

Chinese Regional Bishops' Conference (CRBC)

Statement on the Equality – Anti-Discrimination Act Draft

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Foreword

The Catholic Church's Chinese Regional Bishops Conference, writes to the Government of the Republic of China regarding the Equality Act and Anti-Discrimination Law.

Although the Catholic Church in Taiwan is a small community, it is nevertheless the largest religion in the world, with an annual growth of believers equivalent to nearly three-quarters of Taiwan's total population. In its 2,000-year history, the Catholic Church has witnessed the beginning and end of many nations, cultures, forms of government, wars and ideologies. The Catholic Church has no geographical boundaries, and has never been confined to a particular territory or government; its members are men and women from every country and culture in the world. By coming into contact with so many diverse people, in so many different ages and environments, the Church has progressively integrated her experience of human love and suffering into a unified body of doctrine to defend the dignity of every human being created in the image and likeness of God.

The Catholic Church is perhaps the most authoritative voice on religious freedom, as the most persecuted religious group in the world for centuries. Pope St. John Paul II, who suffered an assassination attempt for opposing the Totalitarianism that was trampling on the human rights of many nations last century, said that the Church "knows, from many centuries of experience, that suppression, violation, or restriction of religious freedom have caused suffering and bitterness, moral and material hardship, and that even today there are millions of people enduring these evils.¹" More recently, Pope Benedict XVI also said that "it is painful to think that in some areas of the world it is impossible to profess one's religion freely except at the risk of life and personal liberty. In other areas we see more subtle and sophisticated forms of prejudice and hostility towards believers and religious symbols. At present, Christians are the religious group which suffers most from persecution on account of its faith."²

In spite of persecution, the Catholic Church is not intimidated by the power of totalitarianism and always stands up for freedom and human rights. The most eloquent sign of this is that the Vatican State is the only European state to maintain

¹ Pope St John Paul II, *Personal letter to the heads of state of the nations who signed the Helsinki Final Act, on the value and content of freedom of conscience and of religion*, 14 November 1980, 6.

² Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 1.

diplomatic relations with the Republic of China, something that no other European state has done, despite their rhetoric of opposition to regimes that oppress and threaten the freedom of individuals and nations.

The Catholic Church considers that “a healthy dialogue between civil and religious institutions is fundamental for the integral development of the human person and social harmony.”³ As Pope John Paul II -the greatest advocate of human dignity and freedom of the last century- said, “respect for the dignity of the human person would seem to demand that, when the exact tenor of the exercise of religious freedom is being discussed or determined with a view to national laws or international conventions, the institutions that are by their nature at the service of religion should also be brought in... when religious freedom is to be given substance, if the participation of those most concerned in it and who have special experience of it and responsibility for it is omitted, there is a danger of setting arbitrary norms of application and of imposing, in so intimate a field of man’s life, rules or restrictions that are opposed to his true religious needs.”⁴

In our times, “we are faced with other types of threats against the full exercise of religious freedom. I am thinking, first of all, of countries in which great importance is attached to pluralism and tolerance, but where religion is increasingly marginalised. There is a tendency to consider religion, any religion, as an unimportant, extraneous or even destabilising factor in modern society, and attempts are made by various means to prevent its influence in social life.”⁵

This official policy of many States on religious freedom is based on ambiguous and even contradictory concepts of secularism, pluralism, relativism and neutrality. “Sadly, in certain countries, mainly in the West, one increasingly encounters in political and cultural circles, as well in the media, scarce respect and at times hostility, if not scorn, directed towards religion and towards Christianity in particular. It is clear that if relativism is considered an essential element of democracy, one risks viewing secularity solely in the sense of excluding or, more precisely, denying the social importance of religion. But such an approach creates confrontation, division, and disturbs peace.”⁶

In the name of a secularism that excludes religion, we are witnessing a systematic exclusion of religious beliefs through the enforcement of laws in many parts of the

³ Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 9.

⁴ Pope St John Paul II, *Personal letter to the heads of state of the nations who signed the Helsinki Final Act, on the value and content of freedom of conscience and of religion*, 14 November 1980, 3.

⁵ Pope Benedict XVI, *Address to the Diplomatic Body*, 10 January 2011.

⁶ Pope Benedict XVI, *Address to the Diplomatic Body*, 11 January 2010.

world. According to this radical secularism, all expressions of religious belief must be relegated to the private sphere, seeking to deny religion any space in society. Even in countries which self claim to embrace pluralism and tolerance, religion is increasingly marginalised, only confined to homes and churches.⁷ “There still exist today laws and regulations which do not recognize the fundamental right to religious freedom, or which envisage completely unjustified limitations, not to mention cases of provisions which are actually discriminatory in nature and which sometimes amount to open persecution.⁸”

When secularism becomes dogma, the neutrality of the State in religious matters becomes necessarily exclusive and oppressive of religion. “Whilst the State proclaims neutrality, it seems unable to avoid the tendency to consider professed faith and religious affiliation as an obstacle for the full admission of the individual to cultural and political citizenship... The alleged neutrality of a political culture which declares that it wants to build on the formation of purely procedural rules of justice, by removing all ethical justification and all religious inspiration, shows the tendency to develop an ‘ideology of neutrality’ which, in fact, imposes the marginalisation, if not exclusion, of religious expression from the public sphere and with that the full freedom to participate in the formation of democratic citizenship... From here arises the discovery of the ambiguity of the public sphere’s claims to neutrality and of an objectively discriminatory civic freedom.⁹” As other countries experience shows, instead of embracing in a healthy pluralism the differences in moral views and beliefs, like about marriage and sexual morals for example, the so-called “non-discrimination acts” discriminate against people of faith precisely because of their beliefs, just because they are different from the views of other people.¹⁰

Actually, this might be described as a new form of “soft totalitarianism,¹¹” very much similar in method to old “hard totalitarianism,” by the fact that law is enforced to undermine the freedom of expression inherent to pluralism, in order to impose the political correct “unique discourse” of “official thought,” even as a condition for access to positions on governmental institutions or other social benefits, whether be individuals or organisations.

⁷ Cf. Canada Conference of Catholic Bishops, *Pastoral Letter on Freedom of Conscience and Religion*, April 2012, 12.

⁸ Pope St John Paul II, *Message for the celebration of the world day of peace*, 1 January 1988, 2.

⁹ International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 4-5.

¹⁰ Cf. United States Conference of Catholic Bishops, *Letter to Congress on Equality Act*, 23 February 2021.

¹¹ International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 4.

It is important to state that, in the context of other countries' equality acts and anti-discrimination laws, there is a "concern that religious freedom is only ever expressed by way of exception or exemption, rather than as a fundamental right," even if religious belief is nominally included in the characteristics to be protected from discrimination. "The language of exemptions is misleading and fails to recognise that religious freedom is not a special permission to discriminate granted by government in contradiction to the general law, but a fundamental human right that the government is obliged to protect and which helps to define what kinds of discrimination are in fact unjust.¹²"

As a matter of fact, if the discussion focuses only on a certain religious "tolerance" and exception, it narrows the range of positive religious rights, and the positive contribution that religion offers to society as well. In fact, the impression could develop that religion is only to be tolerated in society just on the basis of temporary and changing circumstances, and is not recognized as a fundamental human right inherent to the dignity of every human person.¹³ "The time has come to move beyond this type of religious tolerance, and to apply instead the principles of authentic religious freedom.¹⁴"

It is important to state clearly that, as such, we are not asking for the State merciful concession of an exception, exemption, tolerance or special privilege, we are only asking respect for an elementary human right.¹⁵ "If the fundamental freedom of conscience and belief were respected, we would not need any 'special' or 'specific protection' for anyone.¹⁶"

Therefore, the Catholic Church's Chinese Regional Bishops Conference considers it important to make known the following Concepts and Orientations for the discussion of the matter, so that in the context of dialogue and mutual hearing, reflection and an active and critical participation may be motivated.

¹² Cf. Australia Catholic Bishops Conference, *Religious Freedom Review*, 14 February 2018.

¹³ Cf. Mons. Tomasi, *Intervention of the Holy See at the Ordinary Session of the United Nations Human Rights Council on Religious Freedom*, 22 March 2007, 6.

¹⁴ Mons. Migliore, *Intervention of the Holy See at the Third Commission of the 61st General Assembly of the United Nations on Freedom of Religion*, 27 October 2006.

¹⁵ Federation of Asian Bishops Conferences (FABC), *Religious Freedom in the context of Asia*, December 2004, p. 36.

¹⁶ Mons. Gallagher, *Intervention at the 73rd Session of the United Nations General Assembly on Freedom from Persecution: Christian Religious Minorities, Religious Pluralism in Danger*, 29 September 2018.

1. The value of freedom

Freedom is man's most noble prerogative. "The freedom with which man has been endowed by the Creator is the capacity always given to him to seek what is true by using his intelligence, and to embrace without reserve the good to which he naturally aspires, without being subjected to undue pressures, constraints or violence of any kind.¹⁷"

"Freedom is the power, rooted in reason and will, to act or not to act, to do this or that, and so to perform deliberate actions on one's own responsibility.¹⁸" Freedom is an essential characteristic of the human being and therefore the ultimate expression of the dignity that is proper to a human person. However, freedom is not to be understood as an absence of any moral law that would set any limits to free action, nor "as a licence to do whatever pleases, even if it is evil."¹⁹ Freedom cannot be understood as a right to act regardless of any moral duty.²⁰

Religious Freedom

From the value of freedom derives the fundamental value of religious freedom, which ought to be mirrored in the juridical order of civil law: "the freedom of the individual in seeking the truth and in the corresponding profession of his or her religious convictions must be specifically guaranteed within the juridical structure of society; that is, it must be recognized and confirmed by civil law as a personal and inalienable right in order to be safeguarded from any kind of coercion by individuals, social groups or any human power."²¹

In a pluralist democratic society, religious freedom is one of the essential freedoms, along with the fundamental principles of freedom of speech, freedom of assembly and freedom to hold and express particular religious beliefs. These principles underpin society and strengthen social cohesion.²²

Pope John Paul II stressed the central importance of religious freedom by affirming: "religious freedom, an essential requirement of the dignity of every person, is a cornerstone of the structure of human rights, and for this reason an irreplaceable factor in the good of individuals and of the whole of society, as well as of the personal

¹⁷ Pope St John Paul II, *Message for the celebration of the world day of peace*, 1 January 1988, 1.

¹⁸ *Catechism of the Catholic Church*, 1731.

¹⁹ Second Vatican Council, *Hopes and Joys (Gaudium et Spes 1965)*, 17.

²⁰ Cf. Spain Conference of Catholic Bishops, "For freedom Christ set us free" (Gal 5:1), *Doctrinal Note on Conscientious Objection*, 1 February 2022, 8-9.

²¹ Pope St John Paul II, *Message for the celebration of the world day of peace*, 1 January 1988, 1.

²² Cf. Australia Catholic Bishops Conference, *Freedom of Religion and Belief in the 21st Century*, January 2009.

fulfilment of each individual. It follows that the freedom of individuals and of communities to profess and practise their religion is an essential element for peaceful human coexistence... The civil and social right to religious freedom, inasmuch as it touches the most intimate sphere of the spirit, is a point of reference for the other fundamental rights and in some way becomes a measure of them.²³”

Sadly, recent international and national events present a disturbing trend of threats to freedom of conscience and religion experienced by those who suffer from bias, prejudice and discrimination because of the expression, by words or by actions, in private or in public, individually or institutionally, of their religious beliefs.²⁴

In solidarity with all free citizens, we are called to renew our commitment to building a world where every person, every religion and every society enjoys in law and in practice authentic freedom of conscience and religion.

2. Catholic Church’s teachings on Religious Freedom and Freedom of Conscience

In a positive way, religious freedom can be defined as “the right to live in the truth of one’s faith and in conformity with one’s transcendent dignity as a person.²⁵” Religious freedom is then an essential right of the dignity of every person, a cornerstone of the structure of human rights, and for this reason an essential element for peaceful coexistence of the whole of society.²⁶

Defined in a negative way, “this freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits.²⁷” Men and women “are not to be forced to act in a manner contrary to their conscience. Nor, on the other hand, are they to be restrained from acting in accordance with their conscience, especially in religious matters.²⁸”

Emphasis is given to the paramount value of the right to religious freedom. In a certain sense, the source and synthesis of all other human rights is religious freedom.

²³ Pope St John Paul II, *Lay Members of Christ’s Faithful People (Christifideles laici)* 1988), 39.

²⁴ Cf. Canada Conference of Catholic Bishops, *Pastoral Letter on Freedom of Conscience and Religion*, April 2012, 2.

²⁵ *Compendium of the Social Doctrine of the Church* (2004), 175.

²⁶ Pope St John Paul II, *Message for the celebration of the world day of peace*, 1 January 1988.

²⁷ Second Vatican Council, *Human Dignity (Dignitatis Humanae)* 1965), 2.

²⁸ Second Vatican Council, *Human Dignity (Dignitatis Humanae)* 1965), 3.

“Freedom of conscience and of religion is a primary and inalienable right of the human person; what is more, insofar as it touches the innermost sphere of the spirit, one can even say that it upholds the justification, deeply rooted in each individual, of all other liberties.²⁹” The respect of this right is an indicative sign of man’s authentic progress in any regime, in any society, system or milieu.³⁰ Every violation of it, whether open or hidden, does fundamental damage to the cause of peace, like violations of the other fundamental rights of the human person.

About the very foundation of religious freedom and freedom of conscience, the Second Vatican Council stated that “the right to religious freedom has its foundation not in a subjective disposition of the person, but in his very nature,³¹” which is why it is called “a natural right” of the human person.³² These rights are conceded neither by the State nor by social convention. Since they derive from the objective dignity of human nature, the freedoms of conscience and religion are inalienable and universal, their ultimate source is not found in the mere will of human beings, in the reality of the State, in public powers, but in man himself and in God his Creator.³³

Social aspect of religious freedom

“The freedom or immunity from coercion in religious matters, which pertains to individuals, must also be recognised as their right when they act in community.³⁴” “The social nature of man itself requires that he should give external expression to his internal acts of religion, that he should share with others in religious matters; that he should profess his religion in community.³⁵” Since human beings think, act and communicate through their relationships with others, this freedom is expressed through concrete and visible actions and words, whether individual or collective, both in religious communities and in society at large.³⁶

The Catholic Church does not accept the notion that religion is purely a private and personal matter, and that its expression in the public forum is unacceptable. Religious communities have the right not to be hindered, either by legal measures or by administrative action on the part of government, and also have the right not to be

²⁹ Pope St John Paul II, *Personal letter to the heads of state of the nations who signed the Helsinki Final Act, on the value and content of freedom of conscience and of religion*, 14 November 1980, 5.

³⁰ Cf. *Compendium of the Social Doctrine of the Church* (2004), 155.

³¹ Second Vatican Council, *Human Dignity (Dignitatis Humanae 1965)*, 2.

³² Cf. *Catechism of the Catholic Church*, 2108.

³³ Cf. *Compendium of the Social Doctrine of the Church* (2004), 153.

³⁴ Second Vatican Council, *Human Dignity (Dignitatis Humanae 1965)*, 4.

³⁵ Second Vatican Council, *Human Dignity (Dignitatis Humanae 1965)*, 3.

³⁶ Cf. Pope St John Paul II, *Personal letter to the heads of state of the nations who signed the Helsinki Final Act, on the value and content of freedom of conscience and of religion*, 14 November 1980, 2; Canada Conference of Catholic Bishops, *Pastoral Letter on Freedom of Conscience and Religion*, April 2012, 5.

hindered in their public teaching and witness to their faith, whether by the spoken or by the written word, provided the just demands of public order are observed.³⁷ On the contrary, the Catholic Church holds firmly that public expression and engagement in the civil and political life of the Country is integral to the pastoral life of the Church. “The duty to respect religious freedom requires that the political community guarantee the Church the space needed to carry out her mission.”³⁸

Freedom of speech in religious matters

It is crucial to understand that positive statements of belief do not constitute discrimination, but a lawful exercise of religious freedom and human rights. They should be regarded neither as discrimination, nor as a kind of non-desirable or even unlawful acts which nonetheless may fall under exception or exemption.³⁹ “Freedom of expression is a fundamental human right which is always to be upheld and protected; in fact, it also implies the obligation to say in a responsible way what a person thinks in view of the common good. Without this right, education, democracy, authentic spirituality would not be possible. It does not, however, justify relegating religion to a subculture of insignificant weight or to an acceptable easy target of ridicule and discrimination.”⁴⁰

“Religious discourse, if presented within the framework of democratic debate, has the right to full citizenship in every society. To deny respect for such discourse would be to impose a limit on people to express their most deep-felt sentiments. Unfortunately, all too often, religion is superficially presented in contemporary society only in the context of division and intolerance, rather than its capacity to foster respect and unity.”⁴¹

It is sad to see that there is a double standard about freedom of speech: “The risk of a double standard in the protection of human rights is never too far away. Some limits to freedom of expression are selectively imposed by law and accepted; meanwhile, systematic, provocative and verbally violent attacks on religion which hurt the personal identity of believers are endorsed. Freedom of expression that is misused to wound the dignity of persons by offending their deepest convictions sows the seeds

³⁷ Cf. Second Vatican Council, *Human Dignity (Dignitatis Humanae)* 1965), 4.

³⁸ *Compendium of the Social Doctrine of the Church* (2004), 424.

³⁹ Cf. Australia Catholic Bishops Conference, *Exposure drafts of the religious discrimination bills*, 2 October 2019.

⁴⁰ Mons. Tomasi, *Intervention by the Holy See at the 28th session of the Human Rights Council on item 3 - Report of the special rapporteur on Freedom of Religion or Belief*, 10 March 2015.

⁴¹ Mons. Martino, *Intervention by the Holy See delegation at the International Consultative Conference on School education in relation to freedom of religion or belief, tolerance and non-discrimination*, 24 November 2001, 3.

of violence.⁴²” A “right to offend” others beliefs does not exist, nor a right to ridicule religions.

Parents’ rights on the religious education of their children

The family, the first cell of human society, remains the primary training ground for harmonious relations at every level of coexistence, human, national and international. Parents must be always free to transmit to their children, responsibly and without constraints, their heritage of faith, values and culture.⁴³

Parents have the right to choose, in accordance with their own religious beliefs, the kind of education that their children are to receive. This right must be particularly protected: “The well recognized right of parents to decide the type of religious education their children should receive takes precedence over any open or indirect imposition by the State. As article 5.2 of the ‘Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief’ unequivocally states: ‘Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents, the best interest of the child being the guiding principle.’ Similar language is in article 18.4 of the International Covenant on Civil and Political Rights.”⁴⁴

In consequence, the Government must acknowledge the right of parents to make a genuinely free choice of schools and of other means of education, without imposing upon all children a single ideological system from which religious matters are totally excluded. Besides, the rights of parents are violated if their children are forced to attend lessons or instructions which are not in agreement with their religious beliefs or moral values.⁴⁵

In this respect, the ambiguity of the State’s alleged neutrality and secularity is clearly visible, when education for inclusion and diversity positively excludes all religious content from the classroom, except to treat it as a fantastic and unscientific invention of the ignorance of the past. It is a contradiction in terms to claim to be democratic, pluralistic and non-discriminatory, while in fact reducing education, especially sex education, to a single school of thought. This method is dangerously close to

⁴² Mons. Tomasi, *Intervention by the Holy See at the 28th session of the Human Rights Council on item 3 - Report of the special rapporteur on Freedom of Religion or Belief*, 10 March 2015.

⁴³ Cf. Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 4.

⁴⁴ Mons. Tomasi, *Intervention by the Holy See at the 16th session of the Human Rights Council on Religious Freedom*, 10 March 2011.

⁴⁵ Cf. Second Vatican Council, *Human Dignity (Dignitatis Humanae 1965)*, 5.

exploiting the education system for ideological indoctrination and reform of thinking, as in some well-known totalitarian regimes.⁴⁶

Limits of Religious Freedom

The right to the exercise of freedom, especially in religious and moral matters, is an inalienable requirement of the dignity of man. But the exercise of freedom does not entail the putative right to say or do anything.⁴⁷ In particular, the right to religious liberty can of itself be neither unlimited nor limited only by a public order, conceived in a positivist manner. The inherent limits it has, must be determined for each social situation by political prudence, according to the principle of the common good, and ratified by the civil authority in accordance with legal principles which are in conformity with an objective moral order,⁴⁸ and not according to laws based on subjective or self-perceived characteristics of a small group of individuals.

The dignity of the human person demands respect for conscience, because it is “the most secret core and the sanctuary of the human person.⁴⁹” We are never to impose our religious beliefs on others, but always to respect individuals and cultures. “The truth cannot impose itself except by virtue of its own truth.⁵⁰” It is a violation of freedom of conscience for anyone to attempt to impose his or her own understanding of the truth on others.⁵¹ Fanaticism, fundamentalism and practices contrary to human dignity can never be justified, even less so in the name of religion: “No one must use the name of God to commit violence! To discriminate in the name of God is inhuman.⁵²”

The State and religious freedom

Human persons are social beings by their nature. The foundation and last end of the social order is the human person, as a subject of inalienable rights which are not conferred from outside but which arise from the person’s very nature, for they are rooted in what is most profoundly human. Political and civil structures are necessary

⁴⁶ Cf. Congregation for Catholic Education, *Male and Female He created them, towards a path of dialogue on the question of gender theory in Education*, 2 February 2019, 55.

⁴⁷ *Catechism of the Catholic Church*, 1747.

⁴⁸ *Catechism of the Catholic Church*, 2109.

⁴⁹ Second Vatican Council, *Hopes and Joys (Gaudium et Spes 1965)*, 16.

⁵⁰ Second Vatican Council, *Human Dignity (Dignitatis Humanae 1965)*, 1.

⁵¹ Cf. Canada Conference of Catholic Bishops, *Pastoral Letter on Freedom of Conscience and Religion*, April 2012, 6.

⁵² Pope Francis, *Meeting with the leaders of other religions and other Christian denominations*, 21 September 2014.

to regulate relations between persons in society. Thus, the political community also derives from human nature.

At the service of the common good, political authority is an instrument of coordination at the service of society, and for this reason its exercise cannot be absolute and must be carried out within the limits of respect for the individual and their rights. Nor can it become a mechanism that seeks to intervene in or regulate all aspects of the lives of individuals and families, like religious beliefs.⁵³

For the Catholic Church, the space for the legitimate recognition of the prerogatives of political authority (“Caesar,” as Jesus called it) is not up for discussion, provided that this authority does not seek to usurp the place of “God.” The Church is the first in justifying civil power for the sake of common good, but it is also the first in resisting it as a substitutive for God, like a form of lay religion, as when Caesar proclaimed himself a god.⁵⁴

Regarding religious freedom, the Catholic Church considers that this right must be recognised and sanctioned in the legal system of society, in such a way that it becomes a civil right. This acknowledgment is intrinsic to every true democracy and pluralism. Pope Benedict XVI said that “religious freedom is also an achievement of a sound political and juridical culture. It is an essential good. The international order thus recognizes that rights of a religious nature have the same status as the right to life and to personal freedom, as proof of the fact that they belong to the essential core of human rights, to those universal and natural rights which human law can never deny. Religious freedom is not the exclusive patrimony of believers, but of the whole family of the earth’s peoples. It is an essential element of a constitutional state.”⁵⁵

However, this right should not be thought of in a minimalistic sense, reducing it to a mere tolerance or freedom of worship, as Pope Francis said: “freedom of conscience and religious freedom is not limited to freedom of worship alone, but allows all to live in accordance with their religious convictions.”⁵⁶ In the first moment, civil rights are positive rights, therefore a civil society legislates laws that clearly spell out the fundamental positive rights of the people in the way of fundamental liberties, especially, in our context, religious liberty. Then, in a second moment, and in keeping with the negative moral norm of non-coercion, every civil society has

⁵³ Cf. Spain Conference of Catholic Bishops, “For freedom Christ set us free” (Gal 5:1), *Doctrinal Note on Conscientious Objection*, 1 February 2022, 19-21.

⁵⁴ Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 58.

⁵⁵ Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 4.

⁵⁶ Pope Francis, *Address to the Moroccan authorities and diplomatic corps*, 30 March 2019.

functional laws that clearly limit the coercive power of the government, so as to protect the people from coercion in the exercise of their conscience.⁵⁷

These principles must be taken into account in matters affecting the freedom of religion and conscience of individuals. The State may regulate the exercise of religious freedom so that it may be exercised with respect for other freedoms and favour social coexistence. This regulation may justify the prohibition of certain religious practices, not because they are religious, but because they are objectively contrary to the common good. But the judgement of these causes, allegedly objectively contrary to the common good, will always be dubious when the State is partial in religious matters, as when it becomes a promoter of values or ideologies contrary to the beliefs of a part of society. Nothing is more contrary to the common good than when power uses the means at its disposal to propagate a particular ideology and suppress any opposing view.⁵⁸

Regarding the domain of personal religious freedom and freedom of conscience, civil and political authorities have no right whatsoever to interfere. The State cannot claim authority, direct or indirect, over a person's religious convictions. A legal delimitation of public power is necessary to ensure that the scope of the just freedom of individuals and associations is not too narrowly restricted, and to guarantee them immunity from coercion in civil society.

When there are concerns about religious freedom in civil society, the Church has the right and the duty to raise her voice for preserving the common good of society and the rights of religions and religious believers, and not for a private interest or privileges. The Church is not a pressure group or lobby in an ideological power struggle with the legitimate rule of the State concerning law and civil society.⁵⁹ “For her part, the Church has no particular area of competence concerning the structures of the political community. The Church respects the legitimate autonomy of the democratic order and is not entitled to express preferences for this or that institutional or constitutional solution, nor does it belong to her to enter into questions of the merit of political programmes, except as concerns their religious or moral implications.⁶⁰”

In short, and without claiming to be exhaustive, “in the expression and practice of religious freedom, one notices the presence of closely interrelated individual and

⁵⁷ Cf. Federation of Asian Bishops Conferences (FABC), *Religious Freedom in the context of Asia*, December 2004, p. 37-38.

⁵⁸ Cf. Spain Conference of Catholic Bishops, “For freedom Christ set us free” (Gal 5:1), *Doctrinal Note on Conscientious Objection*, 1 February 2022, 22.

⁵⁹ Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 53.55.61.

⁶⁰ *Compendium of the Social Doctrine of the Church* (2004), 424.

community aspects, private and public, so that enjoying religious freedom includes connected and complementary dimensions:

a) at the personal level

—freedom to perform acts of prayer and worship, individually and collectively, in private or in public, and to have churches or places of worship;

—freedom for parents to educate their children in the religious convictions that inspire their own life;

—freedom for families to choose the schools or other means which provide this sort of education for their children;

—freedom for individuals to receive religious assistance wherever they are, especially in public health institutions (clinics and hospitals), in military establishments, during compulsory public service, and in places of detention;

—freedom, at personal, civic or social levels, from any form of coercion to perform acts contrary to one's faith, or to receive an education or to join groups or associations with principles opposed to one's religious convictions;

—freedom not to be subjected, on religious grounds, to forms of restriction and discrimination, vis-a-vis one's fellow citizens, in all aspects of life (in all matters concerning one's career, including study, employment or profession; one's participation in civic and social responsibilities, etc.).

b) at the community level

—freedom to proclaim and communicate the teaching of the faith, whether by the spoken or the written word, inside as well as outside places of worship, and to make known their moral teaching on human activities and on the organisation of society;

—freedom to have their own institutions for religious training and theological studies;

—freedom to carry out educational, charitable and social activities;

—freedom to receive and publish religious books related to faith and worship, and to have free use of them;

—freedom to use the media of social communication (press, radio, television) for the same purpose.”⁶¹

⁶¹ Cf. Pope St John Paul II, *Personal letter to the heads of state of the nations who signed the Helsinki Final Act, on the value and content of freedom of conscience and of religion*, 14 November 1980, 4.

3. International Declarations and Conventions

The proclamation of the 1948 Declaration of Human Rights contains specific reference to the inherent and inviolable dignity of every human person. Founded upon the dignity of the human person, they are ontological, do not depend on and are above any State legal system. The proclamation was a reaction against the traumatic experience of totalitarianism of the twentieth century, which in the name of the absolute power of the State trampled individual's freedom and annihilated millions of people. Human rights were conceived as an expression of the ethical limits that the state could not cross. They remain a defence against the temptations of totalitarianism and the tendency of public authorities to intervene in people's lives in all spheres or to dispose of them according to their own interests.⁶²

The right to profess and to practise religious belief, known as religious freedom, is a fundamental human right. In international law, it is part of "freedom of thought and conscience" and, by its nature, in order to be meaningfully enjoyed, it is inextricably allied with freedom of expression and freedom of association.⁶³

All of the following documents refer to either the right to freedom of thought, conscience and religion, or the right of parents to educate their children, or to have them educated, according to their religious and moral beliefs and traditions:

—Universal Declaration of Human Rights (1948): "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance" (Article 18),

—Convention against Discrimination in Education (1960),

—International Covenant on Economic, Social and Cultural Rights (1966),

—International Covenant on Civil and Political Rights (1966): firstly it mentions the freedom to hold a belief (art. 18.1); secondly, the freedom to manifest religious belief in community and in public, privately and individually, observance, practice and teaching; thirdly, States must respect the freedom of parents to choose the religious or moral education of their children (art. 18.4),

⁶² Cf. Spain Conference of Catholic Bishops, "For freedom Christ set us free" (Gal 5:1), *Doctrinal Note on Conscientious Objection*, 1 February 2022, 3; Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 31.

⁶³ Cf. Australia Catholic Bishops Conference, *Religious Freedom Review*, 14 February 2018; Cf. Australia Catholic Bishops Conference, *Exposure drafts of the religious discrimination bills*, 2 October 2019.

—International Convention on the Elimination of All Forms of Racial Discrimination (1966),

—United Nations Declaration on the Elimination of All Forms of Discrimination based on Religion or Belief (1981), which attempts to define more precisely, but not exhaustively, certain protections for religious freedom, as for example Article 4.2: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.”

Freedom of thought, conscience, and religion “is far-reaching and profound. The fundamental character of these freedoms is also reflected in the fact that the freedom to hold a belief cannot be derogated from, even in times of public emergency.”⁶⁴

We can conclude that, freedom of thought, conscience and religion has the highest status in international law, comparable to the right to life, freedom from torture and slavery. Independently whether the Republic of China has agreed or not to the International Declarations or Conventions on Religious freedom, as an important part of the International Law’s body, such documents should be regarded as authoritative points of general reference for local laws.

4. Constitution of the Republic of China on Religious freedom

Article 7 of the Constitution: “The people of the Republic of China shall be equal before the law without regard to sex, religion, race, class, or political party.”

Article 13 of the Constitution: “The people shall have freedom of religious belief.”

5. Concerns regarding the Equality Act and non-discrimination law

Our first concern is regarding the validity of some so-called “new rights.” In recent decades, a new vision of human rights has taken hold. We live in a cultural environment characterised by an individualism and relativism that refuses any moral limits. This has led to the recognition by public authorities of “new rights” which are in fact the manifestation of subjective desires and inclinations. States seem to believe that the recognition of these new rights by law is the appropriate means to prevent discrimination against those individuals or groups because of their characteristics. In this way, these subjective claims become a source of civil law, even if their

⁶⁴ UN Human Rights Committee, General Comment 22 (48), *The Right to Freedom of Thought, Conscience and Religion*, art. 18 (1993), §§ 1,3 (General Comment 22); ICCPR, art. 4.1.

enforcement implies the discrimination and lesion of objective fundamental rights of most citizens.

This has had unprecedented legislative consequences: subjective behaviours, many of which only a few decades ago were medically considered serious disorders of sexual development -and which were removed from these categories not for medical reasons, but because of political pressure under the threat of discrimination- are now suddenly considered “new human rights” to be specially protected and promoted.⁶⁵

“On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, the Holy See recalled attention to the problem today of the arbitrary recognition of mere preferences and inclinations, ideologically manipulated, that have little to do with authentic human rights.⁶⁶” These alleged new human rights, based not on the objective dignity of human nature but on the subjective and changing feelings of the individual, are by their very nature neither universal nor inalienable. In terms of non-discrimination rights, sexual orientation and gender identity do not constitute a stable and objective characteristic, comparable to race, ethnic origin, disability, etc., that can be a source of positive human rights.

A subjective and self-perceived feeling can never be a source of legal claims, and there is a danger that legislation recognising these subjective inclinations will end up favouring them, making sexual orientation and gender identity a basis for claims, and indirectly encouraging people to use these new rights just to take advantage of the benefits of the law. In this context, when non-existent rights are nevertheless granted by law to a privileged group, they become a source of social conflict, great damage is done to the peaceful coexistence of civil society, objective harm is done to the legal system and the common good, and the institutional basis of democracy are eroded at the very root.⁶⁷

With respect to religious freedom, “the Holy See pays particular attention to how other so-called ‘new rights’ limit the full enjoyment of religious freedom. The Holy See has been assiduously and constantly attentive to abuses to religious liberty, through the ever more common tendency which promotes ideologies and even national legislation that conflicts with the exercise of religious liberty... but ever more through ideological trends and ‘silencing,’ through what has often been called ‘political correctness,’ which are taking ever larger liberties in the name of ‘tolerance’

⁶⁵ Cf. Spain Conference of Catholic Bishops, “For freedom Christ set us free” (Gal 5:1), *Doctrinal Note on Conscientious Objection*, 1 February 2022, 4.

⁶⁶ Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, note 45.

⁶⁷ Cf. Congregation for the Doctrine of the Faith, *Some Considerations Concerning the Response to Legislative Proposals on the Non-discrimination of Homosexual Persons*, 1992, 10.13.16.

and ‘non-discrimination.’ Rather, these inflexible ideologies, which are quick to denounce religious beliefs and persons that do not accept their position as ‘hateful,’ are themselves instead ‘intolerable’ and ‘discriminatory’ against the freedom of religion.⁶⁸”

It is not difficult to see an underlying ideological concept of equality. The concept of equality of rights pursued by civil law has been transposed by the State, in an attempt to democratise it, to the moral and ethical order, making the qualities of good and evil a legal and political issue. No one is allowed to claim a different moral view, but must blindly obey the imposed egalitarian ideology of the State as “official religion.” As Pope Benedict XVI has pointed out, “The illusion that moral relativism is the key to peaceful coexistence is in fact the origin of divisions and the denial of human dignity.⁶⁹”

This moral relativism becomes in this way the new substitute of absolutism, and opens the door to the authoritarian and totalitarian enforcement of law. “In such a situation, the State tends to adopt a form of ‘secular parody,’ redolent of a theocratic conception of religion. It is a form of parody that decides the ‘orthodoxy’ and ‘heresy’ of freedom... When the place of God, in the collective conscience of a people, is occupied illegally by man-made idols, the result is not a more advantageous liberality for everyone, but a more insidious servitude for everyone. The alleged ideological neutrality of the liberal State, which selectively excludes the freedom of a transparent testimony of the religious community in the public sphere, opens the way for the fake transcendence of an occult ideology of power.⁷⁰”

In fact, since these alleged rights are not based on the inner dignity of human nature, they are often advanced by influencing mass opinion through social media, in order to be finally enforced by the State through positive law. Under the collusion of the State, this work is carried out by activists and lobbies, usually a small number of pressure groups, which receive very high levels of international and national economic support and media attention. Their function is to raise and keep in the social debate issues related to the advocacy and promotion of the “new rights,” so as to gain especial benefits for their interest group, without regard to the common good. The experience of many countries shows that it is these lobbies that file lawsuits to create jurisprudence and change laws in their favour. The lawsuits initiated by these

⁶⁸ Mons. Gallagher, *Secretary for relations with States of the Holy See at the Symposium on advancing and defending International Religious Freedom through diplomacy*, 30 September 2020.

⁶⁹ Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 3.

⁷⁰ Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 63.70.

lobbies force defendants to engage in lengthy and expensive legal battles, resulting in the weakening of social institutions, peaceful coexistence and the common good.⁷¹

Questions and guarantees

Looking at the experience of the Catholic Church in many Countries regarding similar Equality Acts and non-discrimination laws, we cannot but raise a series of concerns. Wherever laws are promulgated which limit the right to religious freedom and expression, believers are being legally compelled to live and exercise their profession without reference to their religious or moral convictions, and even in opposition to them, as in healthcare, legal professionals, educators and politicians.

Likewise, in countries that consider themselves democratic, but where atheistic dictatorial regimes prevail, social works founded by Christians, especially in the fields of health, education, charities, etc., are subject to legislative and financial restrictions, which make their development difficult if not impossible. In all these circumstances there is no real freedom of religion. True freedom of religion is only possible if it can be actively expressed through works of a social or educational nature in a free and democratic society. “It is inconceivable that believers should have to suppress a part of themselves –their faith– in order to be active citizens. It should never be necessary to deny God in order to enjoy one’s rights.”⁷²

Considering that Religious freedom, freedom of conscience and freedom of expression are fundamental human rights, we raise the following concerns:

Generally, does the law comprehensively protect the free practice, expression and participation of religion in civil society, free from undue interference and limitation by reference to other subjective claims and considerations?

Does the law comprehensively protect the right of the Catholic Church, its institutions and agencies, such as parishes, schools, universities, hospitals, aged care facilities and welfare agencies, to employ their staff by reference to religious affiliation and commitment for such intrinsically religious purposes as religious instruction, formation and pastoral care, but more widely for the purpose of supporting and promoting the relevant entity’s Catholic mission and identity? All those who choose to work in a religious organisation have a significant responsibility to maintain the religious integrity of the organisation. It is a reasonable expectation by religious organisations that those who choose to work in them, do not compromise

⁷¹ Cf. Canada Conference of Catholic Bishops, *Pastoral Letter on Freedom of Conscience and Religion*, April 2012, 10; Cf. International Theological Commission, *Religious freedom for the good of all*, 21 March 2019, 52.

⁷² Pope Benedict XVI, *Address to the General Assembly of the United Nations*, 18 April 2008.

by word or action those religious and moral principles from which these institutions derive their foundational beliefs.

Does the law comprehensively protect the freedom from coercion to employ or provide a service which is contrary to religious ethos, doctrines, tenets, beliefs or teachings?

Does the law comprehensively protect the right of Catholics freely to express positive religious and ethical statements based on their faith without restriction, notwithstanding such positions may not be accepted by others?

Does the law comprehensively protect the right of Catholics freely to exercise a conscientious objection against involvement in practices contrary to their faith and free of both direct and indirect negative consequences?

In short, does the law comprehensively guarantee the right of Catholics, from the protection of the right to freedom of religion, worship and conscience, to the repercussions in the fields of education, health, employment, social welfare applications, financing of social advocacy projects, public services, taxation, visas for religious reasons, etc.⁷³

Conclusion

In the social and civil order, different rights of individuals and groups may come into conflict with each other, and the State may look to balance competing rights, rather than permitting one right to override another. The Catholic Church, based on the objective equality in dignity of every human person, seeks to diminish and avoid social clashes which may arise from a forced artificial legal equality, so as to advance real and stable harmony between herself and the State, and within society among individuals.

As Catholics, we affirm the rightful autonomy of the political or civil sphere from that of Religion and the Church, but never an autonomy from the norm of objective morality.⁷⁴ “Where a matter of the common good is concerned, it is inappropriate for Church authorities to endorse or remain neutral toward adverse legislation, even if it

⁷³ Cf. Australia Catholic Bishops Conference, *Freedom of Religion and Belief in the 21st Century*, January 2009; Cf. Australia Catholic Bishops Conference, *Religious Freedom Review*, 14 February 2018, 8; Cf. England and Wales Catholic Bishops Conference, *Applying Equality Law in Practice: Guidance for Catholics and Catholic Organisations*, November 2014; Colombia Catholic Bishops Conference, *Guidelines for the participation of the Catholic Church in the ‘Comprehensive Public Policy on Freedom of Religion and Worship,’* 5 July 2022.

⁷⁴ Cf. Congregation for the Doctrine of the Faith, *Doctrinal Note on Some Questions regarding the Participation of Catholics in Political Life*, 24 November 2002, 6.

grants exceptions to Church organisations and institutions. The Church has the responsibility to promote family life and the public morality of the entire civil society on the basis of fundamental moral values, not simply to protect herself from the application of harmful laws.⁷⁵”

We have stressed before that using “exemptions or exceptions” when speaking of religious freedom, diminishes the highest value given to freedom of religion in International law, in comparison with freedom from discrimination which is always treated in a positive way. The law must recognise religious freedom in a positive way as a basic, internationally-protected human right that deserves local laws protection.⁷⁶

Politics and laws should look to the moral and spiritual patrimony offered by the great religions of the world in order to acknowledge and affirm universal truths, principles and values which cannot be denied without denying the dignity of the human person. It means deconstructing political ideologies which end up supplanting truth and human dignity in order to promote pseudo-values under the pretext of non-discrimination, equality and human rights.⁷⁷ According to this “ideological colonisation,⁷⁸” freedom of religion, belief and conscientious objection must be surrendered for the promotion of so-called “new human rights,” which certainly do not enjoy universal consensus in international and local laws.

No State can guarantee the vitality of its “democracy” as a common good without respecting the communities that form that same State, or mistakenly taking disagreement as the same as discrimination. Without mutual respect and the State’s commitment to an impartial and objective implementation of the right to religious freedom, the potential for civil conflicts and the loss of peace for society become unfortunately quite predictable.⁷⁹

Banning religion and religious believers out of the social sphere, while atheists, agnostics, relativists, secularists, lgbt groups, etc., are under no such restriction is, in fact, a clear expression of religious discrimination. This is no way to achieve social harmony among citizens in a free and democratically plural society.

⁷⁵ Cf. Congregation for the Doctrine of the Faith, *Some Considerations Concerning the Response to Legislative Proposals on the Non-discrimination of Homosexual Persons*, 1992, 16.

⁷⁶ Cf. Australia Catholic Bishops Conference, *Religious Freedom Review*, February 14, 2018.

⁷⁷ Cf. Pope Benedict XVI, *Message for the celebration of the world day of peace*, 1 January 2011, 12.

⁷⁸ Cf. Pope Francis, interview for the daily newspaper *La Nación*, 10 March 2023.

⁷⁹ Mons. Tomasi, *Intervention by the permanent observer of the Holy See at the 61st session of the Commission of the United Nations on Human Rights on the Elimination of all forms of Religious Intolerance*, 2 April 2005, 3.

Ours is a pluralist society, inherent to which are different views and beliefs, and the challenge of how to live in harmony among those different perspectives. The Catholic Church remains open to engage in dialogue, for promoting civil peace and order, and fostering the recognition of the inherent and transcendent dignity of every human being, created into the image of God.

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