots included.

Taiwan is part of China. The state shall never allow the “Taiwan independence” secessionist forces to make Taiwan secede from China under any name or by any means.

Even so, Article 5 still reaffirms that “Upholding the principle of one China is the basis of peaceful reunification of the country. To reunify the country through peaceful means best serves the fundamental interests of the compatriots on both sides of the Taiwan Straits. The state shall do its utmost with maximum sincerity to achieve a peaceful reunification.” It makes the tone a little bit softer. The second part of Article 5 which states that “After the country is reunified peacefully, Taiwan may practice systems different from those on the Mainland and enjoy a high degree of autonomy” should be understood as an olive branch to the people in

² The English translation of the Anti-Secession Law is from http://en.people.cn/200503/14/eng20050314_176746.html/.

Taiwan. However, after the political chaos in Hong Kong in 2014, it is doubtful how many people in Taiwan would accept this kind of “guarantee”.

On the other hand, the Chinese Government always reminds people that under certain situations they will use military force. Article 8 reads, “In the event that the ‘Taiwan independence’ secessionist forces should act under any name or by any means to cause the fact of Taiwan's secession from China, or that major incidents entailing Taiwan's secession from China should occur, or that possibilities for a peaceful reunification should be completely exhausted, the state shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity.” So the danger of having a war is already there.

China's National Security Research Report 2014

Another relevant document is “China's National Security Research Report 2014” (referred to as the *Blue Book* hereafter) which was made public by the Chinese Government on May 6, 2014. It contains some paragraphs discussing the relation between religions and national security.

Chapter 5 of the *Blue Book* is titled “Threats Against Ideological Security in China and Related Strategies.” It states:

Ideological safety includes Safety of Instructional Thinking, Safety of Political Belief and Safety of Moral order. Safety of Instructional Thinking is most crucial to the survival and development of a country. Safety of Political Belief is the foundation of the stability of a national regime as well as the necessary guarantee of the safety of a social system. Safety of Moral order is the important force for social harmony and stability (*Blue Book*, pp.74, 75).³

Within just a couple of lines, the report repeatedly stresses the importance of safety of ideological aspects. The concepts of “stability” and “survival” are also mentioned repeatedly. It only

³ The *Report* is in Chinese. Pagination refers to the Chinese edition.

gives people the impression that the Chinese Government is very eager to extend security work into the ideological field.

China's ideological security normally concerns only the Communist Party. But the *Blue Book*, when dealing with this matter, deliberately pinpoints religion. That is the cause of our worry. Chapter 5, section 2 presents the following: "On the whole, ideological safety in China is stable. But in light of such a complicated international environment, the safety regarding ideological aspects in China is facing severe challenges, especially the export of democracy from Western countries, cultural hegemony of Western countries, the multilateral dissemination of on-line messages and commentaries, and the infiltration of religions" (p.76). In this way, religion has become one of the four main fields targeted by the Government.

The *Blue Book* points out, "Western antagonistic powers have always used religions to infiltrate China. Religious infiltration especially refers to all kinds of activities aimed at 'overthrowing the regime of the People's Republic of China and the Socialist system, and sabotaging the unity of our country', 'control over religious communities and religious affairs in our county', and 'illegally establishing and developing religious organizations and religious strongholds inside China'" (p.81). It is very difficult to imagine why the Chinese Government would target mild social communities such as religion as unmitigated enemies.

The *Blue Book* also mentions, "While the economy of China is skyrocketing and the comprehensive national strength is ascending, the infiltration of western antagonistic forces into religions in China becomes multilateral. The areas become wider. Their means are more covert. Open and covert actions work at the same time. All these actions are strongly provocative and deceiving" (pp.81, 82).

According to the *Blue Book*, the infiltration methods can be classified into three ways: (1) Making use of mass media, ...(2), Making use of touring, cultural exchange and educational exchange to push missionary work ...(3) Making use of financial subvention to carry out religious infiltration and through providing funds for church renovation and financial assistance to cultivate delegates. Overseas religious infiltration forces have been extending their

antenna to all aspects in Chinese society; the domain has expanded from coastal and boundary areas to inland territories, from cities to the countryside. The infiltration is ever increasing” (p.82).

Regarding the strategy of fighting back so-called infiltrations, the *Blue Book* raised four points:

Point 1: consolidate the psychological defense line of the people against religious infiltration (p.89). Regarding implementation, however, they suggest, “awareness that insists on the principle of an independent, autonomous, self-managing Church” (p.90). [Once again they are using the “straw man” technique to promote a separatist Church.]

Point 2: To reinforce, according to law, the management of religious affairs.... seriously implement the *Regulations on the Supervision of the Religious Activities of Foreigners in China* and *Regulations on Religious Affairs* and so on (p.90). [Obviously it is the same old tune.]

Point 3: “establish anti-religious infiltration alarm system, ... Higher education should start from anti-infiltration, and actively establish an alert system through internet system construction, education on the Marxist view of religions, political-ideological education, the building of management teams, precaution and supervision, in order to effectively resist the infiltration among university students” (p.90).

Point 4: “strengthen the study on the strategic system on resisting religious infiltration.” (p.90)

Theoretically, any strategic study properly belongs to the central government. Religions as civil communities have no comment. But the central government’s over-interpreting the “issue of security” leads to worries that such strategies will become a policy of social persecution.

The Anti-Secession Law originally took aim at “Independent Taiwan” forces. But in the eyes of the central government, there are more secessionist forces, hence the need for the National Security Law. And the “China National Security Study Report 2014”

pinpointed the role of religions. So we can understand why the NSL singles out religions.

Some Political Issues derived from the NSL

Article 5 of NSL reads, “A central national security leading institution is responsible for deciding and coordinating national security efforts, for conducting research to develop and guide the implementation of strategies and relevant major policies in national security efforts; for coordinating major issues and important efforts in national security, and for promoting the building of national security rule of law.” Though it does not state clearly what this “central national security leading institution” is, people will easily associate it with the “National Security Committee” which was established at the end of 2013. It is a move to marginalize the leading role of State Council and centralize the power in the hands of the core of the party.

Overall, the NSL is still written with balance and prudence. As China is a signatory country of United Nations’ *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* (signed but not ratified), all the laws on the national level should be compliant with the fundamental spirit of these two international documents. So Article 7 of NSL reads:

Preserving national security shall follow the Constitution and law, uphold the principles of socialist rule of law, respect and protect human rights, and protect citizens' rights and freedom in accordance with law.

But the Devil is in the details. Beneath the national law there are related regulations. Underneath the regulations there are “implementation instructions” that make people worry. Article 37 of NSL clearly reads,

The State Council, on the basis of the Constitution and laws, drafts administrative regulations and rules related to national security, providing for relevant administrative measures, release relevant decisions and orders; implements national security laws, regulations and policies; follows the law to decide on some regions at the provincial, autonomous region,

or directly governed municipality scale entering a state of emergency; exercises other powers given by the Constitution, laws, regulations and the National People's Congress and its Standing Committee.

As the NSL was passed by the National People's Congress (NPC), so the power to interpret this law rests in the hands of the NPC. The administrative units responsible for implementing it (such as the State Administration for Religious Affairs, SARA, and Ministry of Internal Affairs, and Ministry of Public Security, etc.) are subject to legal restraints. But the Security Regulations are sub-regulations issued by the State Council, so the circumstances are completely different.

According to the *Regulations for Establishing Administrative Laws and Regulations* (REALR) promulgated by the State Council on November 16, 2001, "If administrative laws and regulations need further clarification or supplemental regulations, the State Council will clarify them." (Article 31)

In this way, the power of interpreting the Regulations relating to the NSL reverts to the State Council and its administrative units. This is nothing but a repetition of the old problem that the power of judicial interpretation and the power of administration are both held in the hands of the same institution.

Even more importantly, Article 31 of REALR also states: "The interpretation of laws and regulations has equal efficacy with the laws and regulations." This is tantamount to saying that when there are any disputes, the State Council and its subordinate organizations (including SARA) have the power to change legal regulations, or to change or play with the rules, without being subject to any constitutional restraint.

Thus the Administrative Laws and Regulations give to the administrative organs such unrestricted power. So the Chinese government is happy to declare in Article 37 of the NSL that "The State Council, on the basis of the Constitution and laws, drafts administrative regulations and rules related to national security, providing for relevant administrative measures, release relevant decisions and orders." So in the future when the State Council

promulgates the related regulations, religious people should pay special attention to the details.

Throughout the NSL, we get the impression that the Chinese Government is sticking to its long-term conviction that religions are threats to security. Chinese leaders, in the name of “anti-terrorism” and “the need for national security”, keep on strengthening the suppression of religions. It brings not only a huge tragedy to religious believers but can also lead the whole country into a horrible hell of mutual destruction. It will make the country less peaceful. Political leaders in China should not overlook this potential crisis.

Appendix: The Contents of the National Security Law

Chapter I: General Provisions

Chapter II: Tasks in preserving national security

Chapter III: Duties of preserving national security

Chapter IV: National Security System

Section 1: Ordinary Provisions

Section 2: Intelligence Information

Section 3: Risk Prevention, Assessment and Warning

Section 4: Review and Oversight

Section 5: Crisis Management and Control

Chapter V: National Security Safeguards

Chapter VI: Duties and Rights of Citizens and Organizations

Chapter VII: Supplementary Provisions