

Holy See's Documents on Illegitimate Episcopal Ordinations in China

Holy See's Press Office

PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS DECLARATION ON THE CORRECT APPLICATION OF CANON 1382 OF THE CODE OF CANON LAW

1. The Pontifical Council for Legislative Texts has been requested to clarify some details regarding the correct application of Canon 1382 of the Code of Canon Law (*C.I.C.*), especially in relation to the canonical responsibilities of the subjects involved in an episcopal consecration without the necessary apostolic mandate.

The question, as such, does not give rise to doubts about the law as such, but only requires some elucidations which serve to ensure adequate knowledge of the most important points of the penal norm and the manner in which it should be held to be applicable in concrete cases, taking into account the personal circumstances of the subjects who take part in committing the offence.

2. As is known, Canon 1321 defines an offence as an external violation of a law or precept, gravely imputable by reason of malice or culpability. The canon adds that where there has been an external violation, imputability is presumed, unless it appears otherwise (Canon 1321 § 3). For the offence to exist, it suffices that the offender know that he is violating a canonical law; it is not necessary that he know that a penalty is attached to the canonical law.

Canon 1382 *C.I.C.* punishes with a *latae sententiae* excommunication reserved to the Apostolic See the Bishop who without the apostolic mandate consecrates someone as Bishop and also whoever receives episcopal ordination in this way. This

offence violates Catholic teaching confirmed, among other things, by the Dogmatic Constitution *Lumen Gentium*, Nos. 22 and 24, and by the Decree *Christus Dominus*, No. 20, and included in Canon 377 § 1 *C.I.C.*: “The Supreme Pontiff freely appoints Bishops or confirms those lawfully elected” and in Canon 1013 *C.I.C.*: “No Bishop is permitted to consecrate anyone as Bishop, unless it is first established that a pontifical mandate has been issued”.

Canon 1382 *C.I.C.* is, first of all, a disciplinary norm of the Church which, as Canon 11 *C.I.C.* indicates, holds only for the baptised members of the Catholic Church or for those already received into it. Furthermore, it corresponds to the offence described in Canon 1459 § 2 of the *Codex Canonum Ecclesiarum Orientalium*, even if there are no *latae sententiae* penalties in the penal tradition of those Churches, which is why the same penalty is inflicted *ferendae sententiae*.

3. The offence punished by Canon 1382 *C.I.C.* is one committed both by the Bishop who consecrates and by the cleric who is consecrated. Furthermore, since episcopal consecration is a rite in which it is usual that more ministers participate, those who assume the responsibility of co-consecrators, that is, who lay hands and recite the consecratory prayer in the ordination (cf. *Caeremoniale Episcoporum*, Nos. 582 and 584), are co-agents of the offence and therefore equally subject to the penal punishment. This interpretation has also been confirmed by the tradition and recent practice of the Church.

4. However, with regard to the punishment of the offence, the penalty of excommunication stipulated by Canon 1382 *C.I.C.* is subject to the general conditions required by canon law for the effective and completely certain incurring of a *latae sententiae* punishment. As is well known, apart from the general penal punishments inflicted *ferendae sententiae* by the legitimate authority by means of a sentence or decree on the conclusion of the corresponding penal procedures, the canonical system also contains so-called “*latae sententiae*” penalties, which do not depend on an external judge who inflicts them but only on the committing of the offence, without prejudice to what is prescribed in Canon 1324 § 3. This Canon exempts from the specific *latae sententiae* penalty if it

is found that there are circumstances which, in accordance with § 1 of the same Canon, though not excluding the penalty as such, mitigate it. Canon 1324 § 3, in fact, specifies that the offender does not incur the *latae sententiae* penalty if one of the circumstances listed in Canon 1324 § 1 is found to exist.

Hence, in the case of an episcopal consecration without the apostolic mandate, each subject is to be considered singly and according to his own personal circumstances as far as incurring the penalty of *latae sententiae* excommunication reserved to the Holy See is concerned. These personal circumstances may be very different and, in some cases, may constitute attenuating circumstances stipulated by the law. In this regard, Canon 1324 § 1 *C.I.C.* points out that the heat of passion, being a minor, grave fear, even if only relative, necessity, unjust provocation, or ignorance of the canonical penalty, for example, are attenuating circumstances which exclude the *latae sententiae* penalty in the forms indicated by the law.

Few of these circumstances may be found to exist in the offence of consecration without a mandate. There is, however, a set of attenuating circumstances described in Canon 1324 § 1, 5 *C.I.C.* which history has shown to be compatible with offences of this nature: when the person, who committed the offence as the one ordaining or the one ordained, was “compelled by grave fear, even if only relative, or by reason of necessity or grave inconvenience”. In the concrete case of an episcopal consecration without the mandate, the attenuating circumstance of grave fear or grave inconvenience (or the exempting one of physical violence) must therefore be verified in relation to each of the subjects who intervene in the rite: the consecrating ministers and the consecrated clerics. Each of these knows in his own heart the degree of his personal involvement and right conscience will indicate to each one whether he has incurred a *latae sententiae* penalty.

5. With regard to the canonical responsibilities of the subjects involved in an episcopal consecration without the necessary apostolic mandate the following, however, must be added.

The external committing of an act punished by Canon 1382 *C.I.C.* spontaneously provokes reactions among the faithful,

including scandal and confusion, which may in no way be underestimated and which call for the Bishops involved to recover their authority through signs of communion and penance, which can be appreciated by everyone and without which “only with difficulty could a Bishop’s governance be accepted by the People of God as a manifestation of the active presence of Christ in his Church” (*Pastores Gregis*, No. 43). Bishops, in fact, as the Second Vatican Council teaches, govern the particular Churches entrusted to them “by their counsel, exhortation and example” (Dogmatic Constitution *Lumen Gentium*, No. 27; cf. Canon 387 C.I.C.).

Furthermore, we recall that Canon 1331 § 1 C.I.C. points out that the excommunicated person is prohibited from 1) taking part as a minister in the celebration of the Eucharist or any other ceremony of public worship; 2) celebrating sacraments and sacramentals, and receiving any sacrament; 3) exercising ecclesiastical ministerial functions or acts of government. These prohibitions enter into effect *ipso iure* at the very moment in which a *latae sententiae* penalty is incurred. Hence, there is no necessity for any authority to intervene to impose these prohibitions on the subject: awareness of having committed an offence suffices for the person who has incurred the punishment to be held before God to abstain from such acts, on pain of committing a morally illicit and therefore sacrilegious act. However, even acts derived from the power of order and carried out in these circumstances of sacrilege would be valid.

6. Obviously, all that precedes does not exclude the possibility, in cases of episcopal ordination without the papal mandate, of the Holy See’s finding itself in the position of having directly to inflict censures on the subject, for example, were an attitude incompatible with the requirements of communion to be shown by his successive behaviour or reluctance to provide the necessary explanations about the degree of his involvement in the offence. Furthermore, on obtaining new and certain information, the Holy See could even find itself having to declare the *latae sententiae* excommunication or impose other punishments or penances, were this necessary in order to repair the scandal, dissipate the confusion of the faithful and, more generally, safeguard ecclesiastical discipline (cf. Canon 1341).

The penalty of *latae sententiae* excommunication stipulated by Canon 1382 C.I.C. is a censure reserved to the Holy See. As a censure, it is a so-called “medicinal” penalty, because its aim is to move the offender to repent: once he has demonstrated that he has sincerely repented, he acquires the right to be absolved from the excommunication. Furthermore, since it is reserved to the Holy See, the repentant offender can approach only to the Holy See to obtain absolution from the excommunication and be reconciled with the Church.

From the Vatican, 6 June 2011

+ Francesco Coccopalmerio, President
+ Juan Ignacio Arrieta, Secretary

CONCERN OVER ILLEGITIMATE EPISCOPAL ORDINATION IN CHINA

VATICAN CITY, 15 JUL 2011 (VIS) — Holy See Press Office Director Fr. Federico Lombardi S.J. spoke yesterday of the Pope’s sadness and concern at the latest illegitimate episcopal ordination in China which, he said, damages “the unity of the universal Church”.

Yesterday at Shantou in the region of Guangdong, Fr. Joseph Huang Bingzhang was ordained a bishop without pontifical mandate. A similar episode took place on 29 June when Fr. Paul Lei Shiyin was ordained as bishop of Leshan. A number of bishops who are in communion with the Pope were obliged to attend yesterday’s ceremony.

Following the Leshan ordination, the Holy See released a declaration highlighting how a bishop ordained “without the papal mandate, and hence illegitimately, has no authority to govern the diocesan Catholic community, and the Holy See does not recognise him as the bishop of that diocese”.

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STATEMENT OF THE HOLY SEE

EPISCOPAL ORDINATION IN THE DIOCESE OF LESHAN (PROVINCE OF SICHUAN, MAINLAND CHINA)

With regard to the episcopal ordination of the Rev. Paul Lei Shiyin, which took place on Wednesday 29 June last and was conferred without the apostolic mandate, the following is stated:

1) Rev. Lei Shiyin, ordained without the Papal mandate and hence illegitimately, has no authority to govern the diocesan Catholic community, and the Holy See does not recognise him as the Bishop of the Diocese of Leshan. The effects of the sanction which he has incurred through violation of the norm of can. 1382 of the *Code of Canon Law* remain in place.

The same Rev. Lei Shiyin had been informed, for some time, that he was unacceptable to the Holy See as an episcopal candidate for proven and very grave reasons.

2) The consecrating Bishops have exposed themselves to the grave canonical sanctions laid down by the law of the Church (in particular, canon 1382 of the *Code of Canon Law*; cf. *Declaration of the Pontifical Council for Legislative Texts* of 6 June 2011).

3) An episcopal ordination without Papal mandate is directly opposed to the spiritual role of the Supreme Pontiff and damages the unity of the Church. The Leshan ordination was a unilateral act which sows division and unfortunately produces rifts and tensions in the Catholic community in China. The survival and development of the Church can only take place in union with him to whom the Church herself is entrusted in the first place, and not without his consent as, however, occurred in Leshan. If it is desired that the Church in China be Catholic, the Church's doctrine and discipline must be respected.

4) The Leshan episcopal ordination has deeply saddened the Holy Father, who wishes to send to the beloved faithful in China a word of encouragement and hope, inviting them to prayer and unity.

From the Vatican, 4 July 2011

STATEMENT OF THE HOLY SEE
EPISCOPAL ORDINATION IN THE DIOCESE OF SHANTOU
(PROVINCE OF GUANGDONG, MAINLAND CHINA)

The following clarifications are issued with reference to the episcopal ordination of the Reverend Joseph Huang Bingzhang which took place on Thursday, 14 July 2011:

1) The Reverend Joseph Huang Bingzhang, having been ordained without papal mandate and hence illicitly, has incurred the sanctions laid down by canon 1382 of the *Code of Canon Law*. Consequently, the Holy See does not recognize him as Bishop of the Diocese of Shantou, and he lacks authority to govern the Catholic community of the Diocese.

The Reverend Huang Bingzhang had been informed some time ago that he could not be approved by the Holy See as an episcopal candidate, inasmuch as the Diocese of Shantou already has a legitimate Bishop; Reverend Huang had been asked on numerous occasions not to accept episcopal ordination.

2) From various sources the Holy See had knowledge of the fact that some Bishops, contacted by the civil authorities, had expressed their unwillingness to take part in an illicit ordination and also offered various forms of resistance, yet were reportedly obliged to take part in the ordination.

With regard to this resistance, it should be noted that it is meritorious before God and calls for appreciation on the part of the whole Church. Equal appreciation is also due to those priests, consecrated persons and members of the faithful who have defended their pastors, accompanying them by their prayers at this difficult time and sharing in their deep suffering.

3) The Holy See reaffirms the right of Chinese Catholics to be able to act freely, following their consciences and remaining faithful to the Successor of Peter and in communion with the universal Church.

The Holy Father, having learned of these events, once again deplores the manner in which the Church in China is being treated and hopes that the present difficulties can be overcome as soon as possible.

From the Vatican, 16 July 2011