

The State Council Publishes a Draft Revision of the “Regulations on Religious Affairs”

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The “Regulations on Religious Affairs” published in 2004 and in force since March 1, 2005 are the basic administrative legal norms for the State’s dealings with the religions (a law for religion, as some are requesting, does not exist). The revision has been in preparation by the State Administration for Religious Affairs (SARA) for some time. On September 7, 2016 the Legislative Affairs Office of the State Council of the People’s Republic of China published a draft of the revision of the “Regulations on Religious Affairs” on its website for public review. The same website carries explanations of the law. Registered users could give their opinions there up till the end of the hearing period, October 7, 2016.

The new version is considerably longer than the previous one. It has 9 chapters with 74 articles (previously: 7 chapters with 48 articles). According to the attached explanations, 36 articles were modified, 26 new ones added, 12 retained without change. Additional chapters have been added for the institutes for religious education and for religious activities respectively; these topics were formerly included in other chapters, meaning they have been upgraded. The significance of the institutes for religious education, especially, has come more strongly to the attention of the authorities due to their key role in training the religious clergy and the interpretation of religious doctrine, also in view of the “Sinicization” required of the religions (cf. also the “News Update on Religion and Church in China” in this issue, entries of July 10 and July 14-15, 2016).

The following preliminary remarks can only point out some of the numerous, planned changes.

Many commentators outside China regard the main objective of the draft revision as stronger control of the religions. A tougher approach can already be seen in Chapter 1 (General Provisions): The newly added Article 3 lists as the principles of the management

The text of the *Zongjiao shiwu tiaoli xiuding cao'an (songshen gao)* 宗教事务条例修订草案 (送审稿) (Draft for the Revision of the Regulations on Religious Affairs [Deliberation Draft]) was published on a platform for soliciting public opinion on draft laws on the website of the State Council’s Legislative Affairs Office (<http://zqyj.chinalaw.gov.cn/index>); in order to get access to the text, one has to register as a user first. On the same website, explanations of the draft are to be found at <http://zqyj.chinalaw.gov.cn/draftExplain?DraftID=1269>. The Chinese text and an informal English translation are offered on the website of China Law Translate at <http://chinalawtranslate.com/religious-regulations/> and <http://chinalawtranslate.com/religious-regulations/?lang=en>. – This article was first published under the title “Staatsrat veröffentlicht Revisionsentwurf der ‘Vorschriften für religiöse Angelegenheiten’” in *China heute* 2016, No. 3, pp. 140-142.

of religious affairs “protecting what is lawful, prohibiting what is unlawful, suppressing extremism, resisting infiltration, and fighting crime”. Endangering national security, creating conflicts within or between religions, as well as terrorist activities have been added to the catalogue of activities for which religions may not be used (Article 4). Article 6 adds that governments at all levels are to strengthen the guidance of religious work and are to be supported from the basis by villagers’ and residents’ committees.

The role of the religious organizations (*zongjiao tuanti* 宗教团体) is strengthened in the draft revision. The term is not defined in the document. However, since in the Chinese management of religious affairs this term generally refers to the official mass organizations of the 5 recognized religions initiated by the government and coming under the SARA (i.e. Chinese Buddhist Association, Chinese Daoist Association, Chinese Islamic Association, Protestant Three-Self-Movement and Chinese Christian Council, as well as the Chinese Catholic Patriotic Association and Chinese Bishops’ Conference [which is not recognized by Rome], as well as their local branch offices), their reinforcement gives the competent authorities extended means for steering religious affairs. Most of all, this strengthens the national SARA, which according to the opinion of some commentators has expanded its power with the draft revision.

The newly included Article 8 lists for the first time the functions of the religious organizations to which belong, among others, the formulation of religious rules, the interpretation of religious doctrines and the “construction of religious thinking” (Article 8.3 and 8.4). The version valid until now had no statement on who is responsible for the formulation and interpretation of religious doctrine and rules, but took them for granted. Article 10, also new, determines that institutes for religious education and sites for religious activities, as well as religious personnel have to accept the system of religious rules determined by the respective religious organization.

Different religious groups have for a long time been demanding that religious institutions be able to apply to register as a legal person in order to gain legal capacity. In the draft revision this is now provided for institutes for religious education and sites for religious activities (Articles 14 and 23) – for the latter, however, only with the approval of the religious organization.

According to both the current regulations and the draft revision, recognition of the religious clergy lies within the competence of the religious organizations, however, a new addition is the express prohibition that whoever does not have the status [as recognized by the religious organizations] of religious professional may not engage in activity as a religious professional (Article 36, para. 4). Altogether the draft revision contains more such express prohibitions than the previous version. For example, in the current regulations it merely states (according to the Constitution Article 36), that religion may not be used to interfere with the educational system of the State. Article 44 of the draft revision now explicitly forbids proselytization, religious activities and the establishment of religious groups in State schools and universities.

The Chapter “Religious Assets” has also been expanded, among other things in connection with the requirements of financial management and its supervision by the competent authorities. Corresponding provisions have actually existed for some years in

the form of the “Measures for the Supervision and Administration of Financial Affairs of Sites for Religious Activities (For Trial Implementation)” issued by SARA in 2010. Article 57 contains a newly added provision saying that donations from foreign organizations or individuals that exceed 100,000 yuan [in October 2016 = approx. 13,600 Euro] must be reported to the religious affairs department at the county level or above. According to Article 53, para. 2 it is prohibited to invest in religious sites or large outdoor statues or to contract out their management commercially. This provision refers mainly to certain practices of tourism departments and tourism companies in dealing with Buddhist and Daoist temples, the control of which has long been on SARA’s agenda.

A number of topics newly introduced into the revision draft hark back to recent social changes and discussions. Especially significant here are the provisions for religious Internet information services whose influence has greatly increased over the years (Articles 47 and 48).

In future all local governments are to consider the needs of religious citizens in their land use plans and urban and rural planning (Article 32), and where needed, temporary sites for [religious] activities can be approved (Article 35) – both urgent issues, given the rapid and extensive restructuring and expansion of the Chinese cities.

The legal consequences in the case of violations of the regulations are set out in the chapter “Legal Responsibility” that has also been considerably expanded in the draft revision. To mention one, the newly added Article 68 mandates measures for “where conditions are provided for unlawful religious activities.” These measures range from warnings or fines of between 20,000 and 200,000 yuan to the destruction of illegal buildings and administrative sanctions. This provision seems to be aimed at owners of property who make rooms available for meetings of non-registered religious groups. Religious personnel are subject to sanctions if they preside over unapproved religious activities outside of religious activity sites (Article 70.4).

Article 67 goes very far where it includes legal consequences for the unauthorized organizing of religious citizens to participate in religious training, meetings or activities outside the country. An explicit prohibition of unauthorized trips abroad has up till now only applied to pilgrimages to Mecca (this also in conjunction with Saudi regulations). However, partial travel restrictions set by authorities have also been reported in several other cases (e.g. for the Catholic World Youth Day and for the Asian Youth Day; cf. “News Update,” entry of July 26–31, 2016). For overseas studies for religious personnel the agreement of the respective religious organization is required as before (Article 9).

Many topics that have been newly included in the draft revision have been discussed earlier or regulated by subsidiary legal norms. The strengthening of the role of the religious organizations (and with them of the SARA) was to be expected, after the Party’s Central Commission for Discipline-Inspection, following an evaluation of the SARA in June 2016, advised effective strengthening of the monitoring and management of the national religious organizations (cf. *RCTC* 2016, No. 3, pp. 17-18). Thus the draft revision brings hardly any real surprises. But it limits further the still existing leeway for religious activity and gives more concrete means for the authorities to intervene. This concerns

especially the non-registered, non-official religious groups but also the freedom to act of the registered, official groups, as well as contacts overseas.

It is not yet clear whether the State also perhaps intends to intervene more strongly than before in the teachings of the religions. In his keynote speech at the National Conference on Religious Work on April 22–23, 2016, Xi Jinping said, “the religions are to be supported in [...] interpreting the religious rules and doctrines in such a way that they correspond to the requirements of the developmental progress of present-day China and of the excellent traditional culture of China.” In the same speech, Xi reaffirmed his call for the “Sinicization” of religions, already mentioned.

For the current Sino-Vatican negotiations, where the question of appointment of bishops is one of the main problems to be solved, Article 70.2 of the draft revision will probably present a challenge. It threatens legal consequences for religious clergy who “accept domination by external forces” or “accept nomination for a religious office from a foreign religious organization or institution without authorization.” This clause, together with other signals such as the abduction of the coadjutor bishop of Wenzhou appointed by the Pope (cf. “News Update”, entry of September 7, 2016), is a hint that along with the positive signs of rapprochement (e.g. the gift from President Xi to Pope Francis, cf. “News Update”, entry of October 2, 2016) there are also strong tendencies and forces in the opposite direction.

It remains to be seen whether the revised “Regulations on Religious Affairs” will be adopted in their current form, or whether in consideration of results of the public review of opinion they will be decisively modified.