

## Supply and Demand between China's Religion and Belief and its Legal Predicament

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*ABSTRACT: The paper deals with the difference between religion and belief in the context of China. Then it proposes that within the relationship frame of religion and legal system belief and law should be interdependent, and that the interaction between law and belief should be considered as the prerequisite to the relationship between religion and legal system. In the author's opinion, the theory of supply and demand between religion and belief can be very helpful for understanding of the unique religion market in China. Adapting Harold J. Berman's statement, the author finally argues that: "belief must be practiced, or it won't work; belief must be protected by law, or the spirit will go aberrant."*

Since 1990s, Harold J. Berman's famous statement "Law must be believed, or it will not work" has been a key proposition in legal scientific theory. Yet, in the field of China's sociology of religion, the relationship between belief and law should also be deemed as a crucial theme.

What Berman emphasizes is that law must be believed, but his notion also implies another meaning, that is, the interaction between law and belief. Based on this interpretation, this paper plans to discuss the relationship between law and belief in China's context, and then it proposes that within the relationship frame of religion and legal system belief and law should be interdependent, and that the interaction between law and belief should be considered as the prerequisite to the relationship between religion and legal system.

Thirty years before the reform and opening up in 1978, Chinese people put great

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emphasis on the freeing of mind, yet failed to pay sufficient attention to belief. However, the freeing or diversification of belief must also be the prerequisite to China's construction of legal system. That law is not believed and that belief lacks a legal basis are the two aspects of one issue. As for the belief phenomenon discussed in this paper, it can be categorized into political belief, life belief and religious belief, and can be also divided into legitimate belief and compensatory belief. These different types of belief, based on the different practicing modes in actual society, respectively form a complex relationship with the same kind of law of various degrees.

### **Difference between Religion and Belief**

Like the definition of religion, so far there has been no absolute consensus on the definition of belief yet. The definition of belief given by German sociologist Georg Simmel seems to point out the most fundamental meaning of the concept belief.

Simmel believes that "Belief first appeared as an interrelationship between human beings<sup>1</sup>." At the beginning belief was a form of social relationship, yet later it was permeated with the relationship between deities and human beings. When belief "first appeared it was not influenced by religion in the slightest. It was just a pure form of spiritual relationship between individuals. Later it became quite pure and quite abstract in the form of religious belief." In the wholehearted belief, that is, belief in God, belief got away from the yoke of the corresponding social constituents and became an independent element, which in turn exercised a binding force towards the society.

Chinese people are inclined to identify, interpret and express religious belief in a quite personal manner. It is always said that Chinese people have no religion. It is because religion in China lacks the form of community, system and organization which religion is supposed to possess. The fact is that Chinese people's religious belief does not need the institutional or organizational way of expression, and what Chinese people prefer is such an individual belief which is dispersed, loose, casual, and which favors no restriction. Yang Qingkun proposed a pair of concepts: "institutional religion" vs "diffused religion<sup>2</sup>". And the latter quite aptly describes

Chinese people's belief model which is individual-centered and personal.

It is true that the privatization construction and evolvement tendency of China's belief has been confined to the strong constraints of communal religion, which, to a large extent, have made a belief evolve towards the mysticism of moral self-salvation. Major means of expression of this belief can be summarized in the following aspects: individual moral cultivation, meditation in quietude, and preservation of one's own purity and integrity in exclusion of others under the heaven and ancestor beliefs. But judging from the value orientation within the frame of Confucianism, this belief is seen to have virtually taken the path of moral egoism and should not be followed. Therefore, Confucianism creed always makes a distinction between two kinds of practice modes of belief. One is the communal practice means, e.g. the individual development path of administrative ambition; the other is self-interested moral self-care, e.g. the belief complement of Confucianism and Buddhism, and that of Confucianism and Taoism. Just as Max Weber points out according to the judgment of sociology of religion this is an instance of egoism in terms of religious values. This mystical belief form only seeks for personal salvation and hardly resorts to social activities. Even if the believer of this belief intends to cast influence upon others, they can at best serve as an exemplary who sets an example by his own action and teaches by personal example and verbal instruction. This mysticism salvation pattern turns down Secularization as an action of little importance to the salvation of soul<sup>3</sup>. As for the difference between the pursuit of the literati for the moral sacredness and that of the common people for the divinity of man's being an integral part of nature, it is that the former is embedded with cultural literacy while the latter is not and just stays on the level of folk belief.

As a result, the tradition Chinese people's belief is not under the single influence of religion; rather its maintenance is due to the synthesis of religion, philosophy and ethics. Different social groups put different degrees of emphasis on religion and philosophy. So it can not be said that Chinese people generally have religious belief or that Chinese people are in short of religious belief. A reasonable way of saying is that the literati place more emphasis on philosophy, while the lower strata masses on religion. This phenomenon, which can not be seen in the West, is particular to Chinese people's belief<sup>4</sup>. If we stretch this point a bit further, we can easily see

Chinese literati's belief is more on the level of philosophy and ideology, the masses' belief lays more stress on polytheism, and even the disorderly God of the strange power and ancestor worship, while the official belief pays more attention to the sanctity of ideology. Emile Durkheim, a French sociologist, once made profound studies about this phenomenon. He believed that religion did not stem from a belief in super-natural forces, but from the practice of distinguishing the world (all the things, times and people) into what is sacred and what is profane<sup>5</sup>. It follows that Chinese belief is not a pure religious belief, yet it is the synthesis of political power, state order, family system and folk environment, etc. It does not matter whether the belief in deity exists or not; all it matters is whether these believes can divide Chinese living world into what is sacred and what is profane, into what is orthodox and what is heterodox. When the division on these two aspects is formed, religious belief takes its shape.

One point should be noted that this division between what is sacred and what is profane, and between what is orthodox and heterodox always leads to the difference of belief structures. One is called "legitimate belief" at the level of sacred belief, which often belongs to the upper strata authorities of the state and places more stress on ideology and philosophy. This kind of belief is embedded with the state power, so the belief expression in institutional religion becomes quite blurred. The other is called "compensatory belief" at the level of "profanity." The lower strata masses often believe in the disorderly God of the strange power and prefer the make-up pattern of folk belief communities. The way in which believes form religion is more likely to help believers to obtain what is hard to obtain in the real word and what exists in the other world of religion—belief. The academic circle once held a discussion and proposed that in the course of China's history what existed was not the "state of Confucianism" but "state Confucianism," which constituted the political culture of China's Confucianism. And together with the "universal kingship" it formed a set of state institutions. Another proposal was also advanced, that is, five different types of Confucianism existed in China's history, namely, imperial Confucianism, reform Confucianism, intellectual Confucianism, merchant house Confucianism and folk Confucianism<sup>6</sup>. That is to say, owing to the concept of saint king and a Son of Heaven, and owing to the concept of universal kingship, in China's

history morality and politics, the world in heaven and the human world were tied together, hence the integration of politics and religion with Chinese characteristics<sup>7</sup>.

So we can see that Confucianism progressed through various levels, such as the level of imperial power, scholars, politics, scholars, politics, morality and the masses, and took different shapes, namely, reform Confucianism, merchant house Confucianism, intellectual Confucianism and folk Confucianism. This, in fact, manifests the complex relationship between dominant Confucianism belief, politics and religion and official religion on the one hand, and folk belief and family and ancestor belief on the other. The two sides have their own independent place yet coexist in the society, containing the contradiction of the good and the evil, and the conflict between legitimacy and compensation. This is just what is unique of China's belief structure.

So I hold that the "institutional religion" proposed by Yang Qingkun should be translated into "体制宗教" instead of "制度宗教" (system religion). And as a matter of fact, even Yang Qingkun himself denied that in Chinese society religion possessed a dominant position and acknowledged the massive function of diffused religion<sup>8</sup>. And this amounts to the denial of actual existence of system religion in China's society, because the system of China's religion or system religion has lost its own independence, sociality and publicity owing to its inlay in the institution of state power. In many regards, it stays within the state institution rather than as a self-contained system religion of its own; the two are like the dualized system set-up of church and society. As for the "system" in system religion, it refers to the self-contained religious organization in social realms, and its construction of system has legal norms and remains detached from the realms of state and market. And this very reason brings about the huge distance between private belief and institutional religion. The thriving of belief can not necessarily indicate the flourishing of religion. Likewise, the development of religion can not necessarily manifest the strengthening of private belief.

And it even can be said that wherever institutional religion fails, private belief will emerge as required. When the organizational structure of institutional religion is gradually disintegrating, people will turn to seek for the immediate experience which can give them a sense of religiosity, which advances the rising of private belief.

Private belief is quite different from institutional religion in many important aspects. For example, private belief always publicizes the mystical knowledge which has been submerged (and suppressed by the orthodox) for a long time and now becomes unyoked. In private belief, people feel they are exploring the novel or the once-considered-as-taboo belief and its expression modes. As a result, the characteristic of belief is that it implicitly stresses individual peace and happiness, instead of the legitimacy of theology and philosophy. What it aspires after is not a pursuit for rituals and myths, or the relationship between individuals and institutional religion or religious groups, let alone the obeisance to religious institutions or religious doctrines<sup>9</sup>.

As an alternative besides institutional religion, private belief brings about a dual relationship of conflict and integration between Chinese people's belief and institutional religion. Yet in contemporary Chinese society, the substance of China's related policies regarding the freedom of religious belief is that they at most make religious belief fall into the scope of citizens' free choice and private matters<sup>10</sup>. Considering the right of belief to belong to private matters rather than the system practice also seems to indicate the relationship between institutional belief and private belief. The freedom of belief which Chinese people always say is, as a matter of fact, a private and personal belief freedom.

To some extent, the structure of institutional religion and the phenomenon of privatizing belief, on the one hand, leave huge unorganized space for Chinese people's private belief and huge undecided space for the veins of core meaning of personal experiences, and at the same time bring into existence what Lukeman calls "private realms" in the social structure gap owing to the institutional division. On this premise, it is not religion but belief that is defined to belong to "private matters," and it is possible for individuals to choose, from the assembly of "ultimate" meanings, what he considers appropriate, only under the guidance of his preference decided by his social experiences<sup>11</sup>. This is the most fundamental difference between belief and religion in China's contemporary society. And this difference will cast a great influence upon Chinese people's understanding and discussion of the relationship between religion and legal system.

### **Supply and Demand between Religion and Belief**

In recent years American religious economists once employed the concept supply and demand in institutional economics to conduct studies of the waxing and waning of religion. They thought the waxing and waning of religion was mainly determined by whether the supply of religious products could meet the needs of religion demanders. This kind of supply and demand was similar to the supply and demand of goods in market. If the goods are in great number and of high quality, then the market will expand. And this could also be true to religion<sup>12</sup>. And in China Professor Yang Fenggang's theory of the Triple Religious Markets in China is a case in point, which adopts this theory to conduct studies of Chins' contemporary religion<sup>13</sup>.

However, according to my analysis and understanding of the differences between China's religion and belief, I think that, in the formation process of China's religion market, nothing else can better express this unique religion market and its supply and demand than the differences between religion and belief, although this market does not necessarily mean the same as that in market economy; instead, it is only a representation of the structure of the unique supply and demand of religion and belief. Therefore, we can use the concept market structure to get hold of the relationship between China's religion and belief. In this way it seems to say that China's religion and belief constitute two market structures: one is the supplier structure which is formed by institutional religion, and the other is the demander structure which is formed by private belief. Chinese people's private belief calls for great demand; while institutional religion and the integration manner of its resources make up a unique supplier structure. The reciprocal communication between these two structures, a supplier on the one hand and a demander on the other, sometimes exists in the same market structure but more often than not in its own structure realm. At times the fulfillment of the needs of private or personal belief needs directly entering the supply market; at other times or at most times there is no such a need. Private belief can choose the mode of self-sufficiency of belief, and thus does not need the institutionalized religious products. This should be the unique market theory of China's religion-belief.

It is this unique relationship structure of China's religion-belief and the differences between belief resources and religion associations that bring about huge

divergence between individual freedom of belief on the one hand and the systematization of belief expression, belief association and the degree of freedom of religion make-up on the other. Put it in another way, people enjoy more freedom of private belief than that of non-private belief. As a result, within the confinement of the unique environment of Chinese society, belief is a unique demander, while religion is a unique supplier. The latter is the supplier of religious products and in charge of the resources within the institution; the former is a religious consumer beyond the institution and organization.

Traditional Chinese people's belief patterns are various, such as the complementary choice of Confucianism and Taoism, and that of Confucianism and Buddhism. And this kind of choice is always made outside of the Confucianism-belief-based social network structure. On the condition that they will not run counter against the leading Confucianism principles Chinese people can enjoy, to a certain degree, the freedom of possessing their own private belief. Since the three major believes Confucianism, Buddhism and Taoism complement each other, the various private believes will not be in conflict, and will not, on the practice level, wage a war against each other to the death because of different types of belief. But, they unwittingly have formed the differentiation in belief structure, that is, the discrepancy between orthodox belief and unorthodox belief, Orthodoxy and heterodoxy, authentic belief and unauthentic belief, and legitimate belief and compensatory belief.

And this tradition casts an enormous influence on China's religion and belief today. According to Chinese people's belief custom and the legal definition of belief, belief has already become a private choice and personal spiritual habit. Either out of consideration for their identity or for personal benefits in the real world and their constraints, they always choose their personal belief as a complement to the leading and orthodox belief. In this way their personal belief stays beyond the institutional religion and becomes pure private belief. In this case there is no need for them to commit themselves to a certain religious system, and what they dislike is just the religious conversion which requires change of identity. If they are facing one institutional religion, it is less likely that this complementary belief choice will enter the supplier structure of institutional religion. Then, between Chinese people's



religion and belief, there always implicitly exists a vast discrepancy and even rupture of supply and demand, and thus supply and demand can not correspond to each other directly.

It was once said that according to the statistics of the United Nations, among the 5-odd billion people in the world about 1.2 billion people had no belief, and most of these people were Chinese. If someone really said this, it was actually untenable, because the methodological basis of the statistics stemmed from the belief codes of Western system religion. According to those codes, if someone's belief and belief form stays outside of the system religion, then he is considered to be a person of no religion, no belief. However, nobody can deny the fact that Chinese people do possess belief and Chinese belief does exist. It's only that these believers and the expression and practice modes of their belief do not fall into the scope of system religion. The believes are more often than not personal choices or they get expressed and realized by dint of the social relationship in the real world.

It is Chinese people's believes and the practice modes of Chinese belief that are the most complex and complicated.

As for all state ceremonies, political culture, social operations, daily life, and weddings and funerals, etc. Chinese belief has complex expressions and practice. Of course, the complex expressions and practice have already made the practice of Chinese belief take on what can be called "belief stratifications." Even in the most common fourfold structure of Chinese belief, the expressions and practice of Chinese belief have been categorized into four strata, namely, official belief, scholar belief, family and ancestor belief and folk belief. Although these four belief strata can often coexist and correspond to each other in the same society and they will be out of joint at times, but multi-stratum differences emerge in the supply and demand of religion and belief.

As for the level of official belief, it gets expressed often through the channel of public rituals and the resources of public power, and the expression takes the form of a universal public function, and even identity ethics and theoretical creed, etc<sup>14</sup>. They follow the path of politicalization and bring religion and philosophy into the strict management of state regime through belief politicalization, thus directly forming the

practice model of official belief on public administrative level.

Scholar belief is the most complex one among the four. From traditional complement of Confucianism and Buddhism and that of Confucianism and Taoism and all the way to contemporary anonymous Christians and anonymous Buddhists, the focus of scholar belief is not restricted to religion, and philosophy, esthetics, art and literature also are its focal points. Scholar belief is the modern representation of the tradition of basing on ambitions and reading widely and trying to become a Jack-of-all-trades. The focal points can be various and the beliefs which can be chosen are also multiple and complementary. What's the most important to them is that they can settle down and get on with one's pursuits. Even if they have committed themselves to a certain religion, they will not necessarily affiliate their identity to an institutional religion. And their beliefs are mostly in the state of cruising.

As for folk belief, the believers are the grassroots. In most cases, they choose a belief in pursuit of some compensation for the real life in the society, and seek for spiritual refuge in religion with good hopes for the bright future of reality. Although their beliefs are numerous, jumbled and volatile, they are by no means in short of real channels to express and practice belief. All the production routines, ceremonies on the festivals, and life rites can satisfy their belief needs in various aspects, thus forming the supplier structure of folk belief. So outside the institutional religion, they can be self-sufficient, and the structure of supply and demand of religious belief is set up.

Clan belief is self-sufficient belief unit just like the natural economy. It is a family belief centered on ancestor worship and deity belief. So it is even less necessary for the believers to seek in the institutional religion to fulfill their belief needs. Because most of the Chinese people adopt this belief form, this kind of belief phenomenon is the major cause for the difficulty of direct correspondence between the supplier structure of religion and the demand structure of belief. Hence the greater difficulty of establishing a direct structure of supply and demand of Chinese religion-belief.

Huge differences exist between official belief and that of academic circle on the one hand, and folk belief and family and ancestor belief on the other. The key is the

belief phenomena are various and many. They are not entirely within the religious system. Relying on the reality, they are self-sufficient and practice belief through the means of real relations. This very cause renders it impossible to establish a corresponding relationship between the demand of belief and the supply of religion, and people just get by what they have. Different believes have different conditions of belief practice. Some rely on religious organizations, and some do not. If this kind of belief phenomenon is particular to non-religious belief, then let it pass. Official belief relies on power order; scholar belief draws its support from the system of ancient Academy and academic culture; folk belief has the aid of folk custom; and clan belief is dependent on the clan organizations. The crucial point is that religious belief also depends on non-religious relations for expression and actual systems or custom for practice. As a result, there emerges a prevailing contradictory phenomenon of the disproportionate supply and demand of religion and belief.

Therefore, when belief practice plans to form belief community or organized religion, what I call the “intermediate logic” during the formation of believes into religion will appear between the supply and demand. It is just an organized belief community formed by individual believes, like such religious organizations as system religion. And excessive actual power factors are involved in the formation process. In other words, it is not a model that believers are voluntary and willing to form. Instead, many people choose to stay on the level of private belief, and refuse to enter a community and organized mode of belief expression and practice; they refuse to do what they are not willing to do. The belief model of “belief but not affiliation” is always the mainstream of Chinese people’s belief. The fulfillment of their needs requires not entering the religion market, and it is not the usual practice of the believers either. They just choose a belief of their own accord and self-suffice. They do not mind the difference between legitimacy and compensation, and they seek self-satisfaction in the aggregation of private believes. This creates a false impression of China’ religion market; people will misleadingly believe that believes have become vigorous and varied, and that religion also develops accordingly.

In fact, this matter is quite complicated. Even if Chinese people do have religious belief, they will not necessarily consider themselves to be direct religious believers. They may admit they have religious belief and mystic belief, but they will not

necessarily admit they are believers, because they think considering themselves as believers means affiliating themselves to a religious organization. And this kind of identity and spiritual affiliation will bring about troubles concerning their other social identities to the committers. So generally speaking, they prefer to linger on the level of private belief and spiritual aberration rather than enter public institutional religious organizations. So it is no easy task to establish a direct supply and demand relationship between religion and belief. Belief has various demands, but religion has difficulty in directly coping with the satisfaction of belief. Belief is private. When the demands of belief are various and many, and they are just individuals' belief demands, a false relationship of supply and demand will appear in religion market. It seems that there are many demands in China's religion market, but these demands do not directly enter the market; instead, more often than not, they will settle the problem themselves and self-suffice without asking for help from outside.

The case is more so for Buddhism and Taoism which pursues self-verification and personal cultivation. Even though they do have cultivation rituals and community structure to some degree, they are not necessarily religious organizations or system religion. And what they dislike is the systematization of private belief.

### **Practice Differences between Various Believes**

In *The Religion of China, Confucianism and Taoism*, Max Weber points out the existence of the orthodox and the heterodox in China's religion<sup>15</sup>. In *Religion in Chinese Society*, Yang Qingkun also says that China's belief contains many pairs of comparison, namely, official sacrifice vs folk sacrifice, official belief vs folk belief, and local belief vs state belief, etc<sup>16</sup>.

As a matter of fact, China's belief, especially the leading belief form which is offered by Confucianist scholars or Confucianism, is mostly expressed by the complementary relationship between Confucianism and Taoism, the complementary relationship between Confucianism and Buddhism, the dual overlapping of Orthodoxy and heterodoxy, the wrestling between official belief and folk belief, the complementary relationship between official sacrifice and folk sacrifice, and the interaction of private belief and public belief, so the practice means are various and

many. Therefore, within China's belief, various belief strata do exist, and they fall into two kinds of models, namely, public religion and private belief,<sup>17</sup> and demonstrate varied modes of belief practice. According to the relation combination in different practice fields, I now call these two models of belief practice "legitimate belief" and "compensatory belief" respectively. State belief, official belief, and belief of official sacrifice, etc. belong to the former; private belief, folk belief and local belief, etc. fall into the latter.

In terms of the practice mode, legitimate belief relies on public power or public rituals for its practice, while compensatory belief is dependent on folk rituals or religious organizations for its practice. The divergence in the practice modes leads to the discrepancy in their relationship with the state and law respectively. Among the two models, the former, owing to its reliance on public rituals or public power, always gets expressed and practiced within the inherent power order and even does not need the protection from the law; yet the latter, due to its dependence on the folk custom or religious organizations for its practice, is outside the state power order and then in urgent need of basing itself on the structured and law-based religious system, and it is even inclined to consider the belief of one community and its consensus mode as a socialized system for practice.

Generally speaking, religious ritual can stay detached from belief, but in the tradition of China's belief, China's belief always draws support from various rituals and always stays outside of religious organizations. For instance, what China's belief practice most relies on the most commonly used "propriety" which can be called "effectuality of propriety" or "rituals"<sup>18</sup>. Even within the "effectuality of propriety" of Chinese people, there still exists the difference between the official and public etiquette and folk and family etiquette. Put it in another way, this kind of etiquette, simply owing to the unique relationship between these etiquettes and belief practice, always takes on the form of "belief ritual" or "ritual belief" in Chinese people's belief practice.

In fact, the major function of ritual, as the belief of religious practice in action, is not to establish social structures and religious organizations; instead, its primary function is to mitigate people's anxiety and help people to maintain confidence and trust and to cope with the reality in a certain manner. And it is the unique function of

rituals that gives religion and belief the value of existence. Therefore, the discrepancy between various beliefs, in most cases, result from the difference between belief ritual and ritual belief.

In the case of public rituals, their function is to practice public religion through the means of belief. And as for the folk rituals, their function lies in the maintenance of order in grassroots society and interpersonal interaction. And what the family rituals do is to maintain the emotional consensus and spiritual communication of family members. So far, they can categorize the same kind of belief and even different kinds of belief into different types, and distinguish between such types of belief models as legitimate belief and compensatory belief. Especially the public rituals, that is, political religious rituals, possess a set of sacred semiotic system to set up a practice mechanism with consistent values. And the major contribution is to integrate the society at regular intervals, including the conflicting signs and those opposite and autonomous organizations and values. They lay a foundation for the unity of the public and for the strengthening of social norms, and they serve as a binding agent for uniting the society which is becoming abstract day after day. In terms of the public function, they can reiterate the sacred legitimacy of the supreme political power.

As a result, what is the most fantastic about the public rituals is that they seem to belong to the realm of religion yet not quite so and they are power and belief at the same time, because the operation mechanism of the structure has to seek the aid of the public power of the state. And the publicity and universality resulting from the publicity of power makes all the believers think they all belong to one big family. They think they share the value identification or belief commitment. The sanctity of tribe life and group system, and the interdependence and emotional attachment among the members of the state community, in turn, create the sacred dimension of which the public are in urgent need. And it is the legitimate expression of belief and the value requirement of its practice that make public rituals irreplaceable in the practice of religion-belief both in terms of status and function.

In the public rituals which involve the state factor and are arranged by public power, the concept belief, first of all, denotes sanctity and legitimacy, because it is very likely that the practice mode of their belief represents the relationship of all the

present powers. Especially when the devotional subjects enter the public rituals, at the same time they will always obtain an unprecedented religious quality, which can remove his usual unfavorable qualities and raise them to the level of sacred legitimacy. At this moment, these public rituals give most of the citizens a power hint, implying that devotional subjects already belong to the symbolic power community whose symbolic power can be proved by dint of public rituals.

In these public rituals, the devotional subjects, who were on the threshold separating the sacred and the secular, are now representing and possessing the value wills of two worlds. They will form a system of sacred values through the means of public rituals and then set up a legitimate belief structure which can handle the relations between the sacred and the reality.

One point that should be noted is that the legitimate believes in these public rituals have turned quite complicated with the once simplicity gone. Especially the uncertainties and instabilities in the process of belief practice render it hard for the spiritual concern of the belief to get expressed in a smooth and normal manner. It is because the social nature of public rituals carries dual functions, both positive and negative, both good and evil, both representing death and life, both representing the justice and the wickedness, etc. Only the representatives of the public power can tell the good from the evil, the orthodox from the heterodox.

On the one hand, public rituals can mobilize and integrate all their sacred functions toward the whole society. On the other hand, the belief practice and belief expression in public rituals, therefore, obtain unique legitimacy and sanctity, and belief is linked to state identification and social identification by dint of the function of integrating public power inherent in public rituals. Although in terms of the sociological nature, these believes belong to citizens' private matter, yet, once they enter the public rituals these believes will be formed into a legitimate belief model, not the ordinary private belief modes any more.

As for those believes which can not or are willing to enter public rituals, they are mainly the private believes centered on such personal interests as happiness, richness and longevity. And they are, in fact, only replenishment of legitimate believes. Since their belief mode is private, diffused and casual, it has nothing to do with the

so-called legitimate belief mode; whereas their belief demand will of course accordingly adopts self-satisfaction, thus creating the prevailing phenomenon of strong belief-weak religion, and institutional religion-private belief of Chinese people.

Obviously, be it legitimate beliefs or compensatory beliefs, they can not directly form the supply and demand to a large extent. Only when the supply and demand is brought into the legal framework can Chinese belief become the basis of legal belief. But in the reality the prevailing phenomenon is that what Chinese people generally need is still private belief, while it is the various religions within the institution that are in possession of sacred resources and supply religious products. In this relationship of supply and demand, the demand can not directly determine the supply, which leads to the discrepancy of supply and demand between belief and religion that is hard to be surmounted, and results in the unique phenomenon that “belief challenges religion and religion can by no means absorb belief” in contemporary Chinese society.

The relationship between legal system and belief becomes ever more knotty and crucial when Chinese people’s various believes and belief practice have not yet entered the religion market. And this raises such a question: does private belief possess legal effects.

If belief is just a private matter, then it is very likely that the individual’s belief right is in short of the due institutional requirements. Therefore, the realization of the freedom of those believes which stay outside of religious realms and the legitimate belief model will always be diminished in many aspects. Even though there are laws and regulations for the freedom of private belief to abide by, yet just like the case in which citizens can not express their ideas on their own, the personalization of belief can not get actually expressed in the real society. As a result, the privatization of belief is tantamount to its personalization and irrationalization, and thus can in no way progress towards socialization. Hence no relationship with legal system. The problems regarding the relations between belief and law are, therefore, exposed.

What Chinese people lack is not belief, but a way of adapting belief to China’s environment so that people can partake of it and consensus can be reached. When



someone has belief, how can he share with others who have the same belief, to form a belief mode which is featured by group sharing at regular intervals and team consensus? Private believes are prevailing in China, and what Chinese people lack is the aggregation of numerous private believes, namely, the group, team and association belief, or “the belief of the society.” That belief model is shared by social community, possesses sociality, serves the society, represents the belief of social community, and stays outside of the state and market. This is a kind of common sense of belief. As a result, in the practice structure of countless compensatory believes, what is absent is their social factor or a socialized structure location. And it is this absence that renders it impossible for countless private belief modes directly enter the scope of law; instead, all kinds of possibilities of belief expression and practice are made to be restricted to individuals’ identity, work unit and interests.

Most people must remember Berman’s statement that “Law must be believed, or it will not work.” However, another of his statement is also significant and deserves remembering, that is, “Without law religion will lose its sociality and historicity and turn into pure individuals’ mystical experience<sup>19</sup>.” This remark at least contains the following meanings:

Firstly, religion must find alliance with law; otherwise, it can in no way possess sociality and historicity; Secondly, once religion lacks the legal system, it will become individuals’ private matter and a private belief; Thirdly, the “religion” which consists of pure individuals’ mystical experiences, namely, private belief, possesses no sociality and historicity.

So it can be said that sociality, legality and publicity of religion and belief are integral and indispensable. When one is affected, the others must be affected as well; they are in a symbiotic relationship. From this, we can see that despite the definition given by the law and policies the belief mode which belongs to individuals’ private matters will inevitably lose sociality and historicity, turn into individuals’ mystical experiences, and are limited to personal interests and compensatory spiritual concern. Therefore, the fact that Chinese people do possess private believes does not necessarily mean the confirmation of religious historicity and religious sociality. The opposite is true, that is, it will lead to the severe shortage of the publicity and sociality of belief modes.

It must be understood that the hope is slim for private believers to possess the expression of spiritual rights, which is like the case in which a single person can not realize the function of social interaction, or can only realize a fraction of the function. In the case of extraordinary private belief, only those who are powerful and influential can, by dint of their power, draw support from and base their private belief on the real power order, so that when others are subject of their power order, they actually believe in their private belief at the same time.

The key reason for this kind of situation is that only the privacy of belief is acknowledged by law and its sociality and publicity are not given sufficient approval, let alone the right of privatizing private belief. In a modern society, the freedom of private belief is one thing, and it is quite another that the right of belief must be protected by systems. The so-called “systematized right of belief” can be said to refer to the freedom of belief association or religion association. Without the systematized right of belief and its social realms of expression and practice, the freedom of private belief would be empty talk.

As a result, even if as a private right, freedom of belief can also serve as a right system. The freedom of belief not only refers to a freedom of internal belief, but also includes the freedom to carry out external religious activities. Going to church, praying, conducting or participating in religious rites, doing missionary work, and organizing religious bodies, etc. all belong to the external activities which believers practice religion. These activities are the externalization of religious beliefs. When internal beliefs become realized through external activities, they may come in conflict with others’ rights and public interests. Then religious belief is not a private matter any more, and the freedom of religious belief is not an absolute freedom any more; rather it is subject to the confines of the boundary between right and freedom<sup>20</sup>.

Put it in another way, the complicated relationship between private belief and communal religion or institutional religion must undergo the system space defined by law, so that countless people’s belief consensus and spiritual commitments can be organized to form a “belief community.” First of all, it can assemble people with the same belief, thus creating some organizational effectiveness and getting related belief demands expressed through systematized channels. Moreover, a belief community

can also provide related information to serve the society and communicate with other organizations in the society. It is because only when the free private belief which is defined by law has its basis on systematization and by means of the “process of obtaining value and stability through organization and procedures<sup>21</sup>” can countless private believes get by the systematized testing so as to make the belief practice possess such characteristics as integrity, independence and continuity which can not obtained individually, and make the expression and practice of belief possess such social features as collaboration, rationality and legitimacy.

Especially when in contemporary China the longitude-latitude method of studying society is not based on religion, belief has become the basic means of social operation, which renders the close relationship between belief and the operation of the whole society, state, politics and even enterprises, market and the folk society, and brings about the dual contradictions of reliance on institutions and spiritual aberration in and varying practice relations in different spatial-temporal situations of the practice modes of Chinese people's belief. Those dependent on public rituals are mostly legitimate believes which are approved by the state, while those relying on the folk society, the academic circle, and the religious circle are, in most cases, compensatory believes. This distinction is followed by the more important unreasonable distribution of sacred resources, which is closely associated with belief. And this in turn will inevitably cause the displacement of supply and demand between belief and religion, and result in the unusual phenomenon of “belief being unfair” and untrustable in China. This is the severe displacement of supply and demand between religion and belief and thus belief and law are out of joint. Therefore, it does not mean that the existence of religion does not guarantee believers' freedom to practice their belief.

If it is said that “contemporary China has succeeded in self-organization without the means of religion<sup>22</sup>”, then in various fields of the society there should be their own formation norms and the borderlines, and there should be stipulations that in modern life “possessing religious belief is citizens' right,” and this right becomes a spiritual right and the basis of human beings' all other rights. If human beings turned down this right, they would lose their spiritual esteem and develop all the diseases which are related to this loss; and if human beings did not realize this right, they

would lead a futile life and add burdens to others in an indecent manner. Religious needs motivate the needs for spiritual freedom and the needs for legal order as well. This is the reason why in the course of history belief in religion was more than once the deep origin of legal consciousness, and religious belief was the absolute and sacred basis for the fight for political freedom<sup>23</sup>.

In light of this, the relationship between religion and rule of law is not only decided by the relationship between politics and religion and its vicissitudes, but also determined by the relationship between politics and belief. When one kind of constitutionalism can provide systematized protection for citizens' personal belief practice, and make every citizen's private belief possess systematized mechanism of right expression, belief progresses from "the state of spirit" to "the state of reality", and law progresses from "the state of reality" to "the state of idealism." And on this basis, actual and concrete interaction can take place between belief and law, so that belief can become the spiritual starting point of legislation and intrinsic spirit of citizens' law-abiding, and belief can serve as the spiritual basis for law-assessment. Belief backs up law, and law realizes belief<sup>24</sup>.

That is to say, with the development of rule of law and the popularity of human rights idea, individuals' internal belief will become a social actual matter drawing our attention. It requires Chinese people to further free their mind, to free belief, and make detailed studies of the complicated relationship between politics and belief in terms of its extraordinary significance in contemporary Chinese society, so as to ensure the free appearance of supply and demand of religion and belief.

Finally, Berman's statement can be adapted like this: belief must be practiced, or it won't work; belief must be protected by law, or the spirit will go aberrant.

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