

# Render Unto Mao The Things That Are Mao's

## China's Problematic Role in the Appointment of Catholic Bishops

Render unto Caesar the things that are Caesar and to God, the things that are God's...<sup>1</sup>

I am the king's good servant, and God's first.<sup>2</sup>

### I. Introduction

The two opening quotations offer perspectives about the longevity of issues dealing with the ability to believe in God—especially as a Christian—in two societies where there was pressure to do otherwise. The first quotation is instruction from Jesus Christ that concerns the relation between the Church and the state. It signifies that the believer has a responsibility to both the City of God and the City of Man during the period of the Roman Empire's reign in Jerusalem. In the end final analysis, the exhortation requires that supreme fidelity is to be rendered to God over Caesar (the state).

The second quotation is from Sir and Saint Thomas More. From it, we know how More, who was a most faithful public servant to King Henry VIII, nevertheless suffered intensely as a member of the Catholic Church (hereinafter, the Church) for his fidelity to God. The words of Thomas More amplify the witness of a person who could not replace the commands of God and His Church with the dictates of the state.

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<sup>1</sup> *Matthew* 22:21.

<sup>2</sup> *A Thomas More Source Book*, Gerard B. Wegemer and Stephen W. Smith, eds., Catholic University Press, 2004, p. 357.

Today, both of these quotations remind us today of rights claimed by religious persons over the past several centuries of the natural right to believe in and practice their faith in contexts where the right of religious freedom was or could easily be circumscribed. In recent times, this right has been fortified by the Universal Declaration of Human Rights (hereinafter, the UDHR) and contemporary legal instruments.

In the present age, the subject of human rights is familiar to most people across the world. In both the national and international contexts, human rights are often viewed as a universally recognized general norm that protects each person in the exercise of fundamental claims that properly belong to the dignity of the human person. These primary rights properly belong to each member of the human family because of the humanity of the individual by whom they are claimed.<sup>4</sup> By Jacques Maritain's explanation, these deep-seated rights inhere in humanity due to the nature and essence of the human person.<sup>5</sup> Thus, the basic rights are not the creation or gift of the state. They subsist in the human person because of one's humanity. If the state were the author of human rights, it could withdraw whatever it grants. Even though the state is not the source of these rights, the state must be their defender out of obligation to advance the common good of the human family and all its members.

The ability for a person to exercise one's rights brings into play the obligations and responsibilities that accompany their exercise. But the fact that there are accompanying responsibilities does not diminish the existence of rights nor the state's duties regarding them. A fundamental right which many domestic laws recognize and which international law protects is religious liberty.

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<sup>4</sup> See, Jacques Maritain, *The Rights of Man and Natural Law*, Charles Scribners Sons, 1951, p. 65.

<sup>5</sup> Ibid. Maritain was the chairman of a working group of philosophers who were consulted by the drafting committee of the UDHR.

This essay investigates the subject of religious liberty in present-day China. While formally a communist state, the reality of China in the early twenty-first century is quite different. The country presently enjoys a robust economy that encourages aggressive capitalist development that is subject to state control but state control is often arbitrarily exercised against its own citizens and foreign nationals. While one of the rights claimed by persons around the world is religious freedom, this right is often subject to the whimsical and sometimes brutal control of the Chinese state. This essay focuses on the particular status of the Church in China and the state's positivist attempts to control the appointment of bishops. As will be explained, these efforts directly conflict with a fundamental aspect of the rights of Catholics and the Church.

In order to present the substance of this essay, I begin in Section II with a brief background discussion that sets the stage. In this section, I explain why the Chinese state's legitimate concerns regarding its proper authority need to be considered. I then address how the norms of public international law are designed to protect religious freedom for individuals and their religious communities in Section III. In Section IV, I present the position of the Church's general argument for religious liberty. I then explain why the appointment of bishops is of central concern to the Church. Section V will offer some concluding remarks.

## **II. Background—the status of the Church in China and the State's Legitimate Interests**

With the European entrance into the Orient by the early seventeenth century, Christianity was introduced in China. Notable among these efforts were the works of Catholic missionaries

such as the Jesuits Johann Adam Schall and Matteo Ricci.<sup>6</sup> Since then, the Catholic community grew slowly. With the passage of time, native Chinese were being appointed as bishops by Rome during the twentieth century. With the Communist takeover of the country in the 1940s, the state has made concerted effort to control the presence and practice of Christianity in China. Although Christianity is present and intersects the lives of millions of the Chinese faithful, the state has continued to exercise control over the practices of religious communities in the country including those of the Church.<sup>7</sup> How does it accomplish this task?

Under the Constitution of China, formal rights of the citizens are identified. Moreover, the Chinese constitution identifies together the fundamental rights and duties of citizens.<sup>9</sup> In general, Article 33 asserts that all citizens are “equal before the law” and recognizes that the “state respects and guarantees human rights.” This article further notes that while citizens have rights they also have duties which must be performed. The kinds and nature of these duties are not always clearly identified—but they assuredly exist as the constitution explains in its other provisions.<sup>10</sup>

The Chinese constitution also acknowledges the existent of other rights including the freedoms of speech, of the press, of assembly, of associations, and of processions and demonstrations.<sup>11</sup> Moreover, Article 36 protects religious rights. It reads in its entirety:

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<sup>6</sup> See, Liam Matthew Brockey, *Journey to the East: The Jesuit Mission to China, 1579-1724*, Harvard University Press, 2007.

<sup>7</sup> See, generally, Thomas F. Farr, *World of Faith and Freedom*, Oxford University Press, 2008, *Riding the Dragon: The Case of China*, pp. 273-307

<sup>9</sup> Chapter Two, Chinese Constitution, official website, [http://english.gov.cn/2005-08/05/content\\_20813.htm](http://english.gov.cn/2005-08/05/content_20813.htm).

<sup>10</sup> In a general context, Chapter 2 of the Constitution addresses “rights and duties.” One duty that is spelled out is that married couples have the duty to practice “family planning.” Article 49, Chinese Constitution.

<sup>11</sup> Article 35, Chinese Constitution.

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

This provision superficially grants broad rights to individuals, but it is unclear whether the specified rights are applicable to groups of persons and to religious organizations. While the terms of the article indicate that the state has a duty to protect “normal religious activities,” it is unclear what practices and beliefs constitute “normal religious activities” and who is responsible for making this determination. It would be reasonable to assume that some government official is authorized to determine what constitutes a normal religious activity. But the standards for making this type of decision are ambiguous. Moreover, it would appear that the state also determines whether any exercise of religious freedom disrupts public order or interferes with the functioning of the state. Finally, while it is evident that religious bodies and affairs of religion “cannot be subject to any foreign domination,” what activities fall within the category of “foreign domination” are also unclear. However, it is reasonable to conclude that fidelity to the pope would be a likely candidate for “foreign domination” that is prohibited by the constitution. While any state, even the most democratic and vigilant in protecting robust human rights has the right and obligation to protect its citizens from foreign threats, it is questionable that the role of the pope or of the Church hierarchy in Rome is, in reality, a kind of foreign domination which poses any threat to the legitimate interests of the state.

This provision about “foreign domination” is the likely source of friction between Catholics in China and their government. Indeed, the state has made conscious efforts to control the activities of Catholics by establishing the Chinese Patriotic Catholic Association, or the so-called Patriotic Church. This institution was established in the late 1950s by the Chinese state's

Religious Affairs Bureau, and it is the sole means by which any activities of Catholics are recognized.<sup>12</sup> One principal difficulty of the Religious Affairs Bureau is that its officials are government functionaries who are typically not religious believers but members of the secular, political order; yet, they make decisions concerning the beliefs and activities of Christians who attempt to live in a public fashion their faith.<sup>13</sup> Since the Communist takeover of China, the persecution of the Church in China by the state has drawn the attention of the highest levels of the Church.

For example, in 1958 Pope Pius XII decried the state repression existing in China in his encyclical letter *Ad Apostolorum Principis*.<sup>14</sup> He began by expressing his sorrow over the expulsion of foreign Christians from China and the persecution of native Chinese Catholics.<sup>15</sup> In this encyclical, the pope recalled his 1952 encyclical *Cupimus Imprimis* in which he objected to the attacks of the Chinese state on Christians and demonstrated that the Church posed no threat to anyone in China, including the state and its legitimate interests.<sup>16</sup> In 1954, the new Communist government expressed its concerns that Catholics in China could not be loyal to their country if they were faithful to the Church which is universal in its nature, but the pope refuted these baseless allegations.<sup>17</sup> By 1958, the pope had little choice but to declare that the “patriotic association”, in spite of stated objectives, was a government effort “to execute certain well-

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<sup>12</sup> See, “The Chinese Patriotic Catholic Association Celebrates 50 Years at a Less than Ideal Moment,” AsiaNews.it, July 25, 2007, <http://www.asianews.it/index.php?l=en&art=9915>.

<sup>13</sup> Ibid.

<sup>14</sup> On Communism and the Church in China, June 29, 1958.

<sup>15</sup> Ibid., N. 5.

<sup>16</sup> Ibid., N. 6.

<sup>17</sup> Ibid., N. 7. (In the 1954 encyclical, *Ad Sinarum Gentem* (N. 6), Pius XII stated that the “persecutors” of Christians in China falsely accuse the faithful of not being good citizens, but the pope noted that they have demonstrated time and again that they are.)

defined and ruinous policies” directed to the Catholic faith and the members of the Church.<sup>18</sup> Pius XII spoke bluntly about the Patriotic Association when he branded it “a fraud” designed to make Catholics “gradually embrace the tenets of atheistic materialism.”<sup>19</sup> The pope noted that while the legal mechanisms of the state presumably protect religious liberty, the Patriotic Association does not advance or protect these rights but rather strives to subject the Church to the complete control of the state.<sup>20</sup> Indeed, the state demonstrated that it had little interest in religious beliefs and practices. In addition, it did not demonstrate any comprehension that the Church posed no threat to the lawful objectives of the state. But he identified that the objective of the civil authorities was to separate the Catholic community from the Apostolic See, i.e., Rome.<sup>21</sup> This illegitimate objective of the state confronted head on a central tenet of Catholicism which is that the pope is the universal pastor who is the successor of Saint Peter upon whom Christ established the Church.<sup>22</sup> Pope Pius also elaborated in detail the unlawful mechanisms employed by the state to achieve its objective to subjugate the Church.<sup>23</sup>

As an astute diplomat and experienced representative of the Holy See to other states, particularly Germany during its transformation into a totalitarian state in the early 1930s, the pope reminded all that Catholics possess and exercise two duties: one to Caesar (the state) and one to God.<sup>24</sup> He further reminded those listening to him that an incontestable principle of

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<sup>18</sup> Ibid., N. 10.

<sup>19</sup> Ibid., N. 11.

<sup>20</sup> Ibid., N. 13.

<sup>21</sup> N. 14.

<sup>22</sup> Catechism of the Catholic Church, NN. 771, 874-87, 914, and authorities cited therein.

<sup>23</sup> On Communism and the Church in China, June 29, 1958, NN. 15-20.

<sup>24</sup> Saint Paul, in Chapter 13 of the Letter to the Romans reminds his readers of their duty to the civil authority as well as to God. See also, Catechism of the Catholic Church, NN. 2239-40.

Catholicism is that the faithful believer must never obstruct “what is truly useful or advantageous to a country.”<sup>25</sup> Yet, by the same token, he argued that the state has no right to interfere with the lawful rights of believers to exercise their religious duties which include preserving the ties with the universal Church.<sup>26</sup> The pope reasserted the condition of following Christ that has been proclaimed since the Church’s earliest years: regarding those matters falling within the competence of the natural moral law, “We must obey God rather than men.”<sup>27</sup> The tensions, challenges, and persecutions addressed by Pius XII still exist over fifty years later, and the abuses catalogued by Pius XII in 1958 remain to this day.<sup>29</sup> For example, false teachings regarding Christianity and Catholicism are still disseminated by those holding civil authority.

Included on this list is the improper appointment of bishops by the Patriotic Association without the consent of Rome and the ordination of priests by men who have not been appointed by the Holy See to the office of bishop.<sup>30</sup> From time to time, there has been agreement on these appointments, but on other occasions there has been disagreement between the Holy See and the People’s Republic concerning them.<sup>31</sup> In 2010 and early 2011, two bishops, Paul Pei Junmin and Joseph Li Liangui, were reprimanded and disciplined by civil authorities for not doing what the civil authorities demanded concerning attendance at meetings and episcopal ordinations not

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<sup>25</sup> On Communism and the Church in China, June 29, 1958, N. 22.

<sup>26</sup> N. 23.

<sup>27</sup> N. 24 citing the *Acts of the Apostles*, 5:29.

<sup>29</sup> NN. 35-36.

<sup>30</sup> NN. 36-49.

<sup>31</sup> See, e.g., “Illicit Ordinations in China: the Holy See Explains What Is to Be Done with Excommunicated Bishops,” June 13, 2011, AsiaNews.it., <http://www.asianews.it/news-en/Illicit-ordinations-in-China:-the-Holy-See-explains-what-is-to-be-done-with-excommunicated-bishops-21815.html>.

sanctioned by Rome.<sup>32</sup> In November of 2011, there was a slight rapprochement between Rome and Beijing concerning the selection of the Rev. Peter Luo Xuegang to be the coadjutor bishop of Yebin when both concurred on his appointment.<sup>33</sup> But in its consent to this appointment, Rome indicated that no “illegitimate” bishop could participate in the new bishop’s consecration.<sup>34</sup> Nonetheless, an illegitimate bishop did attend and participated in the consecration complicating the relations between Rome and Beijing.<sup>35</sup>

There has also been renewed tension over the issue of “foreign domination.”<sup>36</sup> In this regard, one needs to recall the rhetorical question of Josef Stalin regarding how many divisions does the pope have.<sup>37</sup> Yet one web-based news source, *The People’s Daily*, published an online article in August of 2011 falsely claiming that,

The Pope, you see, is not just the Vicar of Rome, which is one of his titles. He is also a head of State, with soldiers who carry real guns, a diplomatic corps and a bank. Europeans may choose to see this as quaint, but China is questioning the principle of letting a foreign state dictate to another what happens on its own territory. The Vatican also has a history of meddling in politics, threatening the excommunication of Catholic politicians who deviated from the party line as late as the 1960s in Belgium and Holland.<sup>38</sup>

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<sup>32</sup> “China Disciplines Bishop for Not Participating in Illegitimate Ordination,” Vatican Insider—LaStampa.it, October 24, 2011, <http://vaticaninsider.lastampa.it/en/homepage/inquiries-and-interviews/detail/articolo/9305/>.

<sup>33</sup> See, “Ordination of New Bishop in China with Pope’s Approval on November 30,” Vatican Insider—LaStampa.it, November 25, 2011, <http://vaticaninsider.lastampa.it/en/homepage/world-news/detail/articolo/10241/>.

<sup>34</sup> See, “Vatican Urges China to Respect Church Norms in Next Ordination,” Vatican Insider—LaStampa.it, November 28, 2011, <http://vaticaninsider.lastampa.it/en/homepage/the-vatican/detail/articolo/china-10341/>.

<sup>35</sup> See, “Bishop Approved by Pope Ordained in Southwest China,” Vatican Insider—LaStampa.it, November 26, 2011, <http://vaticaninsider.lastampa.it/en/homepage/world-news/detail/articolo/china-vatican-ordination-10377/>.

<sup>36</sup> See, e.g., “China’s Religions Retrospect and Prospect,” February 19, 2011, China.Org, [http://www.china.org.cn/living\\_in\\_china/abc/2009-06/26/content\\_18022191.htm](http://www.china.org.cn/living_in_china/abc/2009-06/26/content_18022191.htm).

<sup>37</sup> See, <http://www.great-quotes.com/quote/18340>.

<sup>38</sup> “Catholicism Should Adapt to Local Conditions,” People’s Daily Online, August 10, 2011, <http://english.peopledaily.com.cn/90780/91345/7564966.html>.

Two fundamental questions must now be posed and briefly answered: is the position of the People's Republic consistent with the requirements of the law of nations? Or, to put the question another way, are the expectations of the Catholic Church in accord with the applicable international norms? To these questions I now turn.

### III. The International Legal Context

Public International Law is a crucial foundation upon which religious liberty claims can be presented. A good place to begin the study of applicable international norms is with the UDHR which states that "Everyone has the right to freedom of thought, conscience and religion."<sup>45</sup> While the UDHR is not a juridical text *per se*, it is generally considered a component of customary principles of international law.<sup>46</sup> Consequently, it is a crucial basis from which religious freedom arguments are made on behalf of individuals and the organizations and associations to which they belong. The Church would be such an organization. The UDHR clearly maintains that religious freedom exists for the individual as well as persons "in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."<sup>47</sup> While these are broad claims, they have universal meaning and application.

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<sup>45</sup> UDHR, Article 18.

<sup>46</sup> See, e.g., Ian Brownlie, *Principles of Public International Law* (Sixth edition), Oxford University Press, 2003, pp. 534-35.

<sup>47</sup> Ibid. As Johannes Morsink points out, the UDHR's protection of religious freedom makes everyone "free to pursue the thick human good of religion in his or her own way, alone or with others of like mind and heart." Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting & Intent*, Philadelphia, University of Pennsylvania Press, 1999, p. 260. Additionally, the International Covenant on Civil and Political Rights of 1966 protects religious freedoms in Articles 2, 4, 18, 24, 26, and 27. Although China signed the Covenant in 1998, it is not a party to this important pact. However, the People's Republic of China is a party to the International Covenant on Economic, Social, and Cultural Rights of 1966. But this covenant has only one reference to religion, i.e., Article 2.2, and it asserts that no party will discriminate against anyone on the basis of religion.

The next matter for consideration deals with the manner in which the Church expresses her views given the context of religious freedom of Catholics in the People's Republic of China.

#### **IV. The Position of the Church**

The history of the Catholic Church regarding religious liberty is a long and complex one that extends beyond the scope of this paper.<sup>53</sup> However, it is important to point out that in the last half century, the Church has been a strong advocate for religious liberty. On her own behalf the Church does not ask for privilege; rather she asks for the rights and freedoms that the international community correctly acknowledges belong to her and the faithful. Two encyclicals from the first half of the twentieth century make this case. Both were written by Pope Pius XI addressing religious freedom in Italy<sup>54</sup> and Germany prior to the Second World War.<sup>55</sup> In the 1930s, the freedom of the Church in Italy and Germany was tested by Fascism and National Socialism. It was clear that the Church posed no actual threat to the legitimate interests of either government; however, in taking her position, the Church and her members were often confronted by unrelenting brutality. These circumstances have parallels with those of the situation in present-day China.

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<sup>53</sup>For a clear and insightful overview, see Avery Cardinal Dulles, S.J., “*Dignitatis Humanae* and the Development of Catholic Doctrine,” in *Catholicism and Religious Freedom: Contemporary Reflections on Vatican II's Declaration on Religious Liberty*, editors: Kenneth L. Grasso and Robert P. Hunt, Rowman & Littlefield Publishers, 2006, pp. 43-68.

<sup>54</sup> *Non Abbiamo Bisogno*, June 29, 1931.

<sup>55</sup> *Mit Brennender Sorge*, March 14, 1937.

The significance of the encyclicals of Pius XI cannot be underestimated as they elaborate on the proper relationship between the Church and Caesar in an earlier modern age. However, there are two other texts which necessitate emphasis regarding the situation in China. They are the Declaration on Religious Freedom (*Dignitatis Humanae Personae*)<sup>58</sup> issued by the Second Vatican Council in 1965 and Pope Benedict XVI's Letter to Catholic Church in the People's Republic of China of May 27, 2007.<sup>59</sup> It is this latter document that brings focus to the persecution of the Church in China; moreover, the reader of this letter will see that Pope Benedict carefully evaluates any legitimate concerns of the Chinese state and responds with reasonable accommodations that do not undermine any valid claim to religious freedom of the Church.

#### *The Second Vatican Council and the Declaration on Religious Freedom*

The 1965 Declaration on Religious Freedom has been viewed by many as a watershed document.<sup>60</sup> It brings together an explanation of the rights of individuals and their religious communities to enjoy and make use of responsible freedom in religious belief and the public exercise of faith.<sup>61</sup> The core right of religious freedom is immunity from coercion by any human power or authority so that no person or no group of persons is forced to act contrary to their religious beliefs.<sup>62</sup> Based on the Church's teachings, this right is not conferred by any

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<sup>58</sup> Hereinafter, the *Declaration on Religious Freedom*.

<sup>59</sup> Hereinafter, the *Letter to China*.

<sup>60</sup> See, generally, *Catholicism and Religious Freedom: Contemporary Reflections on Vatican II's Declaration on Religious Liberty*, editors: Kenneth L. Grasso and Robert P. Hunt, Rowman & Littlefield Publishers, 2006.

<sup>61</sup> *Declaration on Religious Freedom*, N. 1.

<sup>62</sup> *Ibid.*, N. 2.

human authority, but it subsists in the essence and nature of the human person, i.e., the dignity that belongs to each person because of their humanity made by God to seek the truth.<sup>63</sup> Authentic religious freedom cannot be imposed by any authority, ecclesial or temporal. Rather, it is a state of human affairs in which the person and his or her religious society discover the presence in their lives by the affect of the heart and the intellect of the mind.

The Church teaches that every person has both the duty and the right to seek the truth regarding religious matters.<sup>64</sup> This means that no person, and, therefore, no temporal authority, have the responsibility, right, or capacity to interfere with this synthesis of right and duty that belong to the religious believer and the religious community.<sup>65</sup> ;

While the Church recognizes and acknowledges the importance of public order which is the duty of the state,<sup>67</sup> she also asserts that the profession of faith is simultaneously a public and personal matter that complements the public order. Therefore, the civil authority has a responsibility to protect religious exercise as it is conducive to the common good.<sup>68</sup> While taking stock of the legitimate needs of the public authority and order, the Church accepts her responsibility to promote and sustain the common good, yet it also claims the necessary freedom in order that the Catholic community may govern itself according to its own norms.<sup>69</sup>

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<sup>63</sup> Ibid.

<sup>64</sup> Ibid. N. 3.

<sup>65</sup> Ibid.

<sup>67</sup> See, e.g., The Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*), NN. 17, 76.

<sup>68</sup> *Declaration on Religious Freedom*, N. 3.

<sup>69</sup> Ibid.

In short, the Declaration of Religious Freedom mandates that the Church possess and exercise the freedoms necessary to care for the salvation of souls that are entrusted to her care.<sup>72</sup> Surely no secular state can rightfully claim that it has a legitimate interest in this. Ultimately, the Church must possess and exercise whatever appropriate means are necessary to provide for her members religious rights; therefore, she must have the capacity to deal in good faith with the state and those elements of civil society whose legitimate interests coincide with these of the Church.<sup>73</sup>

When the Second Vatican Council concluded in December of 1965, Pope Paul VI, through a designated spokesman, asked one thing of the civil authorities of the world:

What does the Church ask of you today?... She asks of you only liberty, the liberty to believe and to preach her faith, the freedom to love her God and serve Him, the freedom to live and to bring to men her message of life. Do not fear her. She is made after the image of her Master, whose mysterious action does not interfere with your prerogatives but heals everything human of its fatal weakness, transfigures it and fills it with hope, truth and beauty. Allow Christ to exercise His purifying action on society. Do not crucify Him anew. This would be a sacrilege for He is the Son of God. This would be suicide for He is the Son of man. And we, His humble ministers, allow us to spread everywhere without hindrance the Gospel of peace on which we have meditated during this council. Of it, your peoples will be the first beneficiaries, since the Church forms for you loyal citizens, friends of social peace and progress.<sup>74</sup>

This is the fundamental right that the Church seeks and which the international order recognizes. This now brings us to the 2007 Letter of Pope Benedict XVI to the Church in China, which reflects the sentiments of Paul VI directed to the temporal authorities of the world.

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<sup>72</sup> Ibid., N. 12.

<sup>73</sup> Ibid., N. 13.

<sup>74</sup> Paul VI, to the Governors of the World, December 8, 1965, [http://www.vatican.va/holy\\_father/paul\\_vi/speeches/1965/documents/hf\\_p-vi\\_spe\\_19651208\\_epilogo-concilio-governanti\\_en.html](http://www.vatican.va/holy_father/paul_vi/speeches/1965/documents/hf_p-vi_spe_19651208_epilogo-concilio-governanti_en.html).

*Letter of Pope Benedict XVI to the Church in China*

Since his election to the papacy in 2005, Pope Benedict XVI has expressed his concerns about the Church in China and the ongoing difficulty it faces with Chinese civil authorities. His 2007 letter (Letter to China) addresses several vital matters crucial to the respective legal interests of the Church and the Chinese state, but the one pertinent to this paper is the appointment of bishops. This is a fundamental element to the Church and her community of believers. The underlying principle regarding episcopal appointments is that the bishops of the Catholic Church are the successors of the Apostles.<sup>84</sup> As such, their relationship is tied to Christ, who appointed the first Apostles,<sup>85</sup> and now with the Pope who is the Church's Vicar of Christ.<sup>86</sup> The unity of the Church is premised on the unity of Christ and His Apostles. It is therefore detrimental for any other authority, including the state, to interfere with this relationship that is indispensable to the Church, her identity, and her existence.

The fundamental objective of the letter provides an atmosphere of fraternity with all Catholics in China. Given this context, the pope expresses his grave concern for the status of Christians in China.<sup>87</sup> Pope Benedict acknowledges that the rights of Catholics and their free exercise of the faith in China exist in a complex situation requiring the need for prudent guidelines which are respectful of the state as well as the Church. These guidelines are consistent with the Church's teachings and generally accepted international norms which protect religious liberty, beginning with the norms of the UDHR.

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<sup>84</sup> Catechism of the Catholic Church, NN. 860-62, and authorities cited therein.

<sup>85</sup> Ibid., NN. 857-59, and authorities cited therein.

<sup>86</sup> Ibid., NN. 880-82, and authorities cited therein.

<sup>87</sup> *Letter to China*, N. 2.

The pope acknowledges and comprehends the rich history of the Chinese people which incorporates their transition into rapid technological developments of the present age.<sup>88</sup>

Regarding much of this progress that has occurred to date, the Church's teachings agree with those developments that promote solidarity with all peoples, peace, justice, and the "wise management" of the globalization of culture, societies, and economies. However, the pope notes that not all manifestations of the rapid development in China are for the good, particularly when the tendency to materialism and hedonism are promoted over the welfare of human dignity and advancing the common good.<sup>89</sup>

This is why Benedict identifies the pressing need for the Church to engage not only Christians but all of civil society in a respectful and constructive dialogue for the flourishing of all peoples.<sup>90</sup> But dialogues, albeit respective and constructive, must have an objective if they are to be effective. The objective in this context, as identified by the universal pastor of Catholics, takes note of the fidelity of many Chinese Catholics to the Church and the difficulties they face not from abroad but from their own society, especially the state which governs them. In this regard, the pope offers his desire that the Church establish with the People's Republic some concrete form of "communication and cooperation."<sup>91</sup> Benedict also suggests that, with the exercise of prudence and good will, this mechanism could present the means by which the "misunderstandings of the past" can be overcome.<sup>92</sup> This is essential to any foundation for mutual trust, respect, and benefit.

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<sup>88</sup> Ibid., N. 3.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid., N. 4.

<sup>91</sup> Ibid. Benedict notes that this was also the desire of his immediate predecessor, Pope John Paul II.

<sup>92</sup> Ibid.

If misunderstandings are to be overcome, good will on the part of all parties concerned is essential. In order to facilitate good will, Benedict emphasizes that the Church is not looking for preferential treatment from the civil authorities; rather, she is vitally interested in enabling the Church and her members to provide “humble and disinterested service in the areas of her competence” for the good of *all* Chinese.<sup>93</sup> In this milieu, the Church has taught for many decades that she is not tied to any particular political party or ideology because the Church and state are “autonomous and independent of each other” due to their respective competences which are geared to serve all persons but “under different titles.”<sup>94</sup> This point should be reassuring to the Chinese civil authorities. Consequently, the state must never view the Church as a competitor for temporal power for the Church cannot replace the state, but she nonetheless has an authentic role to exercise by rational argument in the achievement of justice for all and the attainment of the common good.<sup>95</sup> Pope Benedict also reminds us that,

The civil authorities are well aware that the Church in her teaching invites the faithful to be good citizens, respectful and active contributors to the common good in their country, but it is likewise clear that she asks the State to guarantee to those same Catholic citizens the full exercise of their faith, with respect for authentic religious freedom.<sup>96</sup>

For the Church to meet her authentic responsibilities, it is essential that she remain free to engage the world. This does not mean seeking dominion, nor does it mean acquiescing in subservience. The question then becomes: is the People’s Republic of China fearful of a dialogue with the pope and the bishops who are in union with the Vicar of Christ? If the Chinese state sees itself as the absolute authority and cannot tolerate the ecclesiastical authority of Rome whose role is the salvation of souls, then dialogue will be meaningless. What will make any

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<sup>93</sup> Ibid. (Italics added)

<sup>94</sup> Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*), N. 76.

<sup>95</sup> *Letter to China*, N. 4.

<sup>96</sup> Ibid.

encounter meaningful is the fact that Rome's interest is neither the political nor the economic nor military, and this fact must be understood by the civil authorities. Why should the state, which is officially atheistic, fear this? An overwhelming majority of the states of the world accept this fact as is evidenced by their diplomatic relations with Rome.<sup>97</sup>

If the Chinese state fears a unity of Catholics, a bond with others whose ties are not political or economic or military but religious, then why is it a member of international organizations such as the United Nations? For in that environment, the Chinese state acknowledges that there is something beyond itself that nonetheless enhances its interests and the welfare of its people. At the UN China is one voice amongst others, but it is a special voice. So is the voice of the Church when she speaks for Catholics, for she is the voice of many yet poses no threat to the other temporal authorities where she operates and has operated for centuries. Without threatening the proper authority of the state, the Church requires her unity of the pope, the bishops, and the faithful to meet the responsibilities of her mission dealing with the needs of souls.<sup>99</sup> No other state in modern times fears this, nor should the People's Republic of China.

The current existence of tensions between the People's Republic of China and the Church does not mean that there cannot be occasions for pardon and reconciliation. These two principles of pardon and reconciliation are fundamental tenets of Christianity which can easily provide benefits to the state as well. It is communion and charity, not domination and power, which are

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<sup>97</sup> From the perspective of the Church, the unity that is essential to the Church is not an impediment to its ability to enter friendly and productive relations with states. The truth of this exists in the fact that the Holy See presently has full diplomatic relations with one hundred and seventy-nine states (many of whom are neither Christian nor Catholic); moreover, the Holy See has diplomatic relations with the European Union and a special relation with Palestine Liberation Organization.<sup>97</sup> It entered diplomatic relations with the Republic of China in 1942, but these relations were disturbed after the Communist takeover of China, and tensions between the Holy See and China have remained. See, [http://www.vatican.va/roman\\_curia/secretariat\\_state/documents/rc\\_seg-st\\_20010123\\_holy-see-relations\\_en.html](http://www.vatican.va/roman_curia/secretariat_state/documents/rc_seg-st_20010123_holy-see-relations_en.html).

<sup>99</sup> Catechism of the Catholic Church, N. 883, and authorities cited therein.

essential to the life and longevity of the Christian community locally and universally.<sup>103</sup> The attributes of communion and charity become the foundation for needed reconciliation that brings together those who are separated by whatever divides one person from another. It is this foundation that sets the stage for bridging the gaps that exist between the Church in China and the state agencies that have intervened in ecclesiastical affairs.

A major challenge confronting the efforts for pardon and reconciliation between the Church and China is the division within the ecclesiastical community itself that is forged by the intervention of the state which has influence unduly the appointment of bishops. In turn, this influence has prompted divide among the clergy and faithful in China.<sup>104</sup> But the universal Church, by way of the pope's Letter to China, reminds all, including the civil authorities of China, that the Church recognizes the proper authority of the state in civil matters; however, the state is simultaneously obligated to respect the rights of God and His Church as well.<sup>105</sup> This obligation is critical for honoring the work to be done to achieve the salvation of souls and true freedom for the members of the human family.<sup>106</sup> This is a matter which should not be of any concern to the state, but it is to the Church.

This obligation which the Church has in China and elsewhere is not built on earthly power; rather it is established on the authority of Christ and God's Kingdom which is not of this world. This kingdom of God is founded on four vital pillars: truth, justice, freedom, and charity.<sup>107</sup> These four pillars are founded on the teachings of Christ, and, hence, they are the

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<sup>103</sup> *Letter to China*, N. 6.

<sup>104</sup> *Ibid.*, N. 7.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> Pope John XXIII, Encyclical Letter, *Pacem In Terris* (1963), N. 35.

principal duties of the Church and her teachers—the pope and the bishops. In addition, they are matters which any civil authority would welcome the assistance of the religious community. The state has a role, as would any civil authority, in their temporal dimensions; however, these pillars assuredly intersect spiritual and religious life, which are the responsibilities of the Church alone. In order for these four principles to nurture the proper duties of the Church, the pope and the bishops and the laity must come together on the foundation of Christ—a foundation in which no state can claim competence or legitimate interest. This, in turn, requires the independence, proper autonomy, and self-administration of the Church without interference from outside sources including the state.<sup>108</sup> In his letter, Pope Benedict offers a plan for pardon and reconciliation. His plan is eminently reasonable and practical. All that is needed for the plan to achieve success is for the cooperation of the Chinese state who has no rational basis to fear the pope’s proposal. Why?

The plan contains the following elements: first of all, it mandates the safeguarding of the deposit of faith that further requires sacramental integrity and hierarchical communion. These are matters that not only do not fall within the province of the state, but they really should not be of interest to the state which should be more concerned with the political, economic, and social concerns of the people it serves. This is why the union of the pope and the bishops without interference from the state is critical. Second, the plan is not opposed to dialogue with civil authorities. In fact, it welcomes engagement with those whose responsibilities intersect with those areas of interest that are shared by the Church and the state. In this regard, the pope indicates that it is possible for the ecclesial recognition of civil participation in certain Church affairs on the “condition that this does not entail the denial of non-renounceable principles of

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<sup>108</sup> *Letter to China*, N. 7.

faith and of ecclesiastical communion.”<sup>109</sup> To facilitate these efforts of the pope’s plan, local bishops, in consultation with their priests, can evaluate what the local situation requires to maintain this cooperation with civil authorities given the conditions the pope has established.<sup>110</sup> This approach works in most countries of the world, and there is no reason why it cannot succeed in China if given the opportunity.

The final element of the plan that needs to be addressed here is the delicate issue involving the Chinese episcopate and the appointment of bishops. As mentioned earlier, the Church maintains that the bishops are the legitimate successors of the Apostles.<sup>111</sup> Much of the difficulty in dealings with the Chinese state emerges from the fact that in China there are non-Catholic persons who, as civil officials, have taken control of crucial ecclesial matters, principally involving the appointment of bishops.<sup>112</sup> By the civil authorities insisting on their participation in and control of these ecclesial functions, they interfere in a manner that is incompatible with the nature of the Church. Moreover, they extend into sacramental, liturgical, and ecclesial issues in which most states have no interest.

Pope Benedict notes that many Chinese bishops, priests, and laity have suffered greatly at the hands of the civil authorities for maintaining their ecclesial communion with Rome and the pope. Additional problems have arisen when some priests, in concord with civil authorities, bypass the Pontifical responsibilities that deal with the appointment and consecration of new bishops.<sup>114</sup> However, the pope has demonstrated his good will to work with bishops appointed by

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<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Dogmatic Constitution of the Church (*Lumen Gentium*), NN. 18, 20, 22, 23, 24, 28.

<sup>112</sup> *Letter to China*, N. 8.

<sup>114</sup> Ibid.

the state when they have requested the pope to be received in communion with him. When this occurs, the problem disappears; conversely, when it does not, a grave obstruction to communion with the universal pastor and Church remains.<sup>115</sup>

The Church understands and appreciates the legitimate concerns which states have regarding who may be leading the local churches within their territorial jurisdiction.<sup>116</sup> That is why there is scrutiny by Rome of candidates for bishops who have demonstrated competence to advance the common good by being solid in faith, good morals, piety, zeal for souls, wisdom, prudence, and human virtues.<sup>117</sup> In addition, the Church is sensitive to the need that civil society be governed by a competent temporal authority; thus, the Church has historically acknowledged that there is a diversity of morally acceptable political systems which can legitimately govern society as long as they avoid employing means that are despotic and harmful to the common good.<sup>118</sup> However, the Church must sensibly and reasonably protect the appointment of bishops as this process “touches the very heart of the life of the Church.”<sup>119</sup> This is why the Church’s law—the law of a sovereign and unique authority—contains grave sanctions for members of the Church who knowingly and willingly engage in episcopal appointments and consecrations without the essential apostolic mandate from or acceptance by Rome.<sup>120</sup> Activities associated without this mandate can inflict “painful wound upon ecclesial communion” because men who are not acting in union with the pope can bring great harm to the salvation of souls and the

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<sup>115</sup> Ibid.

<sup>116</sup> Ibid., N. 9.

<sup>117</sup> Code of Canon Law, c. 378.

<sup>118</sup> Catechism of the Catholic Church, NN. 1901-04, and authorities cited therein.

<sup>119</sup> Ibid. *Letter to China*, N. 9.

<sup>120</sup> *Code of Canon Law*, C. 1382.

spiritual needs of the faithful to be under the protection and teachings of the pope.<sup>121</sup> This is why Pope Benedict states that , “It is not, therefore, a question of political authority, unduly asserting itself in the internal affairs of a State and offending against its sovereignty.”<sup>123</sup>

## V. Conclusion

The Church’s position dealing with the rights and duties of Catholics is in accord with the norms of international law. Moreover, the Human Rights Committee of the United Nations has interpreted the applicable international religious freedom norms as meaning this: the practice and teaching of religion includes acts that are integral to the conduct and practices of the ecclesial community; this includes the absolute freedom to select its leaders and teachers which incorporates the freedom to establish schools and seminaries and to publish and distribute religious texts and other publications.<sup>126</sup> Knowing that rights guaranteed by the international order reinforce its claim, the Church nonetheless, wishing to be a cooperative member of the same international order, has expressed its desire to reach an accord with the People’s Republic of China on the issues dealing with episcopal appointments and other related matters.<sup>127</sup> What is requested by the Church is not special or unique treatment; rather, what is sought is a right which the law of nations expects because it is universal. The Church’s request and expectation are neither frivolous nor excessive because the right is based on objective reason that the international legal community has acknowledged to be both reasonable and legitimate.

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<sup>121</sup> *Letter to China*, N. 9.

<sup>123</sup> *Ibid.*

<sup>126</sup> U.N. Human Rights Committee, General Comment 22, para. 4, July 30, 1993.

<sup>127</sup> *Letter to China*, N. 7.

Religious freedom is unquestionably an element of the international legal landscape that is based on a norm which regulates the proper relationship between the state, the religious believer, and the religious community of which the believer is a member. Moreover, religious freedom is undeniably an important component of the truth of inviolable human rights which inhere in the natural dignity of the human person and human society. Like other inviolable rights, religious freedom inheres in the person's nature. It is not something which the state has the authority to establish or to begrudgingly acknowledge; rather, it is something that the state has a clear duty to recognize and robustly protect. This natural right subsists in the human person because of the person's humanity. Whatever the state grants, it can withdraw. This is why the state cannot be the author or self-appointed regulator of this fundamental human right. By contrast, the state has the affirmative duty to protect and defend this right when reasonably sought by its citizens. However, the People's Republic of China has decided that the right is something which the state itself has the capacity to recognize or not, to protect or not, and to eliminate or not.

The people of China and the administrative organizations of the state have made some progress on important fronts dealing with human rights in the past several decades. This is good for the Chinese people and for the international society to which they belong. It is also good for the state. However, for the Chinese state to make further and substantive progress, it is vital for the state, its citizens, and international society to acknowledge that religious liberty is not something which the state can disparage or can permit one day but not the next. For the People's Republic of China to be fully integrated into the international community of the present age and for the ages to come, at least one more thing is needed: the responsibility to acknowledge that which is not within its ambit of the secular authority of the state to compromise: religious liberty.

As Pope Paul VI exhorted in 1965 the temporal authorities which are ambivalent about or not too concerned with the Church's exercise of religious freedom, "Do not fear her" because the Church and her members do not threaten the legitimate objectives and responsibilities of the civil authority and what is due it. In fact, religious freedom is a complement to the authentic interests of the state because it share concerns about the advancement of peoples through peace, justice, prosperity, and truth.

So, to borrow from the wisdom of Jesus Christ: render unto Mao the things that are Mao's and unto God the things that are God's! This is a principle acknowledged by civilizations around the globe and by international society. It is an inviolable right that properly belongs to the Church. It is the due of Chinese Christians, and it is the duty of the People's Republic to recognize and protect it.