

**The Regulations on Religious Affairs of China:
Provincial Regulations and Implementation.**

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In the post-Mao reform era, regulations on religion has been a balancing act between the Chinese regime's felt need to control religious activities on the one hand and to provide religious freedom on the other. While religion remains under state management where all religious organizations (RO) and religious venues (RV) need to be registered, schools of religious affairs approved, foreigners cannot proselytize, and the state can order RO's to remove heads of RV it deems to have breached its laws, the overall trend has been incremental relaxation of the state's restriction on religion, at least since March, 1982, when the Central Committee issued the historic Document 19 on religious policy.^[1] In the past two decades since then, the gentler and kinder policy enunciated in that document has resulted in widening ideological and administrative autonomy of RO's, fewer limitations on religious activities and venues, more rigorous protection of religious property, increasing latitude for RO's to interact with their overseas counterparts, and greater circumscription of the power of government agencies to rule of law.

I. National and Provincial Religious Regulations

These benign developments are codified in the "Regulations on Religious Affairs" (hereafter "Regulations") promulgated by the State Council on November 30, 2004. As the first comprehensive set of central government statutes on religion in the reform period, the Regulations stipulate clear administrative norms to manage religious affairs, place the latter in the system of existing laws in China, and introduce provisions for administrative appeal and judicial challenge. They replace the existing micro-management system by Religious Affairs Bureau's (RAB) towards macro-supervision by rule of law through reducing the number and type of religious activities that require prior official approval, omitting requirements for religious organizations to support Communist and state ideology, granting the right of RO's to certify its religious personnel, permitting RO's to receive contributions from domestic and extra-territorial donors, and stipulating more rigorous protection of religious property.

Comparison of national vs. provincial regulations

Since the promulgation of the “Regulations” in November, 2004, six provincial-level units (hereafter provinces, viz, Beijing, Shanghai, Zhejiang, Henan, Shanxi, Hunan) have promulgated new or amended religious regulations, efforts for an additional four (Chongqing, Hebei, Jiangxi, Liaoning) have also been underway.^[2] The six new provincial religious regulations have generally left out the State Council Regulations on international and national level policies, omitting those that govern religious exchange among the mainland, Taiwan, Hong Kong and Macau (Art. 47), those on the selection of the Dalai Lama and Catholic bishops (Art. 27), those regulating the activities of national level religious organizations (The Three-Self Church organizations), national level policies relating to organizing pilgrimages for Chinese Muslims (Art. 11), as well as the sending and receiving students of religious schools to and from China and overseas RO’s (Art. 10).

But provincial omissions go beyond issues of jurisdictional authority. Most provincial regulations also omit the State Council stipulations that undercut their political and economic power. Of the six provinces, only Shanghai echoes the State Council regulation stating the right of RO’s and individuals to contest the decisions of the local RAB’s through administrative appeal and judicial challenge in courts (Art. 46). Only Beijing legislates against the encroachment of the legal rights of RO’s, RV’s and citizen believers at the pain of civil and criminal liability (Art. 39). Provincial omissions of State Council regulations are also conspicuous in issues on protecting religious property. The State Council stipulation that local land management bureaus need to consult the local RAB’s in proposed changes over the land use of RV’s (Art. 31) are omitted in all the provincial regulations. The entire section of the SARA document on protecting religious property is totally omitted in the Henan and Shanxi regulations. Only Zhejiang incorporates the State Council stipulation that “assessed market value” be used as the criteria for compensating religious property removed for urban development and major construction projects (Art. 43).

On the other hand, provincial regulations also include provisions protecting religious rights not in the State Council regulations. All six provinces legislate the right for believers to practice religions in their homes. Shanghai, Zhejiang and Hunan stipulate that religious personnel are eligible to participate in the social security program. In addition, Shanghai also entitles students of religious schools after three years of local service to apply for local residence in the metropolis, a much coveted status (Art. 36). Zhejiang requires local authorities to consult with religious organizations in determining the price of admissions of tourist sites related to religious venues (Art. 30), while Hunan stipulates occupational discounts for religious personnel visiting tourist sites related to their own RO’s (Art. 23).

Comparison of old vs. new Provincial Regulations

To what extent has the new set of provincial regulations amended obsolete provisions and adopted the new regulations of the State document? Of the six provinces which have promulgated religious affairs regulations since March, 2005, four (Beijing, Shanghai, Zhejiang, Hunan) have also an earlier set of regulations with which we can make the comparison. The overall trend is one of relaxation of state control of religious organizations, regulation by rule of law rather than by local religious affairs bureaus, and recognition of the rights of religious organizations. Compared to the earlier set of regulations, there is not a single provision in these four provinces where new limits on religious rights and freedoms are imposed and tighter control over religious organizations are decreed.

First, state power is more circumscribed in the new provincial regulations. The powers of the local religious affairs bureau over religious organizations are defined as those of “directing, coordinating, managing, and oversight” in the new Shanghai regulations (Art. 6). Two other sets of more interventionist powers (inspecting, supervise and urge [ducu]) in the 1995 Shanghai regulations were dropped in the definition. The requirement that religious organizations need to educate religious personnel and believers in “patriotism, socialism and rule of law” in Zhejiang’s 1997 regulations (Art. 11) has been reduced to those of “patriotism and rule of law” in its 2006 version (Art. 14).

At the same time, some rights of religious organizations have received greater recognition in the new regulations. Zhejiang province adds a reference to the new right of religious organizations to construct large-scale, outdoor religious icons in its 2006 statutes (Art. 31) that was not in its 1997 version. Those of Hunan province introduces a new provision that religious organizations can accept extra-territorial donations (Art. 38), that was absent in its old version. Those of Shanghai adds the stipulation that infringements on the legal rights of religious organizations, venues and believers will receive administrative penalty or civil liability (Art. 51).

There is more positive recognition of the good deeds of religious personnel and their social service programs. Hunan adds the provision that religious organizations, venues, and personnel that have made significant contributions to the national and public interests should receive official commendation and encouragement (Art. 7). Instead of stating minimally that RO's "should be allowed to establish social services", the new version in Zhejiang province now states in more positive terms that "they should be encouraged" to undertake such activities (Art. 13).

Two Poles of Provincial Regulations: Shanxi vs. Shanghai

Of the six sets of provincial regulations, those of Shanxi are more restrictive than those of the State Council and other provinces. Shanxi is the only province of the six that did not have any set of provincial regulations on religious affairs prior to the promulgation of the State Council document. It is one of the two provinces (with Henan) that does not have a section on protection of religious property. While the RAB's of the other five provinces have user-friendly websites listing policies and regulations, on-line applications and downloadable forms, the Shanxi RAB does not have a website. On the process of certifying religious personnel and appointing important positions in religious organizations, the State Council stipulates that the power to make those decisions rests with the RO, which are required only to notify the local RAB's to report to record [bei an] their decisions (Art. 28). Thus only post-hoc notification is required, as also minimally stipulated in the five other provinces. Shanxi, however, stipulates that their certification would be determined by the regulations set by the Provincial RAB, and that the RO's need to notify the local RAB's before they can issue the certificate. The power of local RO's in certifying religious personnel is thus encumbered and there are additional regulatory hurdles for the RO's to complete the process. On important positions in religious organizations, Shanxi further requires that the RO's need to notify the local RAB's before they can appoint or remove these positions, while other provinces do not have this restriction. On local religious personnel being invited to officiate religious functions outside the province, the State Council document does not impose any condition, but all provinces stipulate that the provincial religious organizations need to approve such invitation. Shanxi requires further that local religious organizations need to inform the local religious affairs bureau 15 days before the visits take place (Art. 19). Neither the State Council nor the five provinces stipulate restrictions on religious, cultural, or academic exchange activities organized by local religious organizations, but Shanxi requires the latter to inform the local RAB's on the time, location, and content of the planned activities (Art. 24). For activities involving religious organizations outside China, Shanxi is the only province that requires a 15-day advance notice on the time, location, content, size, participating organizations, and description of the extra-territorial religious organization (Art. 24). It is also one of only two provinces (with Zhejiang) that stipulate rules for cross-county religious activities (Arts. 23), and one of three provinces (with Henan and Zhejiang) that requires prior permission of the local religious affairs bureau to organize training sessions for religious personnel and believers (Art. 25).

In contrast, the Shanghai regulations incorporate most provisions in the State Council document that protect religious organizations, even including some that are unique in the national and provincial regulations. It is the only province that provides for administrative appeal and judicial challenge against the local religious affairs bureau (Art. 59). It is also the only province stipulating protection and control areas for religious buildings designated as national or important municipal historical buildings (Art. 41) When the national and four of the six provincial regulations do not have a section on foreign religious relations, Shanghai and

Beijing have such sections (Chap. 8). Shanghai is the only set of provincial regulations that states that foreign nationals can participate in religious activities in local religious venues, that the latter can also perform religious activities at the request of foreign nationals, that foreign religious professionals visiting China in that capacity can preach and give homilies in local religious venues, that foreign nationals (not necessarily religious personnel) can engage in cultural and academic activities with local religious organizations (Arts. 45, 46, 48). It is not clear whether State Administration for Religious Affairs (SARA) would consider Shanghai or Shanxi be the norm for provincial regulations, but of the six, it only lists the Shanghai regulations and in full text in its website.

II. Implementation

In implementation, both the central and provincial governments have issued supplementary regulations. In the two years since the promulgation of the “Regulations”, SARA has issued the “Methods for approving and registering Religious Venues” (April, 2005), while six provinces have promulgated their own religious affairs regulations as noted earlier. Aside from legislative activities, three issues have engaged the attention of religious affairs authorities. First, close to half of the provinces have proposed local regulations for registering RV’s, in particular, those on distinguishing the traditional established religious venues from other fixed places of worship.^[3] Second, both central and provincial agencies have to create new policy instruments to implement the “Regulations”. To standardize the procedures for registering RV’s, SARA has to design the registration certificate and companion forms. To codify the local RAB approval procedures, it has also proposed tentative regulations on the conditions, process, and bureaucratic time-lines for approving the establishment of religious schools, training seminars for the “Regulations”, the sending and receiving students of religious schools, and the convening of cross-county religious activities.^[4] At the province level, religious venues are required to create its financial control and accounting system to be eligible for registration. In Jiangsu province in 2006 alone, more than 600 person-classes were organized to train the staff in religious organizations to learn such systems. The RAB and the Provincial Finance Bureau of Liaoning have jointly developed and tested a pilot project on “Accounting System for the Private, Non-Profit Sector” for adoption by RAB’s of the entire province.^[5]

Third, several central and provincial agencies have adopted measures to protect the economic interests of the religious communities. Shanghai is working on its draft regulation on “Methods for the participation of religious personnel in social security programs”, while Jiangsu has produced its “Opinions on the living standards and social security of religious personnel”. Chongqing Municipality has reportedly resolved the problem of social security for religious personnel. Beyond social security, several State Council ministries have resolved to provide half-fare for students of religious schools for home visits during the Chinese New Year, and to offer discount admissions for religious personnel at religious tourist sites.^[6] How two provinces managed the problem of religious property will be discussed in the following section on Challenges.

Increasing Autonomy in Religious Education

In addition, religious organizations have reported increasing autonomy in religious education. The Religious Affairs Regulations have legitimized the process of Chinese religious organizations sending religious students for training abroad, a process that used to be done covertly. For the first time, the Protestant Church organized its own nation-wide examination, selecting over 10 religious students from more than 30 candidates to be trained overseas in 2006, while the Catholic Church also chose its own religious students by interviewing for overseas training. Both Christian churches report that SARA had no role in the selection process, and only provided assistance to get their passports. In the 2006 academic year, there are around 300 Catholic priests, nuns, and seminarians from China enrolled in religious studies programs in the Philippines, Korea, Germany, Italy, Belgium and the U.S. Conversely, both the Protestant and Catholic seminaries have invited foreign theologians to lecture in their institutions. Also in the current academic year, the Protestant Nanjing Seminary has theology faculty visiting from Germany (2), Canada (2), U.S. (1) and Finland (1);

while Catholic seminaries have hosted over 20 visiting theologians from the U.S. Germany, Korea, Spain, Ireland, Malta and Thailand. At least the Catholic Church reports that there was no prior screening by SARA, and neither the national Patriotic Church nor RAB sent representatives to observe the classes. At a more institutionalized level, the Protestant National Seminary in Nanjing has established a program of pastoral counseling with the Fuller Seminary of Pasadena, California. A related development is the substantial support the central and local governments provided to the Christian churches in constructing their seminaries. The Protestant National Seminary in Nanjing has received a new land grant from the Jiangsu provincial government for its new seminary that can house 1,000 religious students. Inaugurated in September, 2006, the new Catholic Seminary at the Daxing County in the outskirts of Beijing is a four building campus with 200,000 sq. ft. of floor space constructed with a land grant of 12 acres and monetary gift of Y73 million from the Beijing municipality.

In contrast to the Maoist policy of restricting religious activities to worship inside religious venues, the Christian churches are not only allowed but encouraged to undertake social services, as stated in the Zhejiang regulations. Both the Protestant and Catholic churches have revived their traditional charitable works in establishing and operating orphanages, homes for the elderly, medical clinics and kindergartens. Presently, the Catholics manage 22 kindergartens, 20 orphanages, 10 homes for the aged, 4 hospitals, 174 health clinics and co-managed two leprosy institutions. In addition to operating 150 health clinics and close to 100 homes for the elderly, the Protestants have been managing a thriving network of YMCA's in Beijing, Tianjin, Hangzhou, Nanjing, Guangzhou, Chengdu and Wuhan offering English, computer classes and exercise facilities, some of which have been in operation for over 20 years. While religious organizations are still not permitted to establish their own elementary to graduate schools, the Protestant church has established vocational schools, and a boarding school for Autism in Qingdao that uses the Christian Bible as part of the official curriculum. Both Protestant and Catholic educational institutions outside China have established joint partnerships with China's leading colleges. A consortium of Jesuit Business Schools has a joint program with the Guanghua School of Management at Beijing University for many years. In September, 2005, the Baptist University of Hong Kong and the Beijing Normal University inaugurated an International College in its Zhuhai campus that enrolls both Chinese and Hong Kong students. Unlike all other colleges in China, the International College does not have organizations of the Chinese Communist Party, and political education is not a required subject.[\[7\]](#)

III. Challenges

Central vs. Local Authority

As evident in the substantial variations of provincial regulations, the first challenge to the new regulatory regime for religion is one of local compliance, where local RAB cadres may be unwilling or unable to implement the new regulations. The issue is more than simply local active opposition or passive resistance to central policy objectives. In the constitutional framework of China, provincial and municipal legislatures are vested with legislative powers to enact local laws and regulations, provided these are not in contradiction to the state constitution, state laws and administrative regulations.[\[8\]](#) In the realm of religious affairs, SARA, as a central government agency, has jurisdiction over national and international religious policy, and manages the national-level religious organizations. Local religious affairs, including the registration of religious organizations and venues, falls within the jurisdiction of the local RAB's. As administrative law promulgated by the State Council, the Religious Affairs Regulations is more authoritative than provincial regulations in China's hierarchy of laws when one contradicts the other,[\[9\]](#) but much of the variations noted earlier do not pertain to direct statutory conflict. Shanxi and Henan are not breaching China's Legislative Law if their religious regulations do not stipulate the "Regulations" protection of religious property, as are all six provinces if they do not include the provision for administrative appeal and judicial challenge in their regulations. When cases arise, religious organizations can still base their legal claims on the State Council regulations. The absence of these provisions in provincial regulations does suggest that local authorities

maybe predisposed to safeguard their own power and interest when these conflict with those of religious organizations that the “Regulations” aim to protect.

Bureaucratic Conflict

Second, religious policy in China is no longer only an issue between the RAB’s and the RO’s, but has become increasingly entangled in a complicated bureaucratic web at both the central and local levels where benefits and burdens have to be bargained and turf wars fought. To illustrate the need for multi-agency coordination, the training seminar on “Regulations”, convened in Beijing in late January, 2005 for religious affairs cadres, was jointly organized by the United Front Department, the National Public Administration College, the Organizational Department, the Legal Affairs Office of the State Council and SARA,^[10] while the five regional seminars were organized by the last three agencies.^[11] The policy to provide half-fare for religious students in home visit train-rides during the Chinese New Year was negotiated among SARA, the Ministry of Railway and the Ministry of Education. The notice to offer discount admission for religious personnel at religious tourist sites was not issued by SARA, but by the State Development and Reform Commission.^[12] As will be seen in the paragraph that follows, bureaucratic warfare among RAB and other local government agencies were even more vicious in cases involving religious properties.

Protection of Religious Property

Third, the challenge in protecting religious property involves not only RAB’s and RO’s but also local government agencies with strong vested economic interests. Religious revival combined with growing affluence has increased tourism and temple traffic, while the new authorization for religious venues to receive donations has made temples a lucrative source of revenue. At the same time, urban development has aggravated the need to relocate temples and churches, while the red-hot property market has attracted predators to covet religious real-estate. The problem is complicated by three decades of dogmatic Communist rule which legitimized the seizure of religious property for government use, when *de facto* occupation trumped *de jure* ownership. For many religious shrines, the question of property rights is further exacerbated by investments of local park services and tourist bureaus to build on and renovate these properties. It is thus difficult to sort out ownership, management and user rights, as well as the equity shares of the religious organizations and their new government and non-government tenants.

Recent efforts to resolve conflicts over religious property have been reported in Guangdong province, where three cases of ownership of religious property languishing for more than two decades have been settled in favor of the RO’s.^[13] Jiangxi Province has also reportedly resolved the problems of five prominent Daoist and Buddhist temples, in a two-pronged solution on the ownership, management, and financial problems. For ownership and management, the local township, cultural relics and tourist departments were ordered to return the premises to the local religious organizations. In terms of financial revenue from tourist admissions, the local government is allowed to collect all gate receipts until its total investments are repaid, after which these receipts become the revenue of religious organizations. Religious organizations will collect all religious donations. In cases where local government agencies have currently recovered all its investments, they are permitted to wean their dependence on temple gate receipts gradually, beginning with 50% share in the first year of the arrangement, decreasing their annual shares until the religious organizations will get the total amount.^[14]

In one of the three Guangdong cases, relocation of religious property presents a special knotty problem. The case involves the two hundred year old Fusheng Convent in Guangzhou which was ordered by the city’s urban development, state land administration, and housing agencies to be demolished for urban redevelopment. Contrary to what is stipulated in the “Regulations”, the municipal agencies offered only to replace the land in a site where real-estate prices were much lower. As plaintiff, the local Buddhist association solicited the assistance of the municipal RAB, which insisted that the new religious regulations

stipulate that the developer should also pay for the reconstruction cost of the convent in a land parcel of equivalent size of the RO's choice. After protracted negotiations, the developer finally agreed to the terms of the local RAB and the Buddhist Association.[\[15\]](#)

For both local RAB and religious organizations, the new Religious Affairs Regulations present a great challenge in implementation. For RAB, the task of registering the RV's, in addition to the many new requests for permission to be processed according to new criteria, pose a new set of administrative burden for the local bureaucracy. To meet these new tasks, the RAB's of nine provinces (Guangdong, Jiangsu, Guizhou, Shandong, Hubei, Chongqing, Jiangxi, Hunan, Fujian) receive higher budget and staff personnel allocations. To illustrate the new work load, Jiangsu established a new office of policy and regulations in each of its 13 municipal RAB's, and created the position of office assistants in 1,200 out of 1,400 townships, villages and housing blocks, in effect quadrupling the religious affairs agents from under 500 to close to 2,000 in these basic units. Shanghai seconded 350 local cadres to receive basic seminar training on the new religious regulations and to become certified religious affairs agents.[\[16\]](#)

Conclusion

The "Regulations on Religious Affairs" (November 30, 2004) is a major landmark in religious policy in China in the reform period. It is most comprehensive in scope among the preceding set of national-level government and party documents on religious policy issued in 1982, 1985, 1991, and 1994.[\[17\]](#) It integrates the reform features in provincial religious regulations in the past decade and broadens the scope of liberalization. In terms of specific stipulations, the Regulations provide, for the first time, the rights of the religious organizations to: 1) accept financial contributions from extraterritorial organizations or individuals; 2) produce and print religious publications for internal distribution; and 3) construct large, outdoor religious icons. Going beyond specific stipulations, the Regulations move towards a new regulatory framework that sheds much of the requirements for prior approval by the local Religious Affairs Bureau governing activities on religious venues, religious personnel, and contact with extraterritorial religious organizations. Instead, the new regulatory framework is built on a much softer set of requirements for religious organizations and venues to inform and report to local Religious Affairs Bureaus, and for the latter to supervise and oversee, rather than to approve and rule on specific religious activities.

As shown in the foregoing pages, there has been substantial progress in enacting supplementary regulations at both the central and provincial government levels. Progress has been more notable at the central government level, where national religious organizations are given land and monetary grants to construct national seminaries, authorized to select religious students to receive theological training abroad, inviting foreign theologians to lecture at Chinese seminaries. Religious organizations are also permitted to re-establish their traditional works of charity like orphanages, homes for the aged, medical clinics and YMCA's, as well as venture into new apostolates like caring for autism children. With no Communist Party organized presence or required political education courses, the International College in Zhuhai represents a breakthrough in joint partnerships between Chinese universities and an outside Christian college. The picture is less clear at the local level, where local officials have jurisdiction over local religious affairs, and where both more authoritarian and liberal provincial regulations have been promulgated.

It is too early to decipher the magnitude of the impact of the new Regulations. But the direction is clear. In both statutory enactment as well as policy implementation, and at both the central and provincial levels, the overall trend has been one of the increasing institutional autonomy of religious organizations, greater protection of religious organizations, venues and personnel. Even for the more authoritarian provinces, no retrogression towards greater restriction on religious freedom is evident either in the legislative stipulations or policy enforcement of its new provincial regulations. To date, a great majority of provinces has not enacted new religious affairs regulations, but for the six that have, they promise an even more benign milieu for religion in China.

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[1] Central Committee of the Chinese Communist Party, "The Basic Viewpoint and Policy on the Religious Question during our country's socialist period," Document 19 (March 31, 1982), in Mickey Spiegel and James Tong eds., *Chinese Law and Government* (March-April, 2000), pp. 17-34.

[2] "Xin Fagui, Xin Jinzhan – 'Zongjiao shiwu tiaoli' shisi yinianban zongshu" [New Regulations, New Progress – General report on the implementation of the "Religious Affairs Regulations" after one and a half years], SARA, unpublished memo, circa June 2006 (hereafter SARA, 2006), p. 2.

[3] SARA (2006), p. 2.

[4] SARA (2006), p. 2.

[5] *Ibid.*, p. 6.

[6] *Ibid.*, pp. 2-3.

[7] Personal communications with the Executive Vice President of the International College, August, 2005.

[8] "The Legislative Law of the People's Republic of China", Art. 33.

[9] *Ibid.*, Art. 79.

[10] Xinhua, Beijing, January 26, 2005.

[11] *Zhongshan ribao*, January 14, 2005; *Shaanxi ribao*, January 30, 2005.

[12] SARA (2006), pp. 2-3.

[13] SARA (2006), p. 3.

[14] SARA (2006), p. 5.

[15] SARA (2006), p. 10-12.

[16] SARA (2006), pp. 6-7.

[17] James Tong, "A New Framework for State-Religious Relations: the egulations on Religious Affairs in China, March 2005", presented at the Forum on China's Regulations of Religious Affairs, Fuller Seminary, Pasadena, California, March 2, 2005, p. 19.