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Global View on Religious Freedom in China

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May 30, 2006

Brussels, European Parliament

Freedom of Religion and Belief in China The Regulatory Framework

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Despite some claims of Chinese government pointing to changes in policies with regard to expression of religious beliefs, the stance of China towards freedom of religion has remained ambivalent. This ambivalence is encoded in the country's **Constitution. Article 36** states that:

- (1) Citizens of the People's Republic of China enjoy freedom of religious belief.
- (2) No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.
- (3) The state protects normal religious activities. No one may make use of religion to engage in activities that disrupt the public order, impair the health of citizens or interfere with the educational system of the state.
- (4) Religious bodies and religious affairs are not subject to any foreign domination.

On one side, the constitution protects "normal" religious activities without providing a clear definition of what is to be considered normal. On the other side, it prohibits religious activities that impair public order, health, or education and proscribes "foreign domination" of religious bodies and religious affairs without clearly defining the scope of such activities. Moreover, the freedom to express one's religion through activities is not guaranteed by the constitution. This has been noted by the *U.N.*

Working Group on Arbitrary Detention, which in its 2004 report reiterated its recommendation that the constitution be revised to include such a guarantee.

The international legal obligations that China has assumed towards freedom of religion are unequivocal. The **Universal Declaration of Human Rights (UDHR)**, an international instrument all U.N. member states accept, and which has attained the status of customary international law, guarantees persons the right to manifest their religion "either alone or in community with others and in public or private," the right to be free from discrimination based upon religions, and the right to be free from unnecessary and arbitrary government regulation in exercising religious beliefs.

China is signatory to the **International Covenant for Civil and Political Rights (ICCPR)**, although it has not yet ratified it. The ICCPR protects the right of the individual to "have ... a religion or belief of his choice, and [the] freedom, either individually or in community with others and in public or in private to manifest" it. The Covenant commits signatories to ensuring freedom of religion and also commits them not to practice discrimination on the basis of religion.

In practice, the government of China recognizes five religions which it monitors through "patriotic associations:" the *Chinese Buddhist Association*, the *Catholic Patriotic Association*, the *Protestant Three-Self Patriotic Movement*, the *Chinese Islamic Association* and the *Chinese Daoist Association*. All religious groups must register with the appropriate religious organization.

According to Regulation 145, "**On Management of Places for Religious Activities**" issued by the *Religious Affairs Bureau of the State Council* in January 1994 and according to the "**Regulation Procedures for Religious Activities**" issued in May 1994, applicant groups must have a professional religious leader approved by the relevant patriotic association, a fixed meeting point and activities confined to a specific area. Any unregistered activity is illegal and may be prosecuted under the "**Regulations Governing Public Order Offenses**" which was amended in 1994 to include "Carrying out activities under the name of a social organization without registration," "organizing activities of superstitious sects and secret societies to disrupt public order," and "disturbing public order and damaging people's health through religious activities."

The registration of particular religious groups is a prerogative of the state. For each of the five officially recognized religions, there is a government-affiliated association that monitors and supervises its activities. The *State Council's State Administration for Religious Activities* (SARA) is responsible for monitoring and judging the legitimacy of religious activity. The SARA and the *CCP United Front Work Department* (UFWD) provide policy "guidance and supervision" on the implementation of government regulations regarding religious activity, including the role of foreigners in religious activity.

Therefore, despite its international commitments, China's policies and practices are in direct violation of international norms and standards. The main reason for this is the fact that the Government seeks to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of activities of religious groups. It can be assumed that in this way the government is

trying to prevent the rise of groups that could constitute sources of authority beyond its sphere of influence.