

Submission to the United Nations Special Rapporteur on Freedom of Religion or Belief.

The urgency of this submission involves one of the most sacred and profound of human rights, the right to religious freedom endowed both in natural and international law. It is under assault in the People's Republic of China. Steven Mosher, of the Population Research Institute and China expert warns, *"Time is not on the side of the Catholic Church in China. It is running out."*¹

At issue is a secret bilateral agreement between the Holy See and the People's Republic of China (PRC), executed on September 22, 2018.² The accord triggered discord, discrimination and destruction within the Catholic Church in China. Whether wittingly or not, the Holy See agreement aided and abetted a China campaign to wipe religion off the map of China.

The Holy See, as a permanent UN observer³ and the People's Republic of China⁴ are both signatories of various United Nations treaties, which recognize, enshrine and protect the individual's right to religious freedom. Thomas Farr, a global religious freedom advocate, described the consequential and disastrous impact of the Sino-Vatican pact, which triggered an escalating crisis for Chinese Christians, an assessment shared by numerous religious freedom groups and by the facts:

*"The Sino-Vatican Agreement was negotiated and is being implemented in the midst of the most systematic and brutal attempt to control Chinese religious communities since the Cultural Revolution. Unfortunately, the persecution of Chinese Catholics has not decreased. If anything, it has intensified since the signing of the agreement."*⁵

The dichotomy of the sovereign head of the Catholic Church executing a secret agreement which increases suffering and persecution of Chinese Catholics, warrants intense scrutiny from the Special Rapporteur.

The documented demolition of Christian churches, symbols of worship, detention, harassment, arrest, and imprisonment of congregants, clerics, and prelates by the local and national govern-

¹https://www.youtube.com/watch?v=_e8dEavxeik

²<https://www.theguardian.com/world/2018/sep/22/vatican-pope-francis-agreement-with-china-nominating-bishops>

³https://en.wikipedia.org/wiki/Holy_See_and_the_United_Nations

⁴https://en.wikipedia.org/wiki/China_and_the_United_Nations

⁵<https://www.govinfo.gov/content/pkg/CHRG-115hhr33238/pdf/CHRG-115hhr33238.pdf>

ment officials has dramatically escalated in the last 18 months since the execution of the Sino-Vatican secret pact on 9/22/18.⁶

While the terms of this pact remain shrouded in secrecy, the repercussions of the deal are clearly visible for all the world to see. This imprudent Vatican deal played right into the hands of the Chinese Communist Party. As the foremost expert on China, retired Hong Kong Cardinal Joseph Zen described the agreement as a “suicide pact and a shameless surrender.”⁷

President Xi Jinping has called for the *Sinicization of religion* - bring religion under the influence of Communist Chinese culture and rule.⁸ His imposition of Sinicization on all religions has been described as the worst persecution in 40 years by Fenggang Yang, Chinese expert, who compared it to the Mao Revolution.⁹ Sinicization requires religious leaders and institutions to embrace the tenets of atheistic Marxism.¹⁰

12 million Catholics are divided between the Communist state controlled Chinese Patriotic Catholic Association (CPCA) and the Underground Catholic Church, faithful to the Vatican. This dual Chinese Catholic system has existed since 1957, with the Chinese Communist Party (CCP) imprisoning and murdering underground bishops, clergy, and laity who refuse to join the CPCA.

Under the new agreement, the Vatican will allow the Communist party to choose Catholic bishops and permit the underground church to join the CPCA, all in the name of “unity.” Cardinal Zen and others view this as a catastrophic capitulation by the Holy See and in the words of Archbishop Carlo Maria Vigano, a former diplomat and Vatican whistleblower, the Vatican “*has done everything to give the Church into the hands of the enemy.*”¹¹ State authorities choosing the religious leaders is a breach of Article 18 of the Universal Declaration of Human Rights and the UN Human Rights Committee’s guidelines that stipulates, “the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as free-

⁶<https://www.catholicculture.org/commentary/bitter-fruit-secret-vatican-beijing-accord/>

⁷<https://www.catholicnewsagency.com/news/cardinal-zen-calls-china-deal-suicide-blames-papal-advisors-37123>

⁸<https://www.washingtonpost.com/politics/2019/11/19/why-xi-jinpings-xinjiang-policy-is-major-change-chinas-ethnic-politics/>

⁹<https://www.dw.com/en/in-xi-we-trust-is-china-cracking-down-on-christianity/a-42224752>

¹⁰<https://freedomhouse.org/report/special-report/2017/battle-chinas-spirit>

¹¹<https://edwardpentin.co.uk/2485-2/>

dom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications."¹²

Violations of religious freedom against Catholic Chinese clergy subsequent to the 2018 secret agreement.

1. **Clergy ID:** the government has been demanding the underground clergy sign a transfer form titled, "*Voluntary Transfer to Chinese Catholic Patriotic Association,*" to pledge their complete obedience to the Patriotic Bishops, to promote and independent church and to use religion to support the policy of the communist party. Without this pledge, the government will not issue an ID to the priest to practice his ministry.¹³
2. **Monitoring Churches:** Video cameras are installed inside and outside of the churches to closely monitor church activities primarily the Patriotic Churches, since the Underground Church typically has no churches.¹⁴
3. **Religious Activities Sites:** A new government policy restricting all religious activities to approved religious sites only. Clergy may not offer prayers, anoint the sick at parishioners' homes, or attend funeral services. Only family members limited to 20 may pray at a funeral.¹⁵

Ominous Background behind the Secret Vatican-China Agreement

"A bad beginning makes for a bad ending."

~Chinese Proverb

The beginning of this deal foreshadowed disaster. Initiating the talks was a highly compromised and deviant prelate with close ties to the atheistic Chinese Communist government.¹⁶

Three months after his papal election, Pope Francis personally dispatched Cardinal Theodore McCarrick to China on June 19, 2013 to engage in negotiations with the Communist Chinese

¹² UN Human Rights Committee (HRC), *CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, 30 July 1993, CCPR/C/21/Rev.1/Add.4, available at: <https://www.refworld.org/docid/453883fb22.html> [accessed 1 June 2020].

¹³<http://www.cardinalkungfoundation.org/nl/pdf/currentnl.pdf>

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶<http://thefigueiredoreport.com>

government.¹⁷ Francis' selection of McCarrick, a notorious habitual sexual abuser of minors,¹⁸ as his personal choice to initiate and participate in talks with Xi's government underscores the pact's perilous foundation.

For over five years, McCarrick negotiated in secret with Communist officials, while reporting back to Pope Francis and the Vatican Secretary of State.¹⁹ McCarrick's Sino diplomacy continued until he was quickly removed from ministry, as a result of media attention over disclosures of his lifelong predation against young males.²⁰

Yet, three months later, the China-Vatican pact was signed by the parties. On September 22, 2018, People's Republic of China and the Holy See officials executed a secret agreement in Beijing, whose details and content have remained confidential,²¹ Its contents even remain undisclosed to the retired Hong Kong Cardinal Joseph Zen.²²

The Holy See issued a press communique announcing the agreement with a meagre and cryptic 73-word statement void of any specificity to time frames, or conditions:

"It concerns the nomination of Bishops, a question of great importance for the life of the Church, and creates the conditions for greater collaboration at the bilateral level.

*The shared hope is that this agreement may favor a fruitful and forward-looking process of institutional dialogue and may contribute positively to the life of the Catholic Church in China, to the common good of the Chinese people and to peace in the world."*²³

One of the terms provided that eight previously excommunicated bishops, who had been appointed by the communist run Patriotic Church, were recognized and fully restored with the Holy See. Moreover, two "underground" bishops, previously recognized by the Holy See were ordered

¹⁷<https://assets.documentcloud.org/documents/4784141/TESTIMONYXCMVX-XENGLISH-CORRECTED-FINAL-VERSION.pdf>

¹⁸<https://www.nytimes.com/2018/07/16/us/cardinal-mccarrick-abuse-priest.html>

¹⁹<http://thefigueiredoreport.com>

²⁰<https://www.nbcnews.com/news/us-news/cardinal-theodore-mccarrick-ex-archbishop-washington-removed-ministry-after-sex-n885006>

²¹<https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/09/22/180922d.html>

²²<https://catholic-sf.org/news/cardinal-zen-appeals-to-college-of-cardinals-over-the-murder-of-the-church-in-china>

²³<https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/09/22/180922d.html>

to step down from their bishoprics. No other terms or conditions of the agreement have been released by either party.

Shockingly, Pope Francis conceded that as a result of the agreement, *“Chinese Catholics will suffer. There is always suffering in an agreement.”*²⁴

Of this, Pope Francis is painfully correct, suffering and persecution abounds in China due to his diplomacy. Xi’s CCP swiftly deployed this secret agreement as a cudgel against Catholics and Christians to force them to submit to the communist party’s anti-religion directives.

The net effect of this secret agreement has resulted in a huge uptick of demonstrable violence, widespread destruction, and religious persecution against Catholics and Christians by the Xi government, the Vatican’s bilateral partner.²⁵

Global Condemnation of Vatican-China Deal

Numerous NGOs, bipartisan religious freedom commissions, China experts, and human rights monitors have excoriated the secret Sino-Vatican agreement as a precipitating event which enabled a huge increase in persecution of Catholics and Christians by Chinese state organs.

Set forth is a sampling of commentary and reports decrying the Sino-Vatican agreement:

- A. **The Human Rights Watch-** *“Pope Francis silence is particularly troubling as Beijing intensified repression on religious freedom. And Chinese authorities have shown no particular mercy towards Catholic clergy since the 2018 China-Holy See agreement harassing and forcibly disappearing some of those who remain loyal to the pope. Clearly little has improved for millions of Catholics in China.”*²⁶
- B. **ChinaAid-** *“This reported deal is nothing but a betrayal of both the millions of suffering persecuted Christians in China and the global Catholic Church. Ironically, how can the Vatican respond with a good clear conscience for this appeasement deal while the CCP just launched a secret war vowing the wipe out of underground Catholics and Protestants?”*²⁷

²⁴<https://www.scmp.com/news/china/article/2165743/pope-francis-defends-china-deal-bishops-says-he-will-have-final-say-names>

²⁵<https://www.catholicculture.org/commentary/bitter-fruit-secret-vatican-beijing-accord/>

²⁶<https://www.hrw.org/news/2020/03/16/pope-francis-should-speak-out-against-beijings-abuses>

²⁷<https://www.chinaaid.org/2018/09/vatican-reaches-deal-with-china.html>

C. Congressional Executive Commission on China: Testimony at the hearing found that:

“Unfortunately, although the agreement is only two months old, there are already signs that its provisions will exacerbate this divide, rather than heal it. Within a month of its signing, two Marian shrines had been destroyed by Communist officials in China. It is difficult to overstate the importance of these shrines to the Catholic faithful, and to their love of the Church. A government would destroy such structures only to threaten and oppress China’s Catholics, to damage their faith and the Church itself. This, of course, is what Communist governments, including the Chinese government.”²⁸

D. Gatestone Institute: *Vatican is a Mouthpiece for Beijing*

“Despite this grisly record, in 2018, the Vatican signed a pact with China. The pact was intended to resolve the historic division between China’s “underground church” in which bishops were approved by Rome but rejected by Beijing, and China’s “official” bishops not recognized by the Vatican. The first group represents the real Chinese Church, the second is a puppet of the Chinese Communist Party. The Vatican signed the pact to reconcile and to “normalize” the status of the Catholic Church in China. The risk, of course, is that the Vatican has become a mouthpiece for Beijing.”²⁹

E. U.S. Commission on International Religious Freedom:

“China used Vatican deal to pressure clergy”

“The deal was controversial among Chinese Catholics, particularly because the Chinese government cited it as justification for pressuring clergy and members of the underground church to join the CPCA (an estimated half of China’s Catholics worship in underground churches)”

Statement from one of the USCIRF Commissioners:

“{w}ithin days of the Vatican negotiating its deal, the Chinese used it as cover to embark upon the closure of several of the nation’s largest and most prominent unregistered church communities. That has continued. {t}he Vatican now bears a significant moral and legal responsibility to help solve the problem which it helped created—albeit inadvertently—by providing China license to viciously crack down on Christian communities. The Vatican made a terrible mistake, which it must take seriously. This debacle must be dealt with urgently and seriously.”³⁰

²⁸<https://www.govinfo.gov/content/pkg/CHRG-115hrg33238/pdf/CHRG-115hrg33238.pdf>

²⁹<https://www.gatestoneinstitute.org/15738/china-catholic-church>

³⁰<https://www.uscirtf.gov/sites/default/files/2019USCIRFAnnualReport.pdf>

F. Religious Freedom Institute:

“The 2018 Sino-Vatican Provisional Agreement on nominating and ordaining bishops must be assessed in the harsh light of Xi’s policy. This situation represents one of the greatest challenges to institutional religious freedom in the world today. Xi’s policy strikes at the heart of the Church’s presence and public witness in China.”³¹

Secrecy Shrouds this Agreement.

“Never do anything that you want to remain a secret.”

~ Chinese Proverb

A secret pact engenders suspicion and distrust. The covert nature of this agreement contravenes 20th century international law and its practice of transparency and inclusivity in international treaties set forth in the Vienna Convention on the Law of Treaties.³²

The modern rationale for transparency, clarity and openness in treaties is obvious; it illuminates the issues and allows benchmarks of accountability and compliance. According to University of Chicago Professor Charles Lipson, a scholar on international treaties:

“There are powerful reasons why secret treaties are rare today. The first and most fundamental is the rise of democratic states with principles of public accountability and some powers of legislative oversight. Secret treaties are difficult to reconcile with these democratic procedures.”³³

Notably, the specific terms of this agreement still remain hidden some 18+ months later, which begs the question: why won’t the Vatican shine the light of transparency on the pact? After all, transparency is a virtue repeatedly heralded by Pope Francis.

Conclusion and Remedies

Why should the Special Rapporteur investigate a secret treaty between the Holy See and the PRC? The goal of SDG 16 is to assure peace, justice and strong institutions;³⁴ These goals are in tatters as a result of this secret agreement.

³¹<https://www.religiousfreedominstitute.org/blog/farr-chinese-totalitarianism-and-catholic-witness>

³²United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, available at: <https://www.refworld.org/docid/3ae6b3a10.html> [accessed 19 May 2020]

³³Charles Lipson, *Why Are Some International Agreements Informal?*, in *INTERNATIONAL LAW AND INTERNATIONAL RELATIONS* 293, 328 (Beth A. Simmons & Richard H. Steinberg eds., 2007);

³⁴<https://www.un.org/sustainabledevelopment/peace-justice/>

This secret pact involves not only the religious freedom rights of Chinese Catholics, but its ramifications extend to all religious faith believers in China. No sovereign, not even a religious one, can negotiate away the religious freedom rights of individuals, much less a nation. That right is inviolate. As the special rapporteur and the Office of the High Commissioner engages with religious leaders through the Faith with Rights framework - the rights enshrined under Article 18 need to be highlighted in their implementation. The Special Rapporteur should therefore urge for the retraction of the China-Holy See agreement and the terms disclosed.³⁵

³⁵ <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx>