

# *A Review of Catholic Real Estate Issues in China*

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In November and December 2005, a number of Church property disputes took place in different places in China. Sisters and priests were beaten up during these incidents, and the situation was very distressing.

Violent attacks on people demonstrating for their legal rights are unlawful. Attacks on vulnerable, peaceful Sisters and priests should be condemned. While denouncing the violence, I would at the same time like to make a review of Church property disputes in China in the last quarter of a century.



Disputes between the Church and local administrative departments have existed for long time. The remote cause of these disputes was that immediately after 1949, different departments and organizations occupied a large number of real estates of the Church. In 1980, the Central Government issued a document urging pertinent departments and organizations to return the occupied premises to the Church. Due to different reasons, however, quite a number of real estates have still not been returned.

An immediate reason for the disputes is the rapid economic growth in urban areas in China. As average annual economic growth hovers around 9 percent, the value of land in cities rises comparatively. Quite a number of the occupying organizations refuse to return the land to the Church, but instead sell it to developers. This kind of property deal leads to further confusion regarding land ownership.

For the last two decades, implementation of the policy of returning Church property has been an exhausting job for the government. No doubt, quite a number of church properties have been returned to the Catholic Church, but there are still a large number under dispute. Based on my own observation over the last twenty years, together with the comments of other church leaders, I think we can classify church properties into four categories.

### **1. Church buildings**

These include all church buildings used for liturgical services, e.g. the four famous churches in Beijing, the St. Ignatius Cathedral in Shanghai, the Sacred Heart Cathedral in Guangzhou, etc. These also include bishops' houses, rectories, Sisters' convents and seminaries. In China, the outward appearances of church buildings are quite distinct from the other civil buildings. They can easily be identified as Church property. The problem of occupation of church buildings of this kind has been basically solved. Most of them have been returned to the Catholic Church during the past two decades. For those that cannot be returned, or those that have to be torn down due to deterioration, the local government has almost always compensated the Church with another piece of property.

### **2. Catholic enterprises and social welfare services**

Under this category are a large number of schools, hospitals, orphanages, homes for the aged, printing houses and handicraft workshops. During the tide of nationalization in the early 1950s, most of these services were taken over by government organizations. The takeover, however, was not settled by any legal arrangement. At the same time, most of the Catholic symbols in these buildings were removed. Now the problem of property rights arises. Taking over the operation right does not mean taking over the ownership right. This is almost the most troublesome area regarding the return of church property, and the Xi'an case falls into this category.



### **3. Catholic property as an investment**

Traditionally, when a mission or a diocese (including vicariates and prefectures) was established in a new area, the Church would buy pieces of real estate in big cities as investments. The purpose of these kinds of investment was to generate stable rental income to support the diocese. Moreover, some missionary or religious congregations would give a new diocese certain property as a courtesy. Also some Catholics, at the end of their lives, would donate their own property to the Church. All this investment property looks no different than any other residential or commercial buildings. The Tianjin case is in this category.

During the process of transaction, the government would issue a title deed to the Church. Usually the deed was in triplicate: one for the municipal government where the property is located, the receiving Church has one, and usually the donator would have one. Copies of this title deed may also be kept in the archives of religious congregations.

### **4. Catholic villages**

During the late Qing Dynasty, Catholic communities, though tolerated by the central government, were still rejected by local gentry. Catholics were often not welcome to stay in traditional Chinese rural communities. Therefore, it was quite common for bishops and administrators to buy a big piece of vacant land and to establish a Catholic village by settling the homeless Catholics on it. Xiwanzi in Chahar Province, the Ershisiqiandi (The Twenty-four Hectares of Land) in Inner Mongolia, and Holy Trinity Village near Zhanjiang in Guangdong Province are famous examples, among many, of Catholic villages in China. Nowadays, after so many years have passed, ownership of the property has passed to the hands of the residing Catholics or even of non-Catholics. It is almost impossible, and also meaningless, for the Church to try to get back these lands.

**Document No. 188 of 1980**

In 1980, the State Council issued "A Report on the Implementation of Policy on the Real Estate of Religious Organizations." A focal point of this document is to highlight the importance of this policy as a measure against "foreign infiltration."

**Report on the Implementation of Policy on Real Estate of  
Religious Organizations by the State Council's  
Religious Affairs Bureau and National Construction Committee etc.  
State Council Release (1980) No. 188**

To all Provincial, Municipal and Autonomous Regional Governments, all departments and organizations directly under the State Council:

The State Council has endorsed the "Report on the Implementation of Policy on Real Estate of Religious Organizations," drafted by the State Council's Religious Affairs Bureau, National Basic Construction Committee, Foreign Affairs Department, Ministry of Finance, and National Urban Construction General Bureau, and is now circulated to you with the hope that it can be seriously implemented.

The implementation of a policy on real estate of religious organizations is helpful to the carrying out of the principles of independence and autonomy of the Catholic and the Protestant Churches in our country. It is also helpful in the fight against the infiltration of foreign religious powers, and is also an appropriate means to solve the problem of self-support of religious organizations and the financial needs of religious personnel. Therefore, this task should be dealt with from a political perspective, and be treated as a special issue.

State Council  
July 16, 1980

On July 3, 1980, the State Council's Religious Affairs Bureau, National Basic Construction Committee, Foreign Affairs Department, Ministry of Finance, and National Urban Construction General Bureau promulgated the "Report on the Implementation of Policy on Real Estate of Religious Organizations." (See complete

document published in this issue of *Tripod*.) I am going to highlight a few points emphasized in this document.

The introductory paragraph of the document clearly states that the purpose of a policy on the real estate of religious organizations is to avoid the following:

[problems keeping] the policies of Party Central regarding religious work from being completely implemented, having a bad political influence, at the same time opening a crack for infiltration by foreign Protestant Churches and the Catholic Roman Curia.

This document also points out that the religious organizations are facing very difficult situations.

At present, the original bank deposits of religious bodies in many areas are exhausted, or soon will be. Some bank deposits have been frozen since the Cultural Revolution or have been diverted to other work units. Certain phenomena violating government policies and laws have not yet been resolved. As the Religious Affairs Bureaus in the districts concerned mention, to restore the guaranteed (fixed) rental income halted since the Cultural Revolution, to make back payments, and to unfreeze or restore the bank accounts of religious bodies, have become current, pressing problems in religious work that call for a solution.

Thus three main points are presented for consideration. In its first section the document points out that the aim of this policy on the property of religious organizations is to:

Give practical help to each church unit to implement self-support. ... The People's Government, in addition to permitting churches and temples to rent out property, will even exempt churches, temples, and other venues of religious activity, as well as the dwellings of religious professionals, from property taxes.

At the beginning of the second section, the document tries to re-interpret the "Summary of the Seventh National Religious Works Conference," circulated by Party Central in 1963. It states that:

The spirit of the whole context of this report was to solve the problems of sources of livelihood for religious professionals, and church fees. It was certainly not meant to terminate such income.

Document No. 188 is also very much concerned about the image of the central government.

The rental properties of Catholic and Protestant Churches are special, in the sense that foreign churches originally controlled them. If the government Real Estate Bureau comes forward and seizes these properties, it could have an impact on our foreign relations. Thus on January 13, 1956, the Foreign Affairs Department and the State Council's Religious Affairs Bureau jointly issued a notice. It was based on the principles for handling U.S. property in China, as Party Central permitted the Party Committee in the Foreign Affairs Department to do in 1954. The 1956 notice stated: "In handling the property of foreign churches, the government in principle should not itself take over the property. Rather, following the development of patriotic movements among religious circles, it should gradually transfer possession of it to the Chinese Church." Looking at the actual situation, the conditions for transferring foreign church property became ripe at an early date. The Chinese Church clearly should possess it. ... If the rental income of religious bodies is eliminated, and government subsidies are used to solve the livelihood problems of religious professionals, then this easily will create the unfavorable impression of us seizing church property and of a "church run by the government." It will also seriously obstruct the principle of maintaining self-support, and will be harmful politically and vis-à-vis foreign relations.

Therefore section two of the document concludes that:

Thus, no matter how the property and bank accounts of religious bodies are handled, it is not a simple economic problem, but a political problem, and a serious matter of government policy.

Section three of the document lists four points as possible solutions to the problem:

- a.) All real estate to which religious bodies have a right should be returned to them. When there is no way to return it, then they

should be repaid the monetary value. The rented out portion should continue in the form of an all-inclusive, regular or fixed rent adopted by the local Real Estate Management Bureau before the Cultural Revolution, or religious bodies can take back the property and manage it by themselves, depending on which method is better. The concerned local departments can consult each other and decide. All-inclusive (or fixed) rental fees should still be paid according to the pre-Cultural Revolution standards. If the rental price has dropped, or the Real Estate Management Bureau has difficulty paying the same amount of money, then the concerned local departments may consult each other and adopt ways to solve the problem. Or the Religious Affairs Bureau may solve it by appropriately increasing the religious affairs fee.

- b.) Guaranteed (or fixed) rental income, which has ceased since the Cultural Revolution, should be tallied according to the relevant national regulations and seeking the truth from facts to settle accounts. The total rent due, minus maintenance expenses, property taxes, management fees, should all be returned, but deficits need not be made up.
- c.) Churches, mosques, temples and their auxiliary buildings, which were occupied for use during the Cultural Revolution, if religious bodies need them for their internal or external work, should be restored to each religion. If a religious body does not need the property for its own use, then the occupying unit or private individual using it should pay rent based on the date of occupation. If the building was re-built or demolished, the monetary value should be evaluated and repaid.
- d.) The local bureaus of Financial Affairs should return to religious bodies every bank account that was frozen during the Cultural Revolution. Compensation should be made for those accounts, which were diverted to other work units.

### **Document No. 3 in 1989**

In February 1989, the Central Government promulgated Document No. 3: "Circular on stepping up control over the Catholic Church to meet the new situation." In Chapter III, under the

heading "We must continue to make serious efforts to implement our policy of helping the Catholic Church solve its problem of self-support," it states:

Before 1958 the Catholic Church relied upon its rentals from real estate for self-support. But owing to the many political campaigns in the past, especially to the "Cultural Revolution," most if not all the Church's real estate was confiscated. The resulting decrease in revenues was on such a scale that self-support became almost impossible. Although in recent years the situation has taken a turn for the better, yet the implementation of this policy has proceeded at a snail's pace. For the moment national and provincial patriotic associations need to rely upon government subsidies to operate. The grass root churches have for the most part no way to support themselves while members of the Patriotic Association live in desperate circumstances. If this situation continues on in this way, not only will it affect the relationships of the Party and the government with the Patriotic Association, the association itself will find it very difficult to organize the Catholic community to implement the policy of the independent and autonomous administration of the Church.

Each locality, therefore, must seriously see to it that churches and properties are returned. (These properties include churches, seminaries and the properties that these structures use.) There will be no need to proceed further in case this matter has already been satisfactorily dealt with according to the State Council and the Party Central Committee's regulations. It is precisely those cases where nothing has been done that require our immediate attention. Those buildings that the Church in fact needs must be returned without question. If it is impossible to return them at the moment, a contract must be made stating the fact of their eventual return and the reasonable price fixed by national standards must be paid to the Church by the unit that presently occupies the property in case the original building has been torn down, changed to another use or sold. If the military is occupying the buildings or property the matter must be resolved according to Document No. 46 issued by the Central Government in 1988.

All local areas must actively help the Catholic Church develop its own self-support projects. They can permit Catholic Patriotic Associations, in accord with pertinent government regulations, to

take initiatives and freely set up enterprises and social welfare projects that will provide self-support. Local government should give these efforts preferential treatment offering credit, technological assistance and tax rebates. Finance departments can provide subsidies to pay for the necessary expenses. These subsidies will be given on a temporary basis and will cease once the patriotic organization has reached the stage of self-support. The subsidies will gradually decrease in proportion, as the ability of the patriotic organizations to provide for their own needs increases.

Document No. 3, though it acknowledges that “before 1958 the Catholic Church relied upon rental income from real estate for self-support,” it suggests that the items to be returned to the church only “include churches, seminaries and the properties that these structures use.” This is nothing but Category I mentioned above. It implies that the government is no longer going to return to the Church the properties in the other three categories.

### **The Circular in 1993**

In January 1993, the State Council’s Religious Affairs Bureau delivered a circular, giving new instructions regarding the issue of the demolition and relocation of religious buildings during city construction, and how to deal with disputes that arise.

**Circular from the Department of Construction of the  
State Council’s Religious Affairs Bureau regarding the demolition  
and relocation of churches, temples, or buildings of similar nature  
in the process of city construction  
RAB Release (1993) No. 21**

To Religious Affairs Bureaus and Construction Committees  
(Department of Construction) of provinces, autonomous regions, and  
municipalities directly under the central government:

Recently, in some places, disputes have arisen at the demolition and relocation of churches, temples, or buildings of similar nature in the

process of city construction. Here are some suggestions of how to deal with these disputes.

1. In the process of city construction, when demolition and relocation of churches, temples, etc. are involved, the situation should be managed in accordance with the State Council's "Regulations on the Demolition and Relocation of Urban Buildings" (hereafter called "the regulations"). On the one hand, the need for city construction should be complied with, but at the same time the legal rights of the religious groups should be protected.
2. When it is necessary to demolish and relocate churches, temples, etc. for the sake of city construction, one should follow "the regulations" and the religious policies and related regulations of Party Central and the State Council. Local religious affairs bureaus should be consulted, and negotiations with the owner of the property should take place. One should provide reasonable compensation, show appropriate concern, and handle the matter well.
3. Except in the case of comprehensive urban planning or district development, in general demolition and relocation of churches, temples, etc. should be avoided as much as possible. If demolition and relocation are unavoidable, the need for religious believers to practice their religious life should be taken into consideration in any settlement.
4. If those churches, temples, etc. that are to be demolished are historical relics, the matter should be handled in accordance with the national laws and statutes regarding the protection of relics.
5. The municipal religious affairs bureau and related organizations should support the local department of demolition and relocation of the people's government in undertaking the demolition and relocation in accordance with the law.
6. The municipal people's government should enhance its leadership over the demolition and relocation of buildings of religious groups and of venues for religious activity. It should organize negotiation work and ensure that the work is carried out smoothly.

Religious Affairs Bureau of the State Council  
January 20, 1993



We can see from this circular that the Religious Affairs Bureau is leftward leaning in the matter of property rights of religious organizations. By executive order, their main line is “to support demolition and relocation.”

## **Related Articles in Religious Regulations**

### ***Decree No. 145 in 1994***

On January 31, 1994, the State Council promulgated Decree No. 145, “Regulations Regarding the Management of Places for Religious Activity.” The regulations only generally state that the rights of places for religious activity are under protection. Article 1 of this document states that:

In order to protect normal religious activity and to safeguard the legal rights of places of religious activity, it is beneficial, according to the Constitutions, to draw up these regulations regarding the management of places of religious activity.

Article 17 of this document states that: \_\_\_\_\_

For anyone who violates these regulations or infringes upon the legal rights of a place of religious activity, the religious affairs departments at the county level or above should seek an order from the People’s Government at the same level calling a halt to the infringement activity. If economic loss occurs, then compensation for the loss should be made according to the law.

Nevertheless, Article 2 of the regulations provides a very narrow definition for “places for religious activity.” It states that:

The places of religious activity referred to in these regulations are temples, mosques, churches and other fixed venues where religious activities are held.

Obviously, it ignores the other three categories of Church properties mentioned above.

### ***Decree No. 426 in 2004***

On November 30, 2004 the State Council promulgated Decree No. 426, “Regulations on Religious Affairs,” signed by Premier

Wen Jiabao to guarantee their enforcement. They took effect on March 1, 2005. Chapter Five of the new regulations deals with religious properties, including Catholic properties.

#### Chapter Five: Religious Properties

*Article 30:* The land which religious organizations and religious venues lawfully use for religious activities, and the buildings, structures, facilities, and other lawful properties and income which they lawfully possess or use, are protected by the law.

No organization or individual is allowed to illegally occupy, seize, privatize, destroy, close down, detain, freeze, confiscate or dispose of the lawful properties of religious organizations or venues. Nor should they destroy the cultural relics possessed or used by religious organizations or venues.

*Article 31:* An application for registration for the buildings possessed by, or the land used by, religious organizations and venues should be made to the properties and lands management department of the people's governments at the county level or above, in order to obtain the certificate of proof of ownership and use. If there is any change in the property rights, procedures regarding the change should be carried out as soon as possible.

If the lands management department decides to change the rights of land use of the religious organization or venue, it should seek the opinion of the religious affairs department at the corresponding level of government.

*Article 32:* The buildings and structures used by the venue for religious activities, as well as the attached living quarters of the religious clerics, are not to be given to others, mortgaged or allowed to become objects of investment.

*Article 33:* If because of city planning or an important construction project, it is necessary to demolish the buildings or structures of a religious organization or venue, the party in charge of the demolition should consult with the concerned religious organization or venue, and at the same time seek the opinion of the related religious affairs department. After consultation with all sides, and the agreement for the demolition has been obtained, the party in charge of the demolition should make arrangements for the reconstruction of the buildings and

structures, or, based on concerned national regulations, should make compensation for the demolished buildings and structures according to their market value.

*Article 34:* Religious organizations and venues may run social welfare services. Income from them, as well as other earnings, should be placed under a financial and accounting management structure. The income should be used for activities in conformity with the aims of the religious organization or venue, or for social welfare projects.

*Article 35:* Religious organizations or venues may, in accordance with national regulations, receive donations from domestic or foreign organizations or individuals. The religious organization or venue should use the donations for activities that conform to their aims and purposes.

*Article 36:* Religious organizations or venues should implement the national finance, accounting and tax management systems. According to the national regulations for tax collection, they enjoy the special treatment of tax cuts or exemptions.

Religious organizations or venues should report to the religious affairs department of the people's government at the county level or above their financial situation, including income and expenses, and about the receipt and dispersal of donations. In a suitable way, they should also make these known to the believers.

*Article 37:* If a religious organization or venue is dissolved or halts operations, it should initiate a settling of accounts. After the accounting, any remaining assets should be used for projects that conform to the aims and purposes of the religious organization or venue.

Generally speaking, the attitude of the central government regarding the policy of "returning religious properties" in the last two and a half decades has been in a "U-shaped pattern." In 1980, at the beginning of the open door policy, the government aimed at achieving political and social stability; therefore it "gave out benefits in exchange for loyalty." At that time the government was generous to the point of returning all categories of occupied religious properties in one go.

In the late 80s and early 90s, however, due to the need for social development, in addition to the financial difficulties of the

local governments, RAB Release (1993) No. 21, with new directives, was issued. It stated:

The municipal religious affairs bureau and related organizations should support the local Department of Demolition and Relocation of the People's Government in undertaking the demolition and relocation in accordance with the law. (Point 5)

The municipal people's government should enhance its leadership over the demolition and relocation of buildings of religious groups and of venues for religious activity. It should organize negotiation work and ensure that the work is carried out smoothly. (Point 6)

Hence the new agenda is obvious.

From my visits to the Mainland in recent years, and also by referring to statistics of big cities such as Shanghai, Beijing, Tianjin, Qingdao, and Guangzhou, I estimate that the total value of Catholic Church property under dispute in 2005 might reach as high as 130 billion Rmb.

Speaking from the Church's side, church property is not private property. No one has the right to lightly give it up. Speaking from the government's side, these church properties were not directly occupied by it, but by various organizations or even by individuals. Therefore, to ask the government to be responsible for compensation is somewhat inconvenient.

Furthermore, 130 billion Rmb is an enormous figure. For the time being, neither the Church nor the government can afford this amount. Therefore, I suggest that the best solution is for the local government liaise with the pertinent diocese, and return as soon as possible those properties that are ready to be given back. As for those properties where ownership is not yet settled, the concerned parties can develop the place jointly, with the assurance that the interest of both sides will be safeguarded.

In order to solve land dispute problems in China, I suggest that religious and missionary congregations all over the world, that have served in China in the past, should work together and establish a common office. From their archives these congregations should

copy the title deeds and land leases of their properties in China, and file them in this office. This would be a great help for the concerned dioceses to verify ownership of their property and to settle disputes.

Congregations have always been seeking opportunities to serve China. In the years after 1949, they were forced to leave China, which was a painful experience. Some of them are still looking for new chances to work for the Church and for society in China. At the end of 2004 when I raised the issue of church property in China, at least two missionary congregations immediately approached me and enquired about the possibility of passing ownership of property over to local dioceses in China. I believe that the implementation of a proper transfer procedure would be very helpful for Chinese Church leaders to solve the problem of property ownership.

## **Conclusion**

The Catholic Church is not a land developer. She owns real estate only for the sake of her evangelical work. Evangelical work includes bringing hope to people; so the Church runs many social service institutions. Therefore in the process of settling land disputes, the Church should also take into consideration the welfare of the society as a whole. From this perspective, the large amount of church property in China can be transformed into a powerful force to enhance the Church's mission of social services in China.

The central government has the sincerity to solve the problem. However, similar to other problems in society, the directives of the central government often encounter resistance at the local level from those with vested interests. Therefore, unless the central government exercises its power to press the local government to rectify the situation, I do not expect any complete solution to the problem of church property in the near future.