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The Regulation of Religious Affairs in Taiwan: From State Control to *Laissez-faire*?

André Laliberté

Abstract: This article looks at Taiwan's policy towards religion to show that non-Western societies can also achieve what Alfred Stepan called a "twin toleration" wherein the state does not intervene in religious affairs, and religion does not seek to control the state. The paper shows the sets of constraints in which policy-makers struggling for an adequate way to deal with religion operate. They have to choose among a variety of models in democratic societies, to take into account the legacy of the authoritarian era, and to consider the specificities of Taiwan's situation, influenced by a Chinese cultural heritage, Japanese colonialism and observations from other parts of the world. The paper then describes how these constraints have influenced the major stages in the evolution of relations between state and religions in Taiwanese society and then argue that the state had yet to reach a consensus up until 2008 on the legislation of religion because of disagreements between different religious actors.

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Keywords: Taiwan, state and religion, democratization, toleration, recognition

André Laliberté has received his Ph.D. at the University of British Columbia in 1999. He has published *The Political Behavior of Buddhist Organizations in Taiwan, 1989-2003* with Routledge, along with several chapters and articles in refereed journals on state and religion in the PRC and Taiwan. He teaches comparative politics at the School of Political Studies at the University of Ottawa and his current research looks at the views of Chinese social scientists on religion and public life.

E-mail: <Andre.Laliberte@uottawa.ca>

Introduction

This article¹ looks at the effort of Taiwanese authorities to institutionalize a fundamental aspect of democratic regimes, what Alfred Stepan called “twin toleration”, that is

the minimal boundaries of freedom of action that must somehow be crafted for political institutions vis-à-vis religious authorities, and for religious individuals and groups vis-à-vis political institutions (Stepan 2000: 37).

The examination of the Taiwan case responds to Stepan’s call for an exploration of that question in the context of non-Western societies. It also provides an occasion to validate the argument that non-Christian societies can also provide a basis for “twin toleration”. Taiwan is a society with a Chinese cultural heritage, where the influence of Christianity, while relevant at some critical juncture, is only one among many more important religions influences. Rubinstein has written on the important role of the Presbyterian Church in Taiwan in Taiwan’s early stages of democratization (1991), and about the difficult relations between the New Testament Church and the state (1993). Very few, however, have written on the political behaviour of non-Christian religious associations during Taiwan’s democratization process. I have looked elsewhere at the political behaviour of Buddhist associations at the national level during the 1990s (2004) and at their generally conservative orientation (2005). More recently, Madsen (2007) has looked at the moderating influence of Buddhist and Daoist associations during the process of democratic transition, and Kuo Chengtian has looked at the effects of Buddhist, Christian, and Daoist theology and ecclesiology on democratization (2008). However, little has been written on the reverse side of this relationship, that is, on the state’s changing attitude towards religious affairs in Taiwan.

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This paper seeks to open that area of research because the Taiwanese government has managed some remarkable achievements that could provide very important lessons abroad, in particular for China. Taiwan is a society with high religious diversity, and the government has maintained peaceful co-existence between its diverse religious communities since the beginning of democratization (Ye 2000). Moreover, the dynamism of religious life in Taiwan has not led to the “culture wars” that other religiously diverse societies experience on a range of social, economic, and social issues (Wilcox 1996; Juergensmeyer 1993). Some religious institutions, such as the Taiwan Presbyterian Church, have been active in the promotion of democracy and human rights (Kuo 2008; Rubinstein 1991). Others, such as the Compassionate Relief Merit Society (Tzu Chi Kung-teh-hui 慈濟功德會, hereafter Ciji) and its Foundation, provide significant social services and humanitarian relief (Madsen 2007; Laliberté 2004; Huang 2001). Despite these achievements, however, Taiwanese officials, policy-makers, academics, and civil society activists disagree on how to manage the interactions between the political and religious spheres. As the paper will discuss below in greater detail, there are concerns that some politicians may make use of religion in ways that compromise the neutrality of the state, and that religious institutions unduly influence the political process.

It is a daunting challenge in any society to allow all forms of religious beliefs while preventing religious institutions from interfering with government affairs (Demerath III 2001, 1994). If authoritarian regimes have adopted various policies with respect to religion, ranging from theocracy to state persecution of religion, democratic regimes have also adopted a wide range of approaches to deal with religion, albeit within a context of constitutional guarantees for freedom of conscience and religious freedom (van der Vyver and Witte 1996). Newly consolidated democracies thus have a number of options to choose from as they try to establish new institutions that break from an authoritarian past when the state monitored religious affairs. The choice of future institutions, I argue in this paper, is influenced by two sets of factors: the legacy of practices inherited from the previous regime, and also the nature of the existing religious political economy, i.e. the diversity of religious institutions believers can adhere to, and their relation to the state (for a detailed discussion of this concept, see Gill 2001. See also Stark and Bainbridge 1987, for the discussion of the concept of religious economy on which

Gill has developed his concept of religious political economy, and Yang 2006, for the discussion of the latter in a Chinese context).

To illustrate this, the paper is organized as follows. It will first put the situation of Taiwan in context, with a discussion of religion in democratic states and present some of the models that Taiwanese actors are examining in order to adapt them to their national situation. It will then present a brief overview of the relation between state and religion in Taiwan since 1949, and draw attention to legacies from the past and specific features of the Taiwanese religious economy. It will then show how the process of democratization made it increasingly difficult for the state to regulate religious affairs, and how this generated pressures for a debate about the legislation of religion. This discussion will underline the diversity of actors involved and note some of the issues that have prompted the public, the state, and religious organizations, to discuss the desirability of legislation on religion. Finally, the conclusion will underline the challenge of establishing “twin toleration” in the legislation of religious affairs, and especially so in a society with a non-Christian religious tradition like Taiwan.

The Modern Democratic State and the Management of Religious Affairs

Religious beliefs provide inspiration for many political agendas in contemporary societies, some of which are peaceful and progressive, and others divisive (Appleby 2000; Peterson 1997; Smith 1996; Huntington 1995). Sensationalist press coverage often points to fundamentalism and hard-line religious leaders as actors who are promoting political change via violent means. In such cases, the inspirational power of religious beliefs can aggravate conflicts when people add to their strongly held political views the sanction of religious authority (Juergensmeyer 2000, 1993). However, the reverse is also true: religious associations can often come to the fore to achieve reconciliation, provide welfare services, and heal a number of social miseries (Wuthnow 2004; Smidt 2003). The case for legislating religion may seem compelling, whether to harness the resources of religious institutions to help the state achieve its policies, or to stem the influence of religious institutions whose authority is strengthened by its international networks, and may sometimes rival that of the state (Robertson 1991).

The scope of legislation on religion, when it exists, tends to be relatively modest in democratic societies (Edge 2006). Besides constitutional guarantees on the free exercise of religion and freedom of conscience, and a few cases of state or established religions (as in Germany and the United Kingdom) inherited from tradition, very few democratic states legislate religious affairs in general. Most have adopted laws that deal with specific matters affecting religious institutions and other institutions. In Canada, for example, there is no legislation for religion except some specific provisions on charities, whereby they can register to benefit from tax privileges (USSD 2007). One of the fundamental tenets of France's law is that it does not recognize any religion, although there are debates within that country to reconsider that position (Hermon-Belot and Fath 2005).²

Most democratic societies in Western Europe commit a lot of fiscal resources to implement social policy, and extract considerable resources from citizens through taxation for financing the provision and the delivery of social services (Esping-Andersen 1990). Before the emergence of the welfare state, churches have often been at the forefront of social services that are considered to be the natural preserve of contemporary states, such as health care, education, elderly care, and child care. Through the provision of social services, religious institutions gained considerable influence in society. By undercutting the effort of labour movements to expand the state's provisions of social services, religious institutions attempted to protect themselves from actors influenced by political parties that were hostile to their institutions (Rosart and Ellis 1992; Talmy 1963). It is no wonder then that the expansion of state responsibilities in the realm of education and health care has often met fierce resistance from religious institutions. In a few other democracies, such as the United States of America and Japan, the state extracts a significantly lower amount of resources through taxation than North European welfare states do, and it expects religious institutions to offer specific services. This expectation offers religious institutions the incentive to intervene in public affairs, as Massaro demonstrates in his study of the Catholic Church's social teachings' influence in the debate on social policy in the United States of America (2007).

2 I would like to thank an anonymous reviewer for this reference.

The above comments serve to remind us that there is no single model of democratic management of religious affairs and state-religion relations. Democratic states that seek to create space for the free exercise of religion and protect the state from influence by one religion at the expense of others will vary in their approach according to their national experience of state-religion relations, the dominant religious tradition of the country, and religious diversity (Weller 2006). Most states in Western Europe, in the Americas, and in Oceania have evolved from regimes with an established state religion to different types of separation between religion and state. Democratic states in Asia and Africa have adopted different variants of separation. Strict models of separation between religion and state, perceived by some as an illiberal state control of religion, are few in numbers (Fox 2007). France stands out as a rare model of separation in which the state avoids intervention in religious affairs. Other models of state separation, such as Turkey and Mexico, have tended to fall into anti-clericalism (Terray 2004). The United States of America, finally, represents another model of institutional separation where boundaries between politics and religion tend to blur. Taiwanese policy-makers are aware of these models and are evaluating their relevance for the Taiwanese situation.

Authoritarian governments legislating on religion leave behind important institutional legacies which continue to constrain the behaviour of those who follow them. They leave behind people in the public administration and in the state bureaucracy that may resist change because they benefited from the previous regime. Because the issue of religious freedom seldom represents a priority during the processes of transition to democracies, it is often during the later stage of consolidation that this problem emerges. In order to restrict the political influence of their potential opponents, authoritarian states have resorted to police surveillance and to other means to monitor, control, or prevent their activities. In doing so, they have generated vested interests in the perpetuation of the existing order of things among members of the state bureaucracies in charge of surveillance and among the religious leaders who have benefited from the existing arrangements. Such a legacy may present major roadblocks in the consolidation of democratization, as new regimes acquiesce to pressure from the public to find increasingly robust ways to guarantee religious freedom and to safeguard the state's position as a neutral arbiter (Casper 1995).

The issues discussed so far matter for all democratic societies, especially those going through a process of democratization. However, one dimension that has received less attention is the influence of the cultural heritage on state-religion relations (Arjomand 1993). It is symptomatic that the literature on that topic usually falls under the rubric of “state-church relations”, oblivious to the fact that this expression obfuscates any discussion of the relation between state and mosque in Islamic countries. Moreover, as I will explain in greater details below, for societies where religious practice and belief are a matter of flexible rituals and practices, and which allow multiple religious allegiances, the notion of relation between one specific religion and the state appears absurd. Accordingly, democracies in societies where Christianity, Judaism, and Islam have not been major influences face a complicated task when they consider implementing twin toleration. In addition to the different models that they have to choose from, and in addition to the legacy of authoritarianism they seek to overcome, actors deliberating over religious legislation must also take into account the ways in which people are experiencing or “doing religion”, often in rituals that do not involve participation in religious services on a regular basis (Chau 2006; Assad 2001).

As a result, the adoption of models implemented in Western societies may prove unsatisfactory on many grounds for non-Western societies with religious traditions that are very different in their approach to faith, the sacred, and to ritual performance. Religious economies that are not characterized by the co-existence of congregational religions with distinctive boundaries are bound to have structuring effects on the relation between state and religious associations that differ from what is observed in societies influenced by Christianity, Islam, and Judaism (Yang 2006; Stark and Bainbridge 1987). In Asia, in particular, communal religions do not demarcate frontiers with other beliefs, and, as a result, individuals can have multiple religious affiliations. Most religious practices in this part of the world can be performed at home or in the public space, many do not involve meeting in places of worship at regular intervals, and some do not even require a full-time religious personnel (Keyes, Kendall, and Hardacre 1994). Many of these practices are being dismissed by intellectuals and elites as superstitious. They may be difficult to detect by sociologists who base their definitions on the basis of congregational religions. The difficulty for sociologists to label such forms of practice as “religious” undoubtedly makes it difficult for state bureaucrats to design appropriate policies.

Having considered the limited scope of regulation of religion in democratic societies, the lasting legacies of authoritarian rule, and the need to account for societies with religious economies that are vastly different from those of the North American and Western European societies, we can now turn to the case of Taiwan, which has recently adopted a democratic system of government similar to Western democracies in many respects: it has regular elections for the legislature and the executive, separation of power, an independent judiciary, strong mass media, etc. (Roy 2003; Rigger 1999). Moreover, like most Western democracies, the Republic of China (ROC, as Taiwan is officially known) does not have a comprehensive legislation on religion, and, as I will discuss later below, this is unlikely to change soon. Finally, the ROC shares with a great number of contemporary states another feature that sets it apart from older democracies with an established religion: it does not have a state religion, and currently its institutions do not grant privilege to any religion in particular.

ROC policy-makers struggling for an adequate way to deal with religion must therefore consider three sets of issues: they have various models of democratic societies to choose from; they must take into account the legacy of the authoritarian era; and also the specificities of the Taiwanese situation, influenced by the Chinese cultural heritage, and the experience of Japanese colonial rule. As will be discussed below, the epistemic communities of experts in sociology, constitutional law, political science, and civil servants in the Ministry of Interior (*neizhengbu* 內政部, hereafter MOI) have been discussing for years the best options for the management of religious affairs in the ROC. Many events such as the dubious behaviour of some religious leaders during electoral campaigns or national tragedies, cases of fraud in the name of religion, and abuses by religious institutions reported by the media have generated emotion in the public and made it urgent for many to find an appropriate legal framework for religious affairs. Religious organizations have been deeply divided over this issue and have prevented state officials from reaching a consensus on these matters. In order to underline these sets of constraints, the next section will present the major stages in the evolution of state and religion relations in Taiwanese society.

Since the last two decades, the regulation of religious affairs in Taiwan does not concern popular religions (*minjian zongjiao* 民間宗教), which were dismissed during the authoritarian era as wasteful practices. Rather, the regulation concerns new religions (*xinxing zongjiao* 新興宗教),

which the media labels as “cults” or “sects”. Some leaders of the older, established religions and their institutions support more intrusive forms of state intervention to limit the activities of these new religions. They accuse these new religions of being fraudulent, but in their demand for regulation they put the government in a quandary. Most Taiwanese politicians are aware that the denunciation of religious associations as “heretical religions” (*xiejiao* 邪教) is at the core of the debates in the People’s Republic of China, and they do not want to follow that example. Since laws restricting religion tend to be a feature of repressive regimes, many legislators in Taiwan believe that democracies should not legislate religious affairs. They are therefore uncomfortable with demands for such legislation.

The Relation Between State and Religion in Taiwan since 1945

At the time of writing, the principal government organ responsible for relations with religious organizations is the Religious Affairs Bureau (*zongjiaoke* 宗教科, RAB). Its activities include informing clergy and lay people about the regulations and procedures for the registration of temples and churches, conducting research on religious affairs, and consulting with religious organizations for affairs of mutual interest. Not all religious institutions maintain close relations with the Bureau, and it is not mandatory for them to do so. The Bureau is a division of the Department of Civil Affairs (*minzhengsi* 民政司, DCA), one of the most important sections within the MOI. Among its many attributions, and along the management of religious affairs, the DCA supervises the planning for memorials, the administration of rituals and public ceremonies, and the management of Confucius temples and ancestors’ shrines. The MOI’s responsibilities include the provision of social services and humanitarian relief. Religious associations have expressed their interest towards these activities over the years, and the Ministry has organized conferences to give clergy and lay people the opportunity to discuss the specific contributions of religious associations for public education and social work (NZB 1994, 1995). The relations between the state and religious institutions are drastically different from what they were decades ago when Taiwan was under Martial Law.

After being defeated by the Communist Party in Mainland China in 1949, the ROC government and its ruling political party, the Chinese

Nationalist Party (*Zhongguo guomindang* 中國國民黨, or GMD), was forced to relocate to Taiwan, claiming then to set up a provisional capital in Taipei before an eventual recovery of the Mainland. The GMD brought with it members of the armed forces, civil servants, and party cadres. Some elements of Chinese civil society that feared persecution in the hands of the Communist Party sought refuge in Taiwan as well. Religious institutions that were known for their close association with the GMD regime were especially fearful of the change occurring in China. Many Catholics followed the GMD in Taiwan and re-opened their institutions, such as Fu-jen University, on the island. The leaders of religious movements, such as the Religion of Reason (*Lijiao* 理教), sought refuge in Taiwan where they could continue their activities. They were represented by the GMD as the proof that the ROC respects freedom of religion (Zhao 1953).

During the early years of the Martial Law period, the GMD was concerned over infiltration and espionage by the CCP and was suspicious of religious societies and monks that were coming from the Mainland without proper registration. As a result of these anxieties, the GMD put in place a corporatist structure of government to ensure that religious institutions could be monitored. The Leninist inspiration of that structure bears comparison with the CCP structure imposed in China at the same time. The only key difference is that while the PRC limited recognition to only five religions (Buddhism, Daoism, Protestantism, Catholicism, and Islam); the ROC authorities extended that to a few other ones. Temples were required to register as Buddhist or Daoist, and non-Catholic Christians had to register as members of the Protestant Association of the ROC. Organizations could also register as members of other religions that were not recognized in the PRC, such as the Religion of Reason. Besides these few exceptions, however, religious organizations that refused to comply with the GMD directives faced the risk of being harassed by the authorities (Jones 1999; Cohen 1988).

Records from the Provincial Police administration give us a sense of the concerns of the authorities throughout this period. In the beginning, members of Japanese religious associations such as Tenrikyo (*Tianlijiao*) were targeted because of concerns that they were cooperating with Japanese extremists that never accepted the “loss” of Taiwan. Members of the Soka Gakkai were also suspected of being “fellow travellers” of the CCP because the Buddhist conservative party they supported, the Ko-meito, advocated a vague form of Buddhist socialism. However, the

Soka Gakkai was also targeted for another “crime”: its pacifist tenets. Other religious associations, the Mormons and the Baha’is, were under surveillance for the same reason. During the same period, Yiguandao was also subjected to numerous investigations out of concern that this organization was a subversive secret society. Rumours about the rituals practiced by its adherents only added to the suspicions of the authorities toward the religion (Ho 1996). These groups, it would later turn out, were conservative, and the state did not need to harass them (Jordan and Overmyer 1986).

The policy towards religious associations was not limited to the eradication of Japanese influence on the island and to the surveillance of potentially seditious pacifist groups. As Paul Katz (2003a, 2003b) described in his survey of relations between state and religion in post-war Taiwan, the government also tried to prevent the development of a distinctive Taiwanese identity through the performance of rituals in local popular religions, which could be seen as a challenge to its legitimacy. To tackle this problem, the government put in place a number of cultural policies affirming the Chinese characteristics of Taiwanese society. Some of these policies, argued Murray Rubinstein, actively discouraged the development of pan-Taiwanese religions until the 1980s (1991). It is important, however, to put this Chinese nationalist agenda in its context. The GMD sought to impose a Chinese cultural heritage in Taiwan when the Chinese Communist Party was attacking its foundations. Hence, the Commission for the Chinese Cultural Renaissance (*Zhonghua wenhua fuxing weiyuanhui* 中華文化復興委員會), was launched in 1967 in response to the Cultural Revolution in the PRC (1966-1976).

Another factor helps understand the attitude of many GMD cadres towards popular religions. They had inherited their general views on religion from a combination of Western and Confucian intellectuals’ prejudices against religion, and the even narrower view of Party cadres and state officials on the nature of popular religions. These people believed in all good faith that there were “good” and “acceptable” religions, such as Catholicism and Protestantism, that were organized around a clergy, with scriptures and an organization; and “bad” ones lacking these characteristics (Goossaert 2006; Ownby 2008). A number of cadres, therefore, looked down on the local religious practices of the Taiwanese, which they dismissed as wasteful and superstitious. However, despite this disdain for local religions, and suspicion towards organizations that were not included among the recognized religions, there was no system-

atic campaign in Taiwan to restrain religions in general in the way that the CCP did in the PRC.³ As mentioned above, the GMD sought on the contrary to use religion to emphasize the contrast with its adversary across the Taiwan Strait.

During the 1970s, as the situation in Taiwan became more stabilized and as the island was laying the groundwork for its “economic miracle”, discontent with the authoritarian rule of the GMD generated a local consciousness, which was often expressed through religious means. The sentiment that Taiwan was a distinct society and that the recovery of China did not serve its interests was expressed strongly by one of Taiwan’s own religious institution, the Presbyterian Church. The Church’s political involvement was bolder than any other religious institution, as testified by its issue of a public statement on the Taiwanese right of self-determination (Kuo 2008; Rubinstein 1991). Two reasons may explain this boldness, in contrast to many other Taiwanese religious institutions. The Presbyterian Church had been in Taiwan longer than some of the Chinese religions whose adherents came from the Mainland at the end of the Japanese rule. In addition, the Presbyterian Church in Taiwan had the support of many non-Taiwanese co-religionists in the United States of America and Canada; therefore, an overly heavy reaction of the GMD against Taiwanese Presbyterians was bound to alienate a significant source of foreign support (Baker 1997). And this was happening at a time when the future of the island appeared increasingly precarious.

As the process of democratization unfolded, it became possible for other religious associations to express their discontent (Xiao 1995). This profoundly changed the nature of the Taiwanese religious political economy: new associations emerged, while those that benefited from the previous regime did not fare as well as before. Hence, the Buddhist Association of the ROC (BAROC), which monopolized Buddhist affairs during the period of martial law, saw its influence decline precipitously as the influence of new religious actors rose: monks like Xingyun (Hsing Yun 星雲法師) and Shengyan (Sheng Yen 聖嚴法師) emerged as leaders of prominent and dynamic monasteries; while nuns like Zhengyan (Cheng Yen 證嚴法師) became famous island-wide for launching a vast

3 Although the GMD did wage campaigns against popular religions and even against organized religions in the early stages of its rule in Mainland China (see Duara 1991).

philanthropic organization running hospitals and programmes to help the poor, the Ciji Foundation (Laliberté 2004; Jones 1999). During the process of democratization, religious institutions hitherto banned or submitted to various forms of harassment from the provincial police, such as Yiguandao, pushed for, and obtained, recognition from the Ministry of Interior. Reformist politicians seeking to strengthen their hand against their conservative counterparts, who wanted to prevent or slow down political change during local elections, did not hesitate to form alliances with local religious leaders (Bosco 1994; Lin 1994), trading promises of recognition against their electoral support.

The close relation between state and religion appeared to nudge closer than ever at the highest level during the 1996 Presidential election, when Xingyun, the abbot of the Foguangshan monastic order, decided to support the candidacy of one of his disciple, Chen Lu-an. Chen was the son of a former prominent member of the GMD, and had served before in the government. His race against the incumbent President Li Denghui (Lee Teng-hui) was perceived as a disapproval of the government's performance by Xingyun himself. Although this campaign was unsuccessful, Chen having finished fourth with only ten per cent of the vote, it was enough to generate strong opposition, sometimes hysterical and prone to exaggerations, from some sectors of civil society who judged such an interference of religion in politics as unacceptable. For example, see the story from a popular magazine which wrote about a religious war during the campaign (*Xinxinwen* 1995; see also *Minzong Ribao* 1996). Some of the attacks against Xingyun were unfair: after all, partisans of Taiwanese independence never criticized the support of the Taiwanese Presbyterian Church to their cause.

During the fall of 1996, however, a series of events tarnished even more seriously religious institutions in Taiwan, and there were calls from the public for the government to impose its authority over them (*China Post* 1996b). Sociologist Lin Benxuan (2003: 215) noted that these controversies are responsible for the government's decision to launch consultations with religious institutions to discuss a law on religions (*zongjiaofa* 宗教法). The first controversy involved 132 young people who decided to take vows to become nuns and monks in the central Taiwan temple of Zhongtaichan 中台禪. Most of the novices had been members of a summer camp who decided to be ordained after the completion of their work as volunteers at the temple. Many anguished parents objected to the decisions of their sons and daughters and protested to prevent

their children from joining the monastic order. The abbot of Zhongtai-chan initially hid the new converts in his temple, but after parents came to take their children by force, he had to change his mind and promised that, in the future, aspirants to the monastic life had to first secure the permission of their parents (*Xinxinwen* 1996a).

The second controversy occurred in October 1996, when numerous instances of fraud were uncovered. The most spectacular of these was the scam devised by Song Qili 宋七力,⁴ an individual claiming to have supernatural powers, whose activities led the public authorities to launch more investigations into religious organizations. In a matter of days, authorities found several persons guilty of deceit and fraud under the guise of religious activities (*China News* 1996: 1). An individual calling himself Zen Master Miaotian 妙天, who headed a small association called the Sky Buddha Temple (*Tianfosi* 天佛寺) in Taibei county, was charged for having tricked some of his followers into purchasing religious paraphernalia at prices ranging from 7,000 USD to 10,000 USD (*China Post* 1996c). Meanwhile, questions were raised about another religious association headed by a nun, who called herself Master Qinghai Wushang 清海無上, who was accused of pressuring devotees to pay large sums to her organization (*Xinxinwen* 1996b: 48). The revelations about the impropriety of associations claiming to be new religions led to more investigations by journalists, who revealed the existence of a number of bizarre organizations (international cults having branches in Taiwan, such as the Raelians, were included in that survey *Xinxinwen* 1996c: 42-47), and uncovered close relations between these associations and some high-ranking members of the GMD and the main opposition party, the Democratic Progressive Party (DPP).⁵ However, after much emotion, the issue died down and there was no consequence for years.

4 Song sold pictures of himself surrounded by a supernatural halo, supporting his claim to possessing healing power, for a value totaling 3 billion TWD. The followers of the cult were told they would “become a Buddha” by worshipping the picture (*China Post* 1996a: 1). For a complete coverage of the affair, see *Xinxinwen* 1996b.

5 Xie Changting 謝長廷, DPP candidate for the ROC vice-presidency in 1996 and mayor of Kaohsiung after the election of 1998, has been working as legal advisor for Song Qili and his groups, and there were rumours that Xie had received illegal political contributions from the sect (*China Post* 1996d: 19).

In the 2004 Presidential elections, the abbot of the Zhongtaichan temple went further than Xingyun did in 1996, issuing a warning before the vote that supporting candidate Chen Shui-bian would have catastrophic consequences. The pan-Green camp and the media were unsurprisingly upset by this blatant form of intervention into the political process by a religious leader. Yet, this expression of outrage is misplaced. As Paul Katz has noted in his survey, religious leaders often intervene in local politics to influence elections (2003a). Many politicians are willing to play into this fusion of politics and religion. Hence, during electoral campaigns, candidates from all parties do not hesitate to appear at public events at temples and churches, burning incense and shaking hands with religious leaders, in obvious ploys to gain their support.⁶ This should put into perspective calls for a law on religious affairs. The next section shows how the existing gaps in the regulations over religious affairs have shaped the debate about the law on religion.

State Regulating of Religion and the Debate about the Law on Religion

Article 13 of the ROC Constitution, adopted in 1947, states: “people have freedom of religious beliefs”. The ROC is also a secular state. No religion benefits from special privileges granted by the government. According to the authorities, freedom of conscience, the absence of a state religion, and the equality before the law for all religious organizations are all made possible by implementing the principle of “separation between politics and religion” (*zhengjiao fenli* 政教分離). As we will see below, this liberal view of religious affairs follows a long period, when the GMD tried vainly to assert its authority throughout China, when religion was being treated with a mix of contempt, authoritarian attitudes, or simply neglect. After the GMD retreated to Taiwan, it took four decades for the practices to agree with the letter of the Constitution. When Taiwan entered its transition to democracy, its legislators found that rulings on

6 As one actor in the debate about the law on religion indicated, calls for legislating on religious affairs are often made during electoral campaigns, when the proximity between spiritual matters and affairs of the state appear too intertwined. However, after the campaigns, the issue is quickly forgotten. Interview with Ku Chung-hua, Mucha, July 25, 2008.

religious affairs were a confusing maze of decrees, regulations, and articles of law at the central, provincial, and local levels. In this respect, DPP legislator Chen Qimai 陳其邁 noted that there were 330 articles of law that could be used by the government to intervene in religious affairs (TR 1996a). The Ministry of the Interior published in 1996 the particulars for 78 of these regulations (NZB 1996). However, no comprehensive legislation exists despite the high number of regulations dealing with specific aspects of religious affairs.

Earlier regulations ostensibly aimed at reinforcing national unity and combating foreign imperialism but in the end, they were designed to control religious institutions. With the adoption of the Regulations for the Management of Temples (*jiandu simiao tiaoli* 監督寺廟條例, NZB 2007b: 1-2) in 1929, for example, the GMD emphasized that Chinese should manage the affairs of their own traditional religions.⁷ By making reference to “temples”, the legislation made it clear that it was aimed at places of worship for communal religions, Buddhism and Daoism, but not Christians nor Muslims. Its article 6 emphasized self-governance, excluding the possibility that non-citizens of the ROC can run temples. Buddhist and Daoist leaders saw things differently, however. Many of them considered that the legislation represented a form of discrimination against them because it did not say anything about foreign religions, a criticism that the leaders of the BAROC were still airing in the 1990s (*Faguang* 1996). They were not entirely wrong, because many among the Chinese elites did view Christians as “modern”, in contrast to Buddhists and Daoists, whom they viewed as “backward” and undeserving of support. Reinforcing this belief was the Christian faith of key GMD leaders,⁸ and the Christian heritage of Western powers, which were seen as models of modernity to which many in the Chinese elites aspired to.

In line with this kind of prejudice, the state sought to legislate on religion to promote its domestic agenda of modernization. In 1936, for example, the ROC adopted rules for the registration of temples (*simiao dengji guize* 寺廟登記規則, NZB 2007b: 3-5), which sought to give local governments, as well as Daoist and Buddhist associations, the authority

7 This glossed over the fact that Muslims and Christians have been practiced by China for centuries, and that Buddhism was an Indian religion.

8 This was the case with its two most important Presidents before 1949, Sun Yat-sen and Chiang Kai-shek.

to fire clerics.⁹ The rules generated a lot of resentment from many religious leaders, although they merely reflected trends within the regulation of Chinese religions that had been in some cases underway for centuries. These rules were ambitious in their scope but the Japanese aggression and the Civil War compromised the government's effort to perform any judicial review or to consider more thorough legislation. As a result, many of the regulations and rules adopted in Mainland China were applied in Taiwan after 1949 and remained unchanged for decades. It was only in 2005 that the registration for temples was simplified (*Banli simiao dengji xunzhi* 辦理寺廟登記順知, NZB 2007b: 6-10).

Regulation of religious affairs after the GMD assumed control of Taiwan continued to be subordinated to the modernization and nation-building agenda it had tried unsuccessfully to implement in the Mainland. As we have seen before, this agenda included the promotion of a Chinese identity on the island that was to replace the local one. It is in this context that the measures against traditional popular religions described by Emily Martin Ahern (1987) must be understood. In her ethnography of Taiwanese local religions, she explains that the MOI sought to regulate regular festivals as early as 1968, via a number of guidelines promulgated in a language that seemed neutral, but that had nonetheless the consequence of restricting local religious practices (*gaishan minjian jidian jieyue banfa* 改善民間祭典節約辦法, Measures for the improvement of frugality in folk sacrifices). These policies were resisted by some in the local population, but as Paul Katz explained, they were also met with the indifference of the new urban middle classes, and supported by many of the intellectuals of the time who shared the prejudices of their contemporary Western social scientists against religions in general (2003b).

Organized religions could assert themselves better than popular religions because they had the ability to mobilize people to defend their interest. Qu Haiyuan (1989: 51-53) gives as an example the fate of the Procedures for the Administration of Temples (*Taiwan sheng simiao guanli banfa* 台灣省寺廟管理辦法) proposed by the Provincial government in 1969, but roundly opposed by the BAROC. Other successes for organized religions during the Martial Law period were the measures passed in 1972 (*Guoyou caichan - yu simiao jiaotang banfa* 國有財產 - 與寺廟教堂辦法,

9 I am grateful to one anonymous reviewer for this precision and for the reference to Nedostrup 2007.

NZB 2007b: 125-127) to return temples and churches' properties confiscated by the Japanese colonial rulers to their original owners. Religious organizations proved their clout again in 1979, when the MOI failed to gain approval for a draft Law for Temples and Churches (*simiao jiaotang tiaoli* 寺廟教堂條例). Most religious organizations objected to it because of its attempt to impose an arbitrary definition of religion (Qu 1989: 53-58). Finally, the draft Law for the Protection of Religion (*zongjiao baohufa* 宗教保護法) proposed by the MOI in 1983 fared no better because too many problems of interpretation remained (Qu 1989: 58-62).

In 1989, as political conditions changed significantly with the adoption of the new Law on Civic Organizations, many religious leaders were joined by scholars who came forward with their own proposals for a reform of the regulations concerning religion (scholars close to Buddhist organizations had proposed in 1991 their own draft Law on Religious Organizations: *Zongjiao tuantifa* 宗教團體法. See Wu 1992: 563-577. For a scholarly account of the religious changes then, see Lin 1993). They proposed several solutions to the issues raised by Buddhists and Daoists, including the suggestion that the state should not legislate on religion at all (Qu 1989: 68-75). Many Christians and Catholics, as well as some lay Buddhist leaders, made their own proposals for laws on religious affairs. These discussions provided the basis for another legal proposal submitted in 1993 by the MOI's DCA: the Law on Religious Corporations (*zongjiao farenfa* 宗教法人法) (*Zhongfobui kan* 1994: 2). A majority of Buddhist organizations, and many of the new religions, however, had adopted the view that the state should not intervene in religious affairs, and, as a result, the MOI backed down in the face of opposition from them as well as from civil right activists. (This was in particular the position of Christians Churches, see Luo 1994: 1. Some Buddhist organizations also opposed the law proposal, see TR 1996b.)

While many religious organizations were satisfied as the government seemed to have abandoned its attempts to legislate religion in 1994, the BAROC drafted in the same year its own amended version of the Law on Religious Corporations (*Zhongfobui kan* 1994: 3-4). The BAROC abandoned the advocacy of legislation on religious affairs in the following year, however, probably realizing that it was isolated among religious associations. In the same year, in recognition of the increasing importance of religious organizations in the provision of social service, a regu-

lation¹⁰ was passed to help religious organizations perform charitable activities. The government demonstrated clearly then its favourite approach to the regulation of religious affairs: instead of a general legislation that would almost certainly create discontent, it preferred to act in a more pragmatic fashion. Instead of regulating, it sought to encourage the involvement of religious associations in the provision of social services, and sponsored studies to explore that possibility through the National Science Council (see Chen 1997). The government maintained this pragmatic approach while Taiwanese society was shocked by the scandals over the Song Qili, Zhongtaichan, and Qinghai affairs discussed below.

The inability to agree on a law regulating religion is related in good part to the disagreements among religious organizations over the merits of such a law. Some religious leaders, such as Xingyun, the abbot of Foguangshan, have advocated the passing of a law for religious affairs to protect their institutions. Xingyun believed that unless the state intervenes to regulate the founding of new religions, and to avoid disorder and scams, Taiwanese society would suffer from a proliferation of all kinds of movements that could threaten the credibility of religion in general (Fu 1996: 454-455). Although the events of 1996 seemed to prove him right, other Buddhists leaders disagreed: they believed that voting a law in reaction to a few isolated cases of religious scams was excessive. Hence, Lin Rongzhi 林蓉芝, Secretary-General of the Chinese Buddhist Temples Association, pointed out that no country had legislation on religion and that the law proposal in itself an overreaction to the emerging problems of fraud (TR 1996b). In sum, different religious leaders supported or opposed legislation on religious affairs to various degrees.

As result of this incapacity to reach consensus for a law on religion, the nature and the pace of legislating on aspects of religious affairs changed dramatically starting from the mid-1990s. It became clear that religion, far from becoming marginal with the unfolding “economic miracle”, had, on the contrary, become much more dynamic (Weller 1999; Qu 1997; Song 1995). During the Li Denghui presidency (1988-2000), while the various law proposals on religious affairs were discussed, a number of regulations, ordinances, procedures, and measures were

10 It was amended successively in 1998, 2003, and 2006 (NZB 2007b: 19).

adopted to deal with diverse aspects of religious affairs. Among the issues that these pieces of legislation addressed were the coordination with religious associations for the development of philanthropic and educational activities (NZB 2007a: 19-21, 48-54); the handling of procedures for visitors from the Mainland and from abroad for the purpose of scholarly exchanges on religion (NZB 2007a: 23-42); the management of land and resources (NZB 2007a: 55-80, 90-91, 95-99, 115-116, 119-124), and the construction of new temples on mountains (NZB 2007a: 112-114).

In 1999, a national tragedy awoke the government to the importance of providing an adequate framework to help religious associations perform humanitarian work along standards of accountability and transparency. The earthquake of September 21, and its aftershock in Chia-i later that fall, convinced law-makers to pass an emergency regulation facilitating fund-raising efforts from temples and churches that wanted to assist in the provision of relief for the victims of the natural disaster (*Dizhen shonzai simiao jiaotang chongjian ji xiufu chuan'an daikuan lixi buzhu zuoye shishi yaodian* 地震受災寺廟教堂重建及修復傳案貸款利息補助作業實施辦法). After that was adopted, it took another eight years before another regulation was finally approved to help religious institutions operate charities (*Zongjiao tuanti fazhan ji zujin zongjiao ronghe buzhu zuoye yaodian* 宗教團體發展及租金宗教融合補助作業要點). This time, it was not disagreements among religious actors that were responsible for this stalemate; rather, it was political divisions between the executive and legislative branches of government that prevented the adoption of many laws.¹¹

During the Chen Shuibian presidency, many of the procedures adopted by his predecessor were amended and revised. The measures for arranging visits from Chinese experts to Taiwan for scholarly meetings (*Dalu diqu zhuan ye renshi laitai congshi zhuan ye huodong xuke banfa* 大陸地區專業人士來臺從事專業活動許可辦法), for example, which was promulgated in 1998 under Li, generated controversy and had to be revised five times under his successor. Besides these differences, however, the Li and

11 The DPP of Chen Shui-bian and his allies in the pan-Green Camp were controlling the Executive Branch, the GMD and his allies in the pan-Blue Camp controlled a majority of seats in the Legislature. The situation lasted from the beginning until the end of the Chen Presidency.

Chen administrations had in common the refusal to cave in to pressures for legislating religion. They feared that in doing so, they would give the impression of returning to the practices of the old authoritarian regime.¹² Moreover, and in admitting that the case for legislating on religious affairs would again become compelling, debates have persisted in the government over the approach to adopt in their relations with religious associations. During the first mandate of the Chen administration, people in the Religious Affairs Bureau of the MOI's Department of Civil Affairs sponsored comparative studies on legislation for religious affairs in Japan, Germany, the USA, and Russia (Wei 2003), but at the time of writing, there was still no consensus in the public administration and among experts about the models from which Taiwanese law-makers could find inspiration.¹³

The Taiwan Interfaith Foundation (TIF, *Quanguo zongjiao lianhe fazhan jijinhui* 全國宗教聯合發展基金會), which was created by Buddhist, Daoist, and Yiguandao associations, sought to promote support for a law on religion which has been drafted by prominent sociologists such as Lin Benxuan. This association exists in parallel with the Association for Inter-Faith Dialogue, which included the Christian churches, most of the new religions, as well as representatives from Buddhist and Daoist associations. Clearly, with the former Minister of Civil Service Zhu Wuxian 朱武獻 at its head, an important figure within the DPP, the TIF had the presidential support needed to pass the legislation on religious affairs. The executive branch of the government, however, was unable to push through the legislation because it was not considered a priority by the GMD opposition, which controlled the legislature.

Among the many issues that the government had to deal with during these debates, the problem of land and property proved to be one of the most intractable one. In the generally prosperous context emerging since the lift of Martial Law and the parallel multiplication of new religions, many small religious associations had built temple, lecture halls, or shrines to serve their adherents. However, given the general absence of

12 Taiwan is usually cited as a role model by the Annual Report on International Religious Freedom produced by the US State Department Bureau of Democracy, Human Rights, and Labour. Its leaders value very much their relationship with the USA and it is unlikely that they would try to sabotage that by a legislation that could draw opposition from it.

13 Interview at the Bureau for Religious Affairs in Taipei, July 18th, 2008.

land zoning, conflicts erupted about the use of lands and about compensations for those who had been evicted by the government. In the case of the Ciji Foundation in the 1970s, this could be solved by a grant from the local government to the Foundation because the Hualian County authorities, where Ciji is headquartered, wanted a hospital. The Foguangshan monastic order was not as lucky as Ciji because the Gaoxiong County government, considering that the property of the order was recreational, threatened to dismantle a section of its site. However, because of his authority, the abbot of Foguangshan could ensure that the monastery would remain intact.

For small organizations that lack the clout and resources of Ciji or Foguangshan, standing up to authorities could prove more difficult. On the other hand, the sheer amount of small shrines represents a formidable challenge for any government that would attempt to register, regulate, and supervise the finance of all places of worship. The enormity of the task of registering all the small shrines (*shentan* 神壇) found in various public spaces (Li 2004) may explain in good part the reluctance to intervene on the regulation of religious property. In addition to the enormity of this constraint, major political obstacles prevented the Chen government from intervening too much on religious property. First, his administration needed the support of religious institutions, and it wanted to avoid the embarrassment of putting down religious buildings while criticizing the Chinese government for its persecution of religion. Moreover, as mentioned above, had the Chen government sought to legislate more comprehensively on religious property, it would have been unlikely to gain the GMD's support.

Civil servants dealing with religious affairs hoped that a law on religious organizations would be passed in the Legislature in 2009.¹⁴ They believed this could help the development of religious institutions, and although they knew this could generate discontent from some smaller religious associations, they were confident that they enjoyed the support of the majority of the religious milieu. The main Daoist and Buddhist associations expressed satisfaction because the regulations affect all religions associations, and therefore they do not feel discriminated against. Protestant and Catholic associations, which have always abided by the existing regulations, were not opposed to it because they believed this

14 Interview at the Bureau for Religious Affairs in Taipei, August 7th, 2008.

would reinforce the inter-religious dialogue they believe in. Only some of the smaller new religions remained wary of legislation, because they thought that it looked too much like state control of their associations. Although the latter did use the language of human rights and religious freedom to bolster their case, it is clear that the major national associations understand that for the sake of their reputation towards the public, the law could have had a positive effect. Under Chen's presidency, a push for that legislation was made, but with the change of government in 2008, however, its future remains uncertain.

Conclusion

The Taiwanese government has embraced the principles of freedom of conscience and of separation between religion and state. By doing so, it has adopted the principle of twin toleration, meaning that the state refrains from intervening in religious affairs, while religious organizations refrain from unduly influencing the political process to defend their narrow institutional interests. However, in trying to fine-tune an appropriate mechanism to manage state-religion relations, the government has inherited from the authoritarian era an approach that was skewed towards the imitation of some Western models. During the process of democratization, a number of experts and people with a religious background have sought to rectify this bias and have proposed to adopt more inclusive definitions of religion and to adapt the state's approach to religion accordingly. The experts and scholars, however, disagree among themselves about the nature of the institutional framework best suited to protect religion from state control and the state from religious interference.

This paper has looked at Taiwan as the case study of a consolidating democracy that tries to solve the challenge of reconciling the legitimacy of choice in religions matters with the need to protect the public interest against diverse forms of abuse made in the name of religion. It has looked into a predicament commonly faced by transitional democracies when they want to consolidate their institutions. They must ensure that legislation will frame in a predictable and fair way a relationship between government organs and social institutions that used to be based on personal connections. Since the beginning of the process of democratization, a more liberal approach has emerged, and recognition of religious institutions is becoming a mere administrative matter in relation to fiscal policy.

However, the emergence of cases of fraud has led religious institutions to push for a law on religious affairs to protect their institutional interest. Officials in the Taiwanese government are pondering how to best reconcile these two sets of demands.

In the end, successive governments since 1992 have preferred not to get involved too closely in religious affairs out of a desire not to generate unnecessary tensions in a situation that is globally harmonious. Taiwan was spared the most divisive effects of religion, and did not see the kind of inter-communal strife or intolerance plaguing other parts of the world. In addition, besides the sometimes controversial forays by religious leaders in Taiwanese politics and a few cases of fraud in the name of religion, the contributions of religions institutions to Taiwan have tended to be positive. Catholic and Protestant churches, as well as Buddhist associations, have contributed greatly to the improvement of social welfare in Taiwan. Religious associations have managed hospitals, clinics, and schools, from kindergarten to universities and vocational schools; and generally, the government has applauded these efforts. The Ministry of Interior has sponsored over the years a number of studies to explore the contribution of religion to social welfare in Taiwan.

The lessons that can be drawn from the Taiwanese experience may have tremendously important consequences in the not-so-distant future. As the government of the People's Republic of China considers redefining its relationship with religious actors, the result of the path taken by Taiwan is likely to influence their future options. Taiwan has shown that greater freedom of religion, and lesser state interference in religious affairs, has not led to a war of religions on the island, despite a great diversity of views. During the delicate period of transition to democracy, most religious associations have shown a conciliatory approach that has defused tensions over the legacy of the authoritarian period and toned down resentment felt by the population towards the old regime (Madsen 2007). Furthermore, the proliferation of new religions, far from generating social instability, added another dimension to the pluralisation and the vibrancy of civil society. The law has dealt with the few cases of fraud in the name of religion by punishing individuals guilty of these offences, but not the victims. In other words, Taiwanese are free to believe in various views of the world, regardless of what a majority of the public may think about the belief of minorities. As the leaders in the PRC will eventually set in motion a democratisation process with Chinese characteristics, they could learn from the Taiwanese experience that

if the state lets religious institutions develop, it may find in them social movements that will facilitate an orderly process of transition.

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