



Analysis on China's Revised Regulations on Religious Affairs

I. Background and Rationale of the 2018 Regulations

The original Regulations on Religious Affairs (the “2005 Regulations”) was promulgated by the State Council in December 2004 and implemented in March 2005. During its implementation from 2005 to 2017, the biggest problem was its ineffectiveness in regulating religious relations and properly handling religious issues.

Since the Eighteenth National Congress of Communist Party of China (“CPC”), President Xi Jinping and the core leadership of the CPC have laid great emphasis on the legitimate management of domestic religious affairs. In a national meeting in 2016, Xi highlighted a need to legalize and strengthen an administration on religious affairs, which includes stipulating clear resolutions on religious issues recognized by society.

In response to the central government’s call to comprehensively promote the rule of law, and to avoid being dismantled during this process of transformation, the National Religious Affairs Administration submitted the draft revision to 2005 Regulations to the State Council in June, 2016. Because of complaints by religious organizations, it took almost one year to modify and finalize the draft as the 2017 version, which came into effect on February 1, 2018 (the “2018 Regulations”).

The rationale behind this revision, as [Reuters](#) put it, is that President Xi has emphasized the need to guard against foreign infiltration through religion and to prevent the spread of “extremist” ideology while being tolerant of the Chinese traditional faith, which he deems a salve to social ills.

II. Distinctions between 2005 Regulations and the 2018 Regulations

A. Expansion of Enforcement Power of Relevant Authorities

1. Expansion of Enforcement Power of the Religious Affairs Departments

During the implementation of the 2005 Regulations, local religious affairs departments could hardly enforce them without the assistance of public securities bureaus, and usually they rendered sanctions based on the Administrative Regulation on Public Security, rather than on the 2005 Regulations. However, the enforcement of the 2018 Regulations required a new implementation strategy. According to Article 66 and Articles 69 to 73 of the 2018 Regulations, the enforcement power of the religious affairs department has been significantly expanded so that they may impose administrative penalties independent of public securities or any other authorities.

2. Devolution of Administrative Powers to the Lower Levels

According to the 2018 Regulations, local religious affairs departments are given the power to (1) determine registration applications (Article 21), (2) to authorize venues as places of worship (Article 35), and (3) to manage religious teachers and staff members (Article 18).

Furthermore, according to Article 6(3), governments at the township level shall complete efforts for the management of religious affairs within their own administrative areas. Villagers' committees and residents' committees shall assist local governments in managing religious affairs.

3. More Authorities Involved in the Administration of Religious Affairs

According to the 2018 Regulations, there are up to 16 departments and authorities involved in the administration of religious affairs.

For instance, taxation authorities shall lawfully enforce tax law on religious groups, religious institutions, venues for religious activities and religious teachers (Article 59); the finance and taxation authorities shall punish religious groups, religious institutions, and venues for religious activities that violate relevant regulations of the State on finance, accounting, assets and taxation; in serious cases, the finance and taxation authorities may propose that the registration authorities or the approval authorities revoke the registration certificates or the licenses for establishment thereof (Article 67); where a non-religious group, non-religious school, non-religious activity venue, or venue not designated for temporary activities organizes or holds religious activities or accepts religious donations, the religious affairs department, together with the departments for public security, civil affairs, construction, education, culture, tourism, cultural artifacts, and so forth, will order it to discontinue the activities and will confiscate the unlawful gains and illegal assets, if any; and may give a fine of between one and three times the value of unlawful gains; where

it is not possible to determine the unlawful gains, a fine of up to 50,000 RMB is given; and where a crime is constituted, criminal responsibility is pursued in accordance with the law (Article 69(2)).

B. Additional Limitations Imposed on Church Activities

The 2018 Regulations contain 30 more articles than the 2005 Regulations. New limitations were added in Chapter II through Chapter VII of the 2018 Regulations, including deeming house churches illegal and ordering them to be closed down, prohibiting minors under the age of 18 from attending any church activity, and adding criminal penalties for violations of the 2018 Regulations.

1. Chapter II Religious Groups

Article 9 specifies that any organizations or individuals other than national and provincial-level religious groups shall not send or accept religious students studying overseas.

2. Chapter III Religious Schools

The newly added Article 11 stipulates that religious schools can only be established by national and provincial-level religious groups. Any other organizations or individuals must not establish religious schools.

The newly added Article 14 to Article 18 specify several aspects regarding religious schools, including their registration as legal persons, change of registration matters, merger, division and dissolution, licenses and certification of teachers, employment of foreign teachers and approval of religious training. Particularly, Article 17 specifies that religious schools shall apply to the National Religious Affairs Administration for approval before hiring foreign professional staff.

3. Chapter IV Religious Activity Venues

Article 19 stipulates that standards for distinguishing temples, churches and other permanent religious activity venues are to be formulated by provincial-level religious affairs departments, and filed with the National Religious Affairs Administration.

There are more activities that require pre-approvals from the religious affairs departments in the 2018 Regulations. For instance, Article 33(1) rules that reconstruction or construction of buildings on religious activity venues requires approval by the religious affairs department at the county level or above; and Article 35(1) specifies that where religious citizens need to regularly conduct collective religious activities, but don't possess the conditions for applying to set up religious activity venues, a temporary activity venue may be designated after approval by county-level religious affairs departments.

4. Chapter V Clerical Personnel

Article 36(3) specifies that those who have not obtained or have lost clerical personnel credentials shall not engage in activity as clerical personnel.

5. Chapter VI Religious Activities

Article 41 is tailored for the control and suppression of unregistered Christian house churches, which stipulates that non-religious-groups, non-religious-schools, non-religious-activity-venues, or non-designated-temporary-activity-venues must not hold religious activities and must not accept religious donations; and non-religious-groups, non-religious-schools, and non-religious-activity-venues must not carry out religious training and must not organize citizens to participate in religious training, meetings, and other activities overseas.

Article 44 bans any missionary work, religious activity, and establishment of religious organizations or religious activity venues in any schools or educational institutions other than religious schools.

Article 46 regulates the import of religious materials, while Article 47 and 48 strictly restricts online religious information where any online religious information service providers must be pre-approved by provincial-level religious affairs departments.

6. Chapter VII Religious Assets

Articles in this Chapter seem to be aimed at legalizing and acknowledging the ownership of property of churches and other religious organizations. However, from other aspects, these articles have voided any ownership of property for unregistered religious organizations, including house churches all over the nation. Even for religious groups, religious schools, and religious activity venues, any conditional donations from overseas are restricted, and to accept donations of more than RMB100,000 (around \$15,900) requires approval by religious affairs departments at the county level or above according to Article 57.

Article 56 expressly forbids any organizations or individuals from doing missionary work through charitable activities.

C. More Rigorous Sanctions and Punishments Imposed on Clerical Personnel and Religious Organizations

The sanctions and punishments in the 2018 Regulations are more rigorous and specific than the previous 2005 Regulations. For instance, pursuant to Article 69 (2), where a non-religious-group, non-religious-school, non-religious-activity-venue, or non-designated-temporary-activity-venue organizes or holds religious activities or accepts religious donations, the religious affairs department, together with the departments for public security, civil affairs, construction, education, culture, tourism, cultural artifacts, and so forth, shall order it to discontinue the activities and confiscate the unlawful gains and illegal

assets, if any; and may give a fine of between one and three times the value of unlawful gains; where it is not possible to determine the unlawful gains, a fine of up to 50,000 RMB can be given; and where a crime is constituted, criminal responsibility is pursued in accordance with law.

Furthermore, Article 73 and 74 has provided a way out for the prosecution against clerical personnel based on Article 300 of Criminal Law for “organizing and utilizing evil cults to obstruct law enforcement.”

III. Influence on Christians and House Churches

Since the 2018 Regulations came into effect on February 1, 2018, the government has imposed increasing pressure on Christians and house churches. Empowered by the 2018 Regulations, many local religious authorities fiercely harassed, intimidated and oppressed Christians in house churches by suspending church meetings, detaining Christians, and even prosecuting them criminally. It turns out that the discretion given to the local government to arbitrarily interpret and implement the 2018 Regulations is far more worrisome than the articles of the 2018 Regulations itself.

A. Restriction on Places for Gathering

Provisions on places of gathering are mainly found in Chapter IV of the 2018 Regulations (i.e. Article 19-35). Among other things, Article 21 of the 2018 Regulations requires that religious groups register with and receive approval from the government before they can apply for a permit from the local religious affairs department to practice religious activities at their venue. According to this article, only legal religious groups have rights to register with the government and build permanent religious activity venues. And according to Article 7, any religious groups must be first recognized by the government to be a legal religious group. House churches are not legal religious groups recognized by the government, which makes it impossible for them to obtain such approval to build a legal and permanent venue for gathering.

Another alternative for house churches is to apply for a “temporary activity venue” as informal religious groups that have not registered with the government. However, this means that the house churches probably need to sacrifice their independence because temporary activity venue requires that the house churches obtain approval from the local government-held churches according to Article 35.

Yet the house churches and the government-held churches have been coexisting for years. The majority of Chinese Christians attend house churches because they want to worship God freely without the government’s intervention on who can preach, how they can be baptized, or how to spend their donations. Most house churches have refused to submit to

the authority of the government-held church because it is highly questionable whether the house churches can still maintain their independence.

This dilemma of house churches is that the 2018 Regulations renders all house church activities illegal in accordance with Article 69 and Article 71. This also gives the government and local religious affairs departments an excuse to shut down house churches in China or arbitrarily use other means to physically destroy the buildings of house churches. For instance, in one of the districts of Nanyang, a city in the Henan Province, 31 house churches were shut down within the first week of the implementation of the 2018 Regulations, and over a hundred were closed down across the whole city.

Another example, the largest urban church in Beijing, the Zion Church, is currently facing severe challenges under this new law. In March, the landlord requested that the church install surveillance cameras inside and outside, which the church rejected. Afterwards, many church members have been harassed, pressured, or even threatened by their landlords, neighborhood committees, employers, public security bureaus, and other authorities. The church was slandered as an illegal gathering, a politically incorrect activity, and even an evil cult. Then in May, the church received notice from the landlord that the lease for its meeting place, which should continue for an additional 5 years according to the contract, would end by August. The bookstore and cafe shop, which were operated legally for several years by the church, were also forced to shut down. By August, all seven gathering places of the Zion Church have been closed down by the government.

B. Prohibition on Minors' Religious Practice

In the 2018 Regulations there is no provision stating that minors are forbidden from participating in any religious activities. However, it leaves the local government to implement this regulation to the strictest extent. The 2018 Regulations only states that unregistered religious groups, such as house churches, are deprived of the right to provide religious training (Article 69 and 70(1)) and the right to preach the Gospel in educational institutions other than religious institutions (Article 70(2)). Because the 2018 Regulations give discretion to the local governments to arbitrarily interpret and implement them, many local governments have held that the 2018 Regulations mean to forbid any minor from taking part in any religious activities, including Sunday schools held by churches.

For instance, on a Sunday morning in late June 2018, the local authorities broke into a church service in Zhengzhou, Henan Province, China and demanded that children under the age of 18 leave the service immediately, including infants. Similar incidents have happened during church services in many cities around China.

Moreover, preaching a sermon is equated to religious education according to the implementation of many cities, making it impossible for minors to enter even government approved registered churches, not to mention house churches. More and more registered churches are putting out signs that say "No Minors under 18" at their entrances.

In some schools, even religious discussions or individual prayers are interrupted, and the individuals involved face school discipline. Some Christian celebrations, such as Easter and Christmas, were prohibited at schools and Universities in China to make young people resist the “corrosion of Western religious culture.”

C. Regulation on Foreigners Holding/ Participating in Religious Activities

The 2018 Regulations do not say much about the restriction on foreigners. It mainly stipulates that all religions shall adhere to the principle of independence and self-operation; religious groups, religious schools, religious activity venues and religious affairs shall not be dominated by foreign influence. Additionally, Article 17 specifies that religious schools shall apply to National Religious Affairs Administration for approval before hiring foreign professional staff.

Nonetheless, the Implementation Measures for Part of the Administration Licensing Items in Relation to Religious Affairs, effective on the same date as the 2018 Regulations, together with the Rules on the Management of Religious Activities of Foreigners within the Territory of the People's Republic of China (still effective and applicable, the “Rules”) and the Implementation Guidelines thereof (still effective and applicable, the “Guidelines”), have reflected the attitude of the government when it comes to foreigners involved in religious affairs. Briefly speaking, there are several activities requiring pre-approvals by local religious affairs departments, including religious schools hiring foreign professionals, accepting donations from foreign organizations or individuals, bringing in religious materials when coming to China and inviting foreigners to preach in China. Besides these items that require administrative permits, the Rules and Guidelines also regulate religious activities held by foreigners coming to China. The Chinese government tends to ban all missionary activities (such as preaching and teaching the Gospel) and materials brought by foreigners.

The Rules and Guidelines will probably be substituted by the newly drafted Administration Measures on Collective Religious Activities of Foreigners in China (“Draft Measures”), issued on May 7, 2018. Control over religious activities of foreigners tends to get much tighter according to the Draft Measures. For example, the Draft Measures require "collective religious activities" of more than 50 people organized and attended by foreigners to be held at temporary locations approved by provincial-level religious authorities which must be renewed after one year. Additionally, personal information of all foreigners who propose to participate in collective religious activities at the temporary location must be provided upon application for the temporary location.

D. Oppression on Religious Education

It is expressly stated in Article 11 of the 2018 Regulations that, other than national or provincial-level religious groups, no organization or individual may establish religious schools. According to this provision, any existing religious school or institution not

established by national or provincial-level religious groups shall be deemed as illegal.

Furthermore, the interpretation of the 2018 Regulations remains a question. What is the definition of religious education? Shall an elementary school that uses Christianity-based textbooks, or only employs Christian teachers, or only recruits children from Christian families be regarded as a religious school? These questions are currently arbitrarily decided by local religious authorities, who tend to interpret the 2018 Regulations in a harsh way.

For example, kindergartens or study groups established by local house churches were shut down by authorities. Sunday schools were forced to shut down or changed to other completely non-religious types of class, like drawing or crafting. Some places even consider preaching and sermons as another form of religious education, making it impossible for minors to enter any churches, registered or unregistered.

E. Enforcement Power of Religious Affairs Departments

The 2018 Regulations have greatly expanded the enforcement power of the religious affairs departments so that they may impose administrative penalties that are independent of public securities or any other authorities. A wide sweep of house churches have been shut down, some with imposed fines as high as RMB50,000.

For instance, since the end of 2017, several house churches in Zhengzhou, including Zhengzhou Muen Church (郑州沐恩堂), Zhengzhou Glory Family Church (郑州荣光之家), Zhengzhou Heads of Grain Church (郑州谷穗教会) (“Grain Church”), Zhengzhou Jiaquan Church (郑州佳全教会) (“Jiaquan Church”), Zhengzhou Dongming Road Church (郑州东明路教会), Zhengzhou Enfu Church (郑州恩福堂), Henan Xinyang District I Church (河南信阳市一教会), and Henan Tanghe Church (河南唐河教会), have been ordered by the religious authority to be shut down and banned from holding any religious activities in accordance with Article 41 and 69 of the 2018 Regulations. Guangzhou Reformed Bible Church (“Reformed Church”) was also fined RMB50,000 for holding religious activities according to Article 41 and 69 of the Revised 2018 Regulations by the local religious authority on June 20.

F. Penalties and Sanctions – Detention, Fines and Criminal Penalties (Based on Article 300 of Criminal Law)

Before the 2018 Regulations, the sanctions and punishments the government rendered were mainly administrative detention and re-education through labor. After the implementation of the 2018 Regulations, house churches and Christians, especially leaders of house churches, will be subject to detention, heavier fines and even criminal penalties. Articles 69 and 74 have even provided a way for prosecution based on Article 300 of Criminal Law of PRC for “organizing or utilizing evil cults to obstruct law enforcement.”

The name of one cult has been frequently used by the police to attack orthodox Christians

in house churches. For instance, on October 21, 2016, a mass crackdown on local Christian groups was launched across Yunnan Province. More than 200 people have been detained, and 27 of them faced criminal prosecution under Article 300 of the Criminal Code for “organizing or utilizing evil cults to obstruct law enforcement.” These Christians were falsely accused of practicing “Three Grades of Servants,” one of the evil cults designated by the National Public Security Bureau. The accused Christians are either missionaries or local believers. The alleged criminal conduct includes sharing the gospel, preaching, praying, and spreading evil cult related materials. After being detained and deprived of their freedom for over 400 days, the accused Christians were tried in 6 local courts and sentenced to imprisonments spanning 1.5 to 13 years.

IV. Responses of House Churches

The responses of the house churches have varied from church to church. Some have gathered in the form of smaller groups, changed the time of their gathering, or temporarily suspended their Sunday schools, while others tried to guard their freedom of religion through writing open letters and taking legal actions.

For instance, recently more than 400 Chinese house church leaders have signed the Declaration for the Sake of the Christian Faith, which openly condemns the Chinese government’s persecution of Christians and reiterates an obligation to continue teaching the Bible regardless of government oppression. Also, house churches, such as Grain Church, Jiaquan Church and Reformed Church, have filed applications for administrative review and administrative litigation against the actions of the local governments.

Although the situation has not changed immediately after these open declarations and legal actions, house churches seem to be more united and eager to pray together during this difficult time. Many house churches deem it as an opportunity to testify publicly for Jesus and His Kingdom when they speak up and take legal action to guard their religious rights. In this sense, the process itself has been just as important as fighting for results.