

1 September 2005

CHINA: Is central or local government responsible for religious freedom violations?

By Magda Hornemann, Forum 18

On 2 August 2005 public security officials in Hubei province raided a meeting of Protestant house church leaders, while on 1 August in Xinjiang region authorities arrested a Muslim instructor and 37 of her students. A week earlier, police raided a Mass held by a Vatican-loyal Catholic priest in Fujian region. A central problem in analysing the relationship between the central government and the local authorities in implementing state religious policies and regulations is how difficult it is to determine how far such religious freedom violations are a result of central government directives and how far they reflect the initiatives of provincial and sub-provincial officials. Forum 18 News Service notes that while the central government sets religious policy, local officials are responsible for implementing it and enjoy wide latitude. Anecdotal accounts suggest that local authorities have perpetrated religious freedom violations to serve the financial and political interests of local officials, who are often judged solely on how successful they are in achieving economic progress.

The role of Chinese local authorities in religious freedom violations is often documented. On 2 August 2005, local public security officials in the province of Hubei raided a fellowship of 41 Protestant house church pastors and members, which included two American seminarians, in a private house. The China Aid Association reported that the two Americans were released after seven hours of interrogation, while the 41 Chinese Christians were briefly imprisoned and some were beaten by prison officials.

On 1 August, authorities in Xinjiang arrested a Uyghur Muslim religious instructor and 37 of her students. According to the World Uyghur Congress, Aminan Momixi was teaching the Koran to students between the ages of 7 and 20 in her home when police rushed in. They accused Momixi of "illegally possessing religious materials and subversive historical information" and reportedly denied her access to a lawyer. On 20 July, a few weeks before this incident, the Uyghur Human Rights Project reported that police in central Xinjiang detained three Uyghurs for possessing the Mishkat-ul Misabih, a religious text describing the life and work of the Muslim prophet Muhammed.

On 25 July, the Cardinal Kung Foundation reported, police in Fujian province raided the home of Father Lin Daixian, a priest of the underground Catholic Church loyal to the Vatican, where he was celebrating Mass. Police ransacked his home and detained him. Also arrested were a seminarian and nine parishioners. Several of those present were beaten and injured in the violent raid, before the priest and his companions were taken to a local prison.

Other than the obvious fact that all these incidents were religious freedom violations, the common factor is that local authorities were the primary culprits. Indeed, it is by now conventional wisdom that significant regional variations characterise the pattern of religious freedom violations. Although this conventional wisdom is not supported by any data produced by systematic surveys, anecdotal evidence generally supports this observation.

For example, in Henan and Hebei provinces - where unregistered Christian communities, both Protestant and Catholic, proliferate - countless attacks by local authorities against members of these communities have been recorded. It is also common knowledge that the Shanghai municipality has the strictest regulations on religious affairs and one of the most active governmental enforcement of these regulations in all of China. Yet similar reports of state repression have not surfaced in other parts of the country. Moreover, the patterns of religious freedom violations even lack uniformity within the provinces mentioned above.

Likewise, it is well-known that the provincial and sub-provincial authorities in Xinjiang and Tibet have adopted particularly harsh measures against the indigenous Uyghur Muslims and the Tibetan Buddhists. The repression of the Uyghurs and the Tibetans is particularly highlighted by the fact that Muslims and Buddhists in other parts of China have not faced the same harsh treatment from the state. For example, scholars and experts have noted that the Hui Muslims in Ningxia have not faced similar restrictions from the local authorities over both access to religious education for children and the construction of religious buildings as their Uyghur counterparts in Xinjiang.

One can certainly argue that the repression against these ethnic minorities is centrally inspired by the national leadership in Beijing. Indeed, the various provincial-level regulations on religious affairs show remarkable uniformity with the regulations promulgated by

the central government and with each other. In 2003, the periodical "Chinese Law and Government" published the official religious affairs regulations for Beijing, Shanghai, Guangdong, Jiangsu, and Liaoning. While these regulations differ from one another in length and details, their core contents share a similar focus.

For example, all five provincial-level regulations include sections concerning religious bodies, religious personnel, religious sites and activities, religious properties, and exchanges with foreign co-religionists. These content divisions correspond very well with those of the 2004 religious affairs regulation promulgated by the Chinese central government. Some provincial-level regulations make more specific references to religious publications and religious educational institutions, but directions on these issues are included in all the regulations. In addition, all the regulations prescribe fines for violations of the provisions in the regulations, although the fines vary between 50 to 50,000 Renminbi (40-40,000 Norwegian Kroner, 5-5,000 Euros, or 6-6,000 US Dollars) depending on the nature of the violations.

All the regulations made specific references to key legal requirements that are stipulated in the religious affairs regulations promulgated by the central government. For example, Article 6 of the 2004 national religious affairs regulations implicitly stipulated that religious organisations are social bodies and therefore shall register in accordance with the provisions in the "Regulations on the Management and Registration of Social Bodies" (Shehui Tuanti Dengji Guanli Tiaoli). Similarly, all the provincial-level regulations mentioned above include the legal requirement that religious organisations must register as social organisations with the appropriate state agencies, after gaining approval from the relevant state religious affairs agencies.

In this case, the uniformity of the legal provisions among the different provincial regulations extends to their precise wording. Article 6 of the religious affairs regulations of the Beijing municipality stipulates "religious bodies, after getting approval from the departments of religious affairs of the city, districts, and counties, shall register themselves with corresponding social group registrars". Likewise, the regulations promulgated by the Guangdong provincial government stipulate: "After getting approval from the department of religious affairs of the people's government at or above the county level, [the religious body] shall register with the social body registrar of the government."

Despite the uniformity in the contents of the provincial-level religious affairs regulations and their correspondence with the central government regulations, it is important not to overlook the enormous powers and responsibilities that have been given to the provincial and sub-provincial authorities in implementing these legal principles. For example, Article 5 of the 2004 national religious affairs regulations stipulates that the responsibility to administer and manage religious organisations is within the domain of the local authorities above the level of the county (xian). In fact, only in a few cases – such as the establishment of religious educational institutions, the construction of large-scale religious images, and the appointment of Catholic bishops – is it necessary to report local decisions to central government, let alone obtain the approval of central government.

As Jiangsu province's religious affairs regulations - which were ratified by the provincial congress in February 2002 - clearly indicate, local authorities have direct responsibility for managing religious affairs. Article 6 of the regulations stipulates: "Local governments' religious affairs bureaus of all levels higher than county level authority are in charge of religious affairs within their respective administrative regions. All other related departments should carry out their duties in working together to effectively handle religious affairs." This provision is also included in the religious affairs regulations of Liaoning province, which was ratified in 1998.

Provincial authorities have considerable discretion in enforcing religious affairs regulations and policies. This is confirmed by the stipulation contained in all five provincial regulations that these regulations were formulated, in addition to the Chinese Constitution and other relevant laws and regulations, in accordance with the "actual situations" of the provincial authorities.

Anecdotal accounts suggest that religious freedom violations have been perpetrated by local authorities to serve the financial and political interests of local officials, who wanted to facilitate local economic development in an era during which the central government has actively promoted economic development as the national priority. This is a consequence of the policy of decentralisation in the post-Mao era, which is characterised by economic reform. This policy encourages local authorities to take the initiative in promoting economic development in their areas, so reducing their dependence for constant guidance on a resource-poor central government. At the same time, the career progress of local officials is based on how successful they are in achieving economic development.

This has important implications, as economic development has often become the sole political and policy standard by which the performance of local authorities is judged. So the policy of economic reform indirectly spurs local authorities to do whatever they judge necessary to promote economic development, including violating the already limited rights allowed to Chinese citizens.

The policy emphasis on the promotion of economic development and its impact on religious freedom in China are best illustrated by the persistent state rhetoric that social stability is a prerequisite for economic advancement. This encourages provincial and sub-provincial officials to act against religious communities and individuals in the name of maintaining the social stability they regard as necessary for economic development. Part of the logic of this thinking is that economic development must take precedence over the protection of all other individual liberties.

This form of thinking is best illustrated through the words of Ye Xiaowen, the head of the State Administration for Religious Affairs (formerly known as the Religious Affairs Bureau). "For a developing country, the top priority right is the right to subsistence and development," he wrote in a 1998 essay to commemorate the 50th anniversary of the Universal Declaration of Human Rights. "Otherwise, it is pointless to talk about all other rights, including the right to freedom of religious belief. It is our opinion that rights can never exist outside a society's economic structure or exceed a society's cultural development, which is restrained by the economic structure. The Chinese saying that 'people can only know honour and shame after the granary is full, and be polite when they've got sufficient food and clothing' is another part of this argument. This is especially true for China, a nation that has suffered in its history the invasion of imperialism and the oppression of feudalism and bureaucrat capitalism."

This points to a central problem in analysing the relationship between the central government and the local authorities in implementing state religious policies and regulations: how difficult it is to determine how far religious freedom violations are a result of central government directives and how far they are the consequences of the initiatives of provincial and sub-provincial officials.

For example, one foreigner well-acquainted with the situation in China told Forum 18 of a reported recent case where a local police warden was so moved by the behaviour of a group of detained Christians that he paid the prison fees for them. (In China, detainees are required to pay for the "services" rendered by the prison authorities during their detention or imprisonment.) After their release, the warden told the Christians that he would make sure that Christians would not be arrested in the area of his jurisdiction in future. This illustration also reminds us that the logic of economic development has also contributed to cases where local officials have come to the defence of religious groups for their contributions to the local economy.

Indeed, just as local officials have committed religious freedom violations in a generally anti-religious atmosphere, there are also local officials who are sympathetic and have been helpful to religious communities. In fact, on many occasions businesses managed and owned by religious believers have been protected by local authorities that see these firms as significant contributors to the local society and economy. Simply put, the local authorities are often caught in a dilemma over two conflicting central government policies – the promotion of economic development and the containment of religious communities and activities.

Three illustrations – of events in Wenzhou, in Yunnan, and of the crackdown on Falun Gong -highlight the problem of disentangling the relationship between central and local government decision-making.

In November and December 2000, local government officials in the city of Wenzhou in Zhejiang province (which is known historically as a very westernised and commercialised province) destroyed, closed or confiscated as many as 3,000 Christian churches, Buddhist temples and Daoist shrines in the area, a move regarded by many as part of the most destructive campaign to eradicate unregistered places of worship since the 1970s.

Informed observers differed as to why this happened. Some believed that the destruction was personally ordered by then-president Jiang Zemin after a tour of the region. Others suggested that the destructions reflected growing tensions between local officials and religious communities about the local government's desire to open up more space for commercial development. In other words, to the local officials, religious buildings and properties were seen as barriers to the considerably more economically and politically profitable goal of constructing commercial buildings. If this was the reason, and it is highly plausible, it illustrates the link between the state policy of economic development and religious repression.

Some years after the events in Wenzhou, a far lesser-known incident happened to an unregistered congregation in Yunnan province that attempted to apply for registration with the local government. The application was rejected and the congregation's leaders were arrested for engaging in "cult" activities. Those who reported the incident indicated that local officials were uninterested in granting formal operating status to the unregistered congregation because they would then no longer be able to extort money from the congregation.

The complexity of central and local government decision making was particularly visible at the height of the state campaign to crack down on the Falun Gong movement. According to Falun Gong practitioners, the central government issued directives to provincial and sub-provincial authorities that all provinces and localities would be held accountable if Falun Gong practitioners originating from their areas took part in open demonstrations in Beijing. The Falun Gong illustration suggests that the central government is the ultimate source of religious freedom violations in China. However, this suggestion is complicated by the fact that the conflict between the state and Falun Gong was regarded as a "national" security issue by the state. No other religious or spiritual communities have posed such an obvious challenge to the Chinese central state, by mounting repeated demonstrations in the centre of the capital.

But it is difficult for the central government to avoid significant responsibility for violations of religious freedom. Despite the enormous legal powers and responsibilities given to provincial and sub-provincial officials to implement religious policies and regulations, there is as yet no known case in which the central government has exercised its own legal responsibility to prosecute government officials for violating religious freedom. This means that the central government has responsibility for, at the very least, an unwillingness to end religious freedom violations.

The confusing central-local government relationship is not simply an interesting analytical problem. It also has important implications for those seeking improvements in the state of religious freedom in China. Although it is clear that changes have to be made at both the central and the local levels of government for religious freedom to improve, the central government bears primary responsibility for what happens not only at a national but at a local level and it is therefore the place where such change of attitude is crucial. Yet it should be remembered that the central government's reach into the provinces remains questionable, given the size of China and China's history of regionalism. And the great diversity of China's regions poses an enormous challenge to reformers both inside and outside China.

Institutions, particularly laws and regulations, are in place that should already have improved the state of religious freedom in China – but the realities currently faced by religious believers throughout China do not reflect this. There seems to be no clear solution to the problem of the influence of central-local government relationships on religious freedom. But it is essential that practical steps are taken to address this if the state of religious freedom in China is to improve.

(END)

For more background information see Forum 18's surveys of:

the prospects for religious freedom in China at http://www.forum18.org/Archive.php?article_id=292;

the Chinese legal system and religious freedom at http://www.forum18.org/Archive.php?article_id=309;

internet censorship of religious websites at http://www.forum18.org/Archive.php?article_id=366;

public security system control of religious affairs at http://www.forum18.org/Archive.php?article_id=422;

"Religious distortion" and religious freedom at http://www.forum18.org/Archive.php?article_id=462;

how believers resist state religious policy at http://www.forum18.org/Archive.php?article_id=491;

state attempts to control religious leaderships at http://www.forum18.org/Archive.php?article_id=584;

and control and censorship of Christian literature at http://www.forum18.org/Archive.php?article_id=636.

For religious freedom in Xinjiang see Forum 18's religious freedom survey at http://www.forum18.org/Archive.php?article_id=414

A printer-friendly map of China is available from
<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=china>

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY