

The Holy See at the United Nations: An Obstacle to Women's Reproductive Health and Rights

The Roman Catholic Church is uniquely positioned to influence international policy-making. It speaks on issues of concern for its religious followers in numerous nations around the world. At the international level, the Roman Catholic Church uses its distinctive position at the United Nations to affect a wide range of global issues, including international economic development, women's status, population, and family planning. Although the Roman Catholic Church pursues many admirable strategies towards poverty eradication and economic development, it undermines its own advocacy on these issues by taking positions that run counter to the equality and empowerment of women - one half of the world's people. This briefing paper calls into question the legitimacy of the Holy See's status as a Non-Member State Permanent Observer and illustrates how this status is used to obstruct women's sexual and reproductive health and rights.

The Holy See's status at the UN entitles it to many of the same privileges enjoyed by governments. Yet, the Holy See lacks a traditional citizenry of its own. The Holy See speaks at the UN not as a nation-state addressing the pressing concerns of its citizens, but as a religion seeking to exert its version of morality on Catholics and non-Catholics alike. All of the other religions of the world are entitled only to the limited privileges of non-governmental organizations within the UN. The Roman Catholic Church therefore enjoys a unique degree of international political leverage typically reserved for governments.¹ Furthermore, the Holy See's status sets a precedent for allowing other religions this role within the UN - an institution of global governance that should remain neutral towards religion.

THE HOLY SEE AND THE VATICAN CITY

The Holy See serves as “the supreme organ of government of the [Catholic] Church,”² with the Pope designated as its head in the Code of Canon Law.³ It is, by definition, a non-territorial religious entity. The Holy See consists of the Pope, the College of Cardinals, and the Roman Curia - the departments and ministries that assist the Pope in the government of the Church.⁴ The Pope possesses supreme authority within the Church, and no one may appeal his decisions or decrees.⁵ The Pope's authority rests on moral and spiritual principles and is not enforced by civil penalties.⁶

Widely regarded as a “vassal” territory of the Holy See,⁷ the Vatican City exists solely to provide a base for the central administration of the Roman Catholic Church. Only 0.44 square kilometers in size,⁸ the Vatican City is the smallest area in the world that claims statehood.⁹ Since its independence from Italy in 1929, the Vatican City has been under the “sovereignty of the Supreme Pontiff.”¹⁰ However,

The Holy See at the United Nations

the Vatican City depends on Italy for the provision of basic services including police patrol, criminal prosecution, water provision, communication, and transportation.¹¹ According to the Holy See Mission at the UN, the population of legal citizens of the Vatican City is 813, and women and girls comprise less than 12% of the population.¹²

THE HOLY SEE'S STATUS AT THE UN

The Holy See and Switzerland are the only two entities at the UN that have the unique status of Non-Member State Permanent Observer.¹³ The practice of granting Non-Member Permanent Observer Status has “developed according to courtesy, practice and precedents.”¹⁴ No provisions regarding such status exist in the UN Charter, the UN Convention on Privileges and Immunities,¹⁵ or the General Assembly resolution that governs the Permanent Mission of Member States.¹⁶ This absence of rules has generated a practice that is neither clear nor uniform.¹⁷

The two criteria used by the Secretary-General of the UN to determine eligibility for Permanent Observer status have been: (1) whether the State has membership in at least one specialized agency of the UN; and (2) whether the State is generally recognized by Members of the UN.¹⁸ At the time the Holy See was admitted as a Non-Member State Permanent Observer in 1964, it met the first criterion for Permanent Observer status by maintaining delegates at multiple specialized agencies.¹⁹ The second criterion, on the other hand, was not clearly established. If “general recognition” is defined as recognition by a majority of UN Members, the Holy See may have been incorrectly allowed to obtain Non-Member State Permanent Observer status. As of January 1, 1985, the Holy See maintained diplomatic relations with only 53 countries.²⁰ Therefore, it is unlikely that at the time its mission was established, the Holy See maintained relations with a majority (i.e. 56) of the then 112 Member States of the UN. Nevertheless, in 1964 Pope Paul VI succeeded in establishing the first Holy See “Permanent Observer” mission at the UN, and the Holy See became a Non-Member State Permanent Observer.²¹

The Possibility of UN Membership for the Vatican City

In 1944, the Roman Catholic Church made tentative inquiries regarding the eligibility of the Vatican City to become a Member State of the UN.²² Article 4 of the UN Charter established the criteria for membership, stating that the applicant must: (1) be a State; (2) be peace-loving; (3) accept the obligations of the UN Charter; (4) be able to carry out these obligations; and (5) be willing to do so.²³

In response to the Vatican City's inquiries in the 1940s regarding possible admission to the UN as a Member State, United States Secretary of State Hull concluded that the Vatican City did not meet the requirements for membership.²⁴ Although the historical record is scant, there is some indication that other Member States also viewed the Vatican City as being ineligible for UN membership in 1944.²⁵ Ambiguity arises from the fact that the UN does not provide the international community with a definition of the term “State.”²⁶ No formal membership application has ever been made by the Vatican City or, more recently, by the Holy See, although there appear to be no UN regulations preventing the Holy See from applying for such membership.²⁷

THE HOLY SEE: A STATE OR A RELIGION?

Because the Holy See exists to govern the Roman Catholic Church worldwide, beyond the limits of the Vatican City, its legitimacy as a state is questionable. The Holy See has itself stated that its mission at the UN is “of a religious and moral character.”²⁸ In addition, the Holy See does not meet international legal definitions of statehood. According to the Montevideo Convention on the Rights and Duties of States, “[t]he State as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.”²⁹ These four factual criteria for determining statehood are founded on principles agreed upon by a host of international law scholars and are consistent with the foreign relations laws of some nations.³⁰

The Holy See does not meet all four of the criteria in the Montevideo definition. Other than the nominal population of the Vatican City, the Holy See does not have a “permanent population.” Rather, it governs a large group of voluntary religious followers who reside as citizens in other states. Similarly, the Holy See does not possess a “defined territory” other than the Vatican City, which serves only to host a small collection of religious and administrative buildings. As to the “government” criterion, the Holy See is itself the government of the Roman Catholic Church and, by definition, of the Vatican City. It cannot therefore be regarded as an entity that possesses a government. The only characteristic of a modern state that is attributable to the Holy See is its capacity to enter into relations with other states. The Holy See is party to international treaties, and it receives foreign envoys.³¹

In 1984, the United States Department of State under the Reagan administration announced that the U.S. and the Holy See had agreed to establish formal diplomatic relations for the first time.³² Several members of Congress vocally opposed the establishment of formal ties with the Holy See.³³ In 1993 even the ultra-conservative U.S. Senator Jesse Helms called into question the Holy See’s status as a State, arguing that the U.S. should have no Ambassador to the Vatican City. “I remain persuaded that the United States has no business sending an ambassador to any religious entity.” Helms submitted a statement for the record asserting that “[m]aintaining diplomatic relations with the Vatican is clearly a violation of the First Amendment’s guarantee of separation between the institutions of church and state.”³⁴ He later urged President Clinton to revoke diplomatic relations with the Holy See.³⁵ Though such revocation is unlikely, the Justice Department has clarified that the Holy See need not be recognized as a state in order for the United States to conduct diplomatic relations with it.³⁶

HOW THE HOLY SEE HAS USED ITS UN PRIVILEGES

Privileges of Non-Member State Permanent Observers include the ability to sign and ratify UN-sponsored treaties, to participate in world conferences with full voting rights, to take part in discussions and decisions in the General Assembly, and to participate in various UN agencies, commissions, and committees.

The Holy See at the United Nations

International Treaties

Although the Holy See has the ability to sign and ratify international treaties, it has failed to establish a general commitment to international human rights norms. Despite its commitment to global economic development and poverty eradication, the Holy See has neglected to ratify the International Covenant on Economic, Social and Cultural Rights.³⁷ Furthermore, the Holy See has ratified neither the International Covenant on Civil and Political Rights nor the Convention on the Elimination of All Forms of Discrimination Against Women.³⁸ Only three UN human rights conventions have been ratified by the Holy See: the Convention on the Rights of the Child (1990);³⁹ the International Convention on the Elimination of All Forms of Racial Discrimination (1969);⁴⁰ and the Convention Relating to the Status of Refugees (1956).⁴¹

The Holy See further limits its commitment to human rights by placing reservations on the limited number of treaties it has ratified. For example, the Holy See held that application of the Convention Relating to the Status of Refugees “must be compatible in practice with the special nature of the Vatican City State.”⁴² In its reservations to the Convention on the Rights of the Child, the Holy See asserted that it interprets the phrase “[f]amily planning education and services” to mean “only those methods of family planning which it considers morally acceptable.”⁴³ The Holy See also stated in its reservations that it interprets the Convention as safeguarding “the primary and inalienable rights of parents.”⁴⁴ The Holy See claimed that once ratified, the Convention “will safeguard the rights of the child before as well as after birth.”⁴⁵ Finally, the Holy See clarified that by acceding to the Convention, it does not intend to move away “from its specific mission which is of a religious and moral character.”⁴⁶

General Assembly

As a Non-Member State Permanent Observer, the Holy See also participates on an ad hoc basis in General Assembly discussions and decisions. Pope Paul VI addressed the General Assembly on October 4, 1965,⁴⁷ as did Pope John Paul II in 1979 and 1995.⁴⁸ A representative of the Holy See addresses the General Assembly or one of its committees an average of 11 times each year.⁴⁹ The Holy See also participates in the Special Sessions of the General Assembly during the review and appraisal of conferences and summits.⁵⁰

While exercising this privilege, Church officials have themselves illustrated the Holy See’s atypical role at the UN. Addressing the General Assembly, Pope John Paul II stated that the aim of the Holy See, through its participation in the “tasks and activities in the UN [is] very different from that of other states.”⁵¹ The Holy See views its purpose at the UN as “bringing to the attention of the world the teaching of the Church.”⁵² The Holy See acts as the “universal church . . . , [it] is not military or economic [but a] moral force.”⁵³ This admission of its role as a “universal church” is at odds with its status as a Non-Member State Permanent Observer.

UN Bodies

The Holy See participates in a variety of committees and commissions at UN offices in New York, Rome, Geneva, Paris, Vienna, Bonn, Kingston, and Nairobi.⁵⁴ The Holy See also participates in numerous UN agencies, including the UN High Commissioner on Refugees, the UN Educational, Scientific and Cultural Organization, the UN Conference on Trade and Development,⁵⁵ and the World Health Organization.⁵⁶

World Conferences

The Holy See has voted and actively participated in several UN world conferences, which rank among the foremost forums for international lawmaking. The UN generally grants widespread state access to participation at international conferences. General Assembly resolutions convening world conferences have invited “all States” to participate “in full, with full voting rights.”⁵⁷ The Holy See has participated in all major international conferences since 1989, including the International Conference on Population and Development in 1994 (ICPD) and its five-year follow-up in 1999 (ICPD + 5); and the 1995 Fourth World Conference on Women (Beijing Conference) and its five-year follow-up in 2000 (Beijing + 5).⁵⁸

Unlike non-governmental organizations, “states” have the ability to prevent consensus and stall the conference process. During the development of consensus agreements at recent world conferences, the Holy See has joined forces with a small group of conservative governments and radical, right wing organizations.⁵⁹ They have attempted to intervene and obstruct the goal of reaching consensus on legal, policy, and program reforms needed to further women’s sexual and reproductive health and rights.⁶⁰ Many of the reactionary policies pursued by the Holy See ultimately have the effect of denying women their human rights. The views advocated by the Holy See at the UN touch on issues that include the role of women in society, HIV/AIDS, contraception, abortion, sexual and reproductive health services, and adolescents.

• *The Role of Women*

According to the Catholic Church, a woman’s value is based on her status within the confines of the family. One member of the Holy See delegation to the UN asserted that “the work of women in the home is the basis for the happiness of the whole human race.”⁶¹ Pope John Paul II stated that the “true advancement” of women requires recognition of “the value of their maternal and family role, by comparison with all other public roles and all other professions.”⁶²

In the midst of the ICPD preparations, Pope John Paul II sent a strong message with his beatification of two women as “models of Christian perfection.”⁶³ The Pope honored a woman who had insisted that her life be sacrificed, if necessary, for that of her unborn child; she died as a result of refusing an abortion that would have saved her life. The other woman honored had been married to an abusive husband who later abandoned her and their children. The Pope praised “her total fidelity to the commitment assumed in the sacrament of marriage and responsibilities deriving from it.”⁶⁴

The Holy See at the United Nations

The Holy See does little to promote women in leadership positions. Of the three entities of the Holy See - the Pope, the College of Cardinals, and the Roman Curia - only the Roman Curia includes women, and to a very limited degree.⁶⁵ According to Canon Law, women are not capable of performing numerous religious functions. Significantly, women may not be ordained into the priesthood and are in turn barred from the posts of bishop, cardinal, and pope.⁶⁶ Within the Roman Catholic Church, women are consistently underrepresented even in those administrative, judicial, and directorial positions that do not require ordainment into the priesthood.⁶⁷ In particular, women are underrepresented on counsels that advise the Pope on issues of family and sexuality.⁶⁸ Women cannot vote because the Holy See extends suffrage only to cardinals.⁶⁹

During ICPD and Beijing, the Holy See argued against the promotion of “individualism,” and it consistently reiterated the fundamental importance of the family - narrowly defined by the Holy See to include only traditional, nuclear families based on a marriage between husband and wife.⁷⁰ The Holy See’s report to the UN in preparation for Beijing declared that women do not have “an equality of roles and functions” and advised that the “specificity of women [be] safeguarded.”⁷¹ During ICPD+5, the Holy See delegation advocated replacing the phrase “respect for women’s rights” in the consensus agreement with “respect for women’s status.”⁷²

• HIV/AIDS

Despite the deadly HIV/AIDS pandemic and the worldwide acceptance of condom distribution and education as a strategy to reduce the likelihood of transmission, the Holy See has steadfastly refused to condone their use. In its reservations to the Beijing Platform for Action, the Holy See asserted that it “in no way” endorses condoms for HIV/AIDS prevention programs.⁷³ During ICPD+5 the Holy See stood as virtually the only voice opposed to such programs. In fact, the Church goes so far as to oppose use of condoms between married couples when one partner is HIV-positive.⁷⁴ The Holy See initially attempted to remove the references to condoms in the consensus agreement at ICPD+5, and it later remained silent when the text, which included such references, was adopted.⁷⁵ Instead, the Holy See advocates “absolute avoidance” as a method for prevention of HIV/AIDS and other sexually transmissible infections.⁷⁶

• Contraception

In its reservations to the Beijing Platform for Action, the Holy See asserted that it “in no way endorses contraception”⁷⁷ and that it would only interpret a woman’s right to control her fertility as the “responsible use of sexuality within marriage.”⁷⁸ At ICPD +5 the Holy See opposed the language favoring “women-controlled methods such as female condoms, emergency contraception, and under-utilized methods, such as vasectomy and male condoms.” It also sought to refer only to contraceptive methods “which are not against the law.”⁷⁹

In the same year as ICPD+5, the Church released a statement regarding the provision of emergency contraception to Kosovar women who were raped by Serbian

paramilitaries and security forces, claiming that providing these women with emergency contraception was equivalent to promoting abortion.⁸⁰ During the ICPD+5 negotiations, a member of the Holy See's delegation argued against the use of emergency contraception for rape victims,⁸¹ despite the fact that the World Health Organization classifies the emergency method not as an abortifacient, but as a safe contraceptive.⁸² The Holy See succeeded in preventing any explicit mention of emergency contraception in the ICPD+5 consensus agreement.⁸³ Pope John Paul II stated previously that women raped in Bosnia should "accept the enemy" and make him "flesh of their own flesh."⁸⁴

- *Abortion*

At the ICPD and Beijing Conferences, the Holy See and its allies fought staunchly against the right of women to choose abortion. At ICPD the Holy See opposed the phrase "unsafe abortion" because of its implication that abortion ever could be safe.⁸⁵ "Unwanted pregnancy" is another phrase that the Holy See refused to accept, arguing that it implies that pregnancy is a negative experience, inconsistent with the notion of womanhood.⁸⁶ Reflecting the resulting compromise, the ICPD Programme of Action ultimately held that abortion should be safe where it is not against the law.⁸⁷

In March 1995, in time for the Beijing preparatory meetings, the Pope issued a statement once again condemning abortion as "deliberate and direct killing."⁸⁸ After denouncing such crimes as murder and genocide, the statement singled out abortion, declaring that "[a]mong all the crimes which can be committed against life, procured abortion has characteristics making it particularly serious and deplorable."⁸⁹ The Pope went on to assert that protecting the woman's health or ensuring a decent standard of living for other members of the family "can never justify" abortion.⁹⁰

- *Sexual and Reproductive Health Services*

The Roman Catholic Church supports more than 300,000 health facilities throughout the world. The Church has repeatedly made clear its refusal to offer abortion and contraceptive services at those facilities.⁹¹ The Holy See consistently opposes family planning services in low- and middle-income countries, despite the desire of many governments to raise the standard of living by allowing people to plan and space their children.⁹² One member of the Holy See delegation to several UN Conferences condemned family planning as "the cancer of today's world."⁹³ Another Holy See delegate called sexual education programs produced by the UN Population Fund "public pornography."⁹⁴ In 1994, the year of ICPD, Pope John Paul II wrote a "Letter to the Family" announcing that the doctrine of the Church on abortion and contraception would never change.⁹⁵

At the preparatory meeting for ICPD, the Holy See refused to recognize general concepts such as sexual and reproductive rights, fertility regulation, and family planning.⁹⁶ The Holy See did not join the consensus on the entire section of the Beijing Platform concerning health. It objected to the "totally unbalanced attention to sexual and reproductive health."⁹⁷ When discussing the provision of sexual and repro-

The Holy See at the United Nations

ductive health services at ICPD+5, the Holy See opposed the use of the term “couples and individuals” and stated that it would interpret this to include only “married couples and the individual man and woman who constitute the couple.”⁹⁸

• ADOLESCENTS

The Holy See has consistently objected to the provision of sexual and reproductive health services for adolescents. At ICPD+5, the Holy See, determined to undermine the gains realized at ICPD for adolescent sexual and reproductive health and rights, sought instead to secure greater recognition of “parental rights.” The Holy See and other conservative delegates introduced language that would allow parents to prevent their children from receiving sexual and reproductive health information.⁹⁹ One member of the Holy See’s delegation to ICPD+5 addressed the UN delegates five times in one hour in opposition to confidential sex counseling for adolescents.¹⁰⁰ A delegate from Mexico directly questioned the Holy See’s position, asking, “[d]oes the privacy of the confessional not extend to teens?”¹⁰¹ In its statement following the ICPD+5 consensus agreement, the Holy See stipulated its understanding that the provision of adolescent reproductive health services would cover only those adolescents who are married.¹⁰²

CONCLUSION

It is unlikely that the Holy See properly met the qualifications for Non-Member State Permanent Observer status in 1964, or that it can be considered a state today. Furthermore, the wisdom of granting this status at the UN to a religious body that manifestly does not have to face any of the problems that nation-states must face is dubious. True progress toward the elimination of global poverty and inequality must include a commitment to the realization of women’s rights and empowerment. With a dearth of women to raise their voices within the Vatican City, the Holy See has failed to demonstrate this commitment. Instead, the Holy See uses its status at the UN to obstruct the sexual and reproductive health and rights of women throughout the world.

AUGUST 2000

An Obstacle to Women's Reproductive

Endnotes

1 See EDWARD J. GRATSCH, *THE HOLY SEE AND THE UNITED NATIONS 1945 - 1995* 8 (1997).

“Vatican City provides the Holy See with the political independence necessary for its spiritual mission.”

2 See HYGINUS EUGENE CARDINALE, *THE HOLY SEE AND THE INTERNATIONAL ORDER* 85 (1976).

3 See *Codex Iuris Canonici* (1917) Code c. 331:

“The bishop of the Church of Rome, in whom resides the office given in a special way by the Lord to Peter, first of the Apostles and to be transmitted to his successors, is head of the college of bishops, the Vicar of Christ and Pastor of the universal Church on earth; therefore, in virtue of his office, he enjoys supreme, full, immediate and universal ordinary power in the Church, which he can always freely exercise.”

4 See *Cardinal*, *THE CATHOLIC ENCYCLOPEDIA*, available in *NEW ADVENT CATHOLIC WEBSITE* (visited June 1, 2000)

<<http://www.newadvent.org/cathen/>> [hereinafter *THE CATHOLIC ENCYCLOPEDIA*].

5 See GRATSCH, *supra* note 1, at 7.

6 See *id.*

7 See JAMES CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* 159 (1979). See also Josef Kunz, *The Status of the Holy See in International Law*, 46 *AM. J. OF INT. LAW* 313(1952). Note also that the preamble to the Lateran Agreement states: “[I]t is deemed necessary to constitute Vatican City with special dispositions, . . . with exclusive and absolute power and sovereign jurisdiction over it to the Holy See.”

8 See EDMUND JAN OSMANCZYK, *ENCYCLOPEDIA OF THE U.N. AND INTERNATIONAL AGREEMENTS* 862 (1985).

9 See CRAWFORD, *supra* note 7, at 154.

10 See Lateran Agreement, Feb. 11, 1929, Italy-Holy See, 0 *V.T.S.* 161, *Europ. T.S.* No. 590019.

11 See *id.*, at arts. III., XXII., VI.

12 See E-mail from Monsieigneur James Reinert, Holy See Mission to the United Nations, to the Center for Reproductive Rights (Apr. 19, 2000) (on file with the Center for Reproductive Rights)

[hereinafter Msgr. Reinert E-mail].

13 See R.G. SYBESMA-KNOL, *STATUS OF OBSERVERS IN THE U.N.* (1981). There are five types of Permanent Observers: (1) Non-Member States; (2) specialized Agencies of the U.N. system; (3) intergovernmental organizations not part of the U.N. system; (4) national liberation movements recognized by the General Assembly; and (5) non-governmental organizations.

14 *Note on the Acquisition of Observers Status in the United Nations: The Case of Non-Member States 1*, available in U.N. Reference Library, Observer Status File (citing R. JAY, *UN OBSERVER STATES: AN ACCUMULATION OF CONTEMPORARY DEVELOPMENTS* (1976)) [hereinafter *Acquisition of Observers Status*].

15 See *Information on the Status of Permanent Observer Missions to the United Nations*, U.N. PUBLIC INQUIRIES UNIT (1992), available in U.N. Reference Library, Observer Status File.

16 G.A. Res. 257 (III), U.N. GAOR (1948), cited in *Acquisition of Observers Status*, *supra* note 14, at 4.

17 See E. Suy, *The Status of Observers in International Organizations*, *ACAD. OF INT'L LAW, Recueil des Cours* II, Tome 160 (1978), cited in *Acquisition of Observers Status*, *supra* note 14, at 1.

18 See *Selected Legal Opinions of the Secretariat of the United Nations and Related Intergovernmental Organizations*, at 236, U.N. Doc. ST/LEG/8 (1962).

19 See CARDINALE, *supra* note 2, at 260-265. For example, the Holy See maintained delegates at the International Atomic Energy Agency and the Council for Cultural Co-operation of the Council of Europe.

20 See OSMANCZYK, *supra* note 8, at 863 (1985).

21 See 1964 U.N.Y.B. There are no official UN documents reflecting the procedural history of the Holy See's admission to the UN as a Permanent Observer. The UN Yearbook of 1964 shows that three states were admitted to the UN that year: Malawi, Malta, and Zambia. Letters between each state and the Secretary-General are documented in the Yearbook. The Yearbook reflects no official correspondence regarding the Holy See.

The Holy See at the United Nations

- 22 See CRAWFORD, *supra* note 7, at 156.
- 23 U.N. CHARTER art. 4, para. 1. See Suy, *supra* note 17.
- 24 See CRAWFORD, *supra* note 7, at 156.
- 25 See *id.*
- 26 See HANS KELSEN, LAW OF THE UNITED NATIONS 68 (1964).
- 27 Telephone Interview with Anthony Miller, Principal Legal Officer, UN Office of Legal Affairs (May 5, 2000). Mr. Miller stated that, to his knowledge, no regulations exist that prevent this.
- 28 *Id.*
- 29 Montevideo Convention on the Rights and Duties of States, Dec. 26, 1933, art. 1, 49 Stat. 3097, T.S. 881, 165 L.N.T.S. 19, 3 Bevans 145.
- 30 See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES (1986). For example, §201 of the Restatement of the Foreign Relations Law of the United States provides that a State is an “entity that has a defined territory and a permanent population, under the control of its own government, and that engages in, or has the capacity to engage in, formal relations with other such entities.”
- 31 See *e.g.*, LOUIS HENKIN ET AL., INTERNATIONAL LAW CASES AND MATERIALS 300 (3rd ed. 1993); ROBERT A. GRAHAM, VATICAN DIPLOMACY 344-346 (1959); CRAWFORD, *supra* note 7, at 152-60.
- 32 Act of Nov. 22, 1983, Pub. L. No. 98-164, §134, 97 Stat. 1017, 1029, U.S. CODE CONG. & AD. NEWS (1983).
- 33 Among the opponents were Senator Ernest F. Hollings of South Carolina, Senator Dale Bumpers of Arkansas, and Congressman Fred D. Schwengel of Iowa. See *e.g.*, Steven R. Weisman, *U.S. and Vatican Restore Full Ties After 117 Years*, N.Y. TIMES, Jan. 11, 1984, at A1; *Opponents of US-Vatican Ties Plan Legal Challenge*, CHRISTIAN SCIENCE MONITOR, Mar. 9, 1984, at National 6; Charlotte Saikowski, *Congress Balks at White House Push to Upgrade Vatican Ties*, CHRISTIAN SCIENCE MONITOR, Feb. 13, 1984, at National 3.
- 34 *Statement on the Nomination of Raymond L. Flynn: Senate Hearings*, 103rd Cong. S8348 (1993) (statement of Senator Jesse Helms).
- 35 See *id.*
- 36 See Thomas J. Reese, S.J., *Diplomatic Relations with Holy See*, Mar. 16, 1985, available in America Press (visited June 1, 2000) <<http://www.americapress.org/reese/america/a-wilson.htm>>, citing Justice Department’s brief in *Americans United for Separation of Church and State v. Ronald W. Reagan*, 786 F.2d 194 (3rd Cir. 1986). “An entity need only have an internationally recognized juridical personality for nations to carry on diplomatic relations with it.”
- 37 International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 3 (entry into force Jan. 3, 1976). See *Status of Ratifications of the Principal International Human Rights Treaties, as of May 15, 2000*, U.N. High Commissioner for Human Rights: Treaties Database (visited June 1, 2000) <<http://www.unhchr.ch/pdf/report.pdf>> [hereinafter *Status of Ratifications*].
- 38 International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 (entry into force Mar. 23, 1976); Convention on the Elimination of All Forms of Discrimination Against Women, adopted Dec. 18, 1979, G.A. Res. 34/180, 34 U.N. GAOR, Supp. (No. 46) at 193, U.N. Doc. A/34/46 (entry into force Sept. 3, 1981). See *Status of Ratifications, supra* note 37.
- 39 Convention on the Rights of the Child, adopted Nov. 20, 1989, G.A. Res. 44/25, 44 U.N. GAOR, Supp. (No. 49) at 166, U.N. Doc. A/44/49 (entry into force Sept. 2, 1990) (ratified by the Holy See Apr. 20, 1990). See *Status of Ratifications, supra* note 37. The Holy See has also signed the Convention Relating to the Status of Stateless Persons, adopted Sept. 28, 1954, E.S.C. Res. 526 (entry into force June 6, 1960).
- 40 International Convention on the Elimination of All Forms of Racial Discrimination, adopted Dec. 21, 1965, 660 U.N.T.S. 195 (entry into force Jan. 4, 1969) (ratified by the Holy See Apr. 30, 1969). See *Status of Ratifications, supra* note 37.
- 41 Convention Relating to the Status of Refugees, signed July 28, 1951, 189 U.N.T.S. 137 (entry into force Apr. 22, 1954) (ratified by the Holy See Mar. 15, 1956). See *Convention Relating to the Status of Refugees: Status of Ratifications*, U.N. High Commissioner for Human Rights Treaties Database (visited June 1, 2000) <<http://www.unhchr.ch/html/menu3/b/treaty2ref.htm>>.

An Obstacle to Women's Reproductive

42 RESERVATIONS TO THE CONVENTION RELATING TO THE STATUS OF REFUGEES: HOLY SEE, U.N. High Commissioner for Human Rights Treaties Database (visited June 1, 2000) <<http://www.unhchr.ch/html/menu3/b/treaty2ref.htm>>.

43 RESERVATIONS TO THE CONVENTION ON THE RIGHTS OF THE CHILD: HOLY SEE, U.N. High Commissioner for Human Rights Treaties Database (visited June 1, 2000) <http://www.un.org/Depts/Treaty/final/ts2/newfiles/part_boo/iv_boo/iv_11.html>.

44 *Id.*

45 *Id.*, at Declaration.

46 *Id.*

47 See MARK SHAW, MESSENGER OF PEACE 59 (1965). Pope Paul VI's famous speech to the General Assembly includes the following statement: "Respect for life, even with regard to the great problem of birth, should find here in Your Assembly its highest affirmation and its most reasoned defense. You must strive to multiply bread so that it suffices for the tables of mankind, and not favour an artificial control of birth, which would be irrational, in order to diminish the number of guests at the banquet of life."

48 See Msgr. Reinert E-mail, *supra* note 12.

49 See *id.*

50 See *id.*

51 Pope John Paul II, Address at the U. N. General Assembly (Oct. 2, 1979), in 1979 U.N.Y.B. 33, at 442-43.

52 *Holy See Aims for Role as U.N.'s Conscience*, N.Y. TIMES, Dec. 21, 1989, A15, quoting Archbishop Renato Martino.

53 *Id.*

54 See Msgr. Reinert E-mail, *supra* note 12.

55 See *The Holy See: Review 1999*, EUROPE REVIEW WORLD OF INFORMATION, Nov. 11, 1999.

56 See WORLD HEALTH ORGANIZATION, WHO Member States (visited June 1, 2000) <<http://www.who/int/about/who/en/member.htm>>.

57 See SHAW, *supra* note 47, at 35.

58 See Msgr. Reinert E-mail, *supra* note 12.

59 These include the governments of a small handful of Latin American countries who have come under pressure from the Holy See as well as a small number of North African and Middle

Eastern governments. For a discussion of right wing organizations operating at the international level, see INSTITUTE FOR DEMOCRACY STUDIES, THE GLOBAL ASSAULT ON REPRODUCTIVE RIGHTS: A CRUCIAL TURNING POINT (2000).

60 See THE CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN DESPITE OPPOSITION (1999) [hereinafter GAINS DESPITE OPPOSITION].

61 See *Rome's Hard Road for Women*, THE GUARDIAN, Oct. 23, 1999, at 24, quoting Countess Christine de Vollmer, consultant to the Pontifical Council for the Family [hereinafter *Rome's Hard Road*].

62 Pope John Paul II, *Laborum Exercens*, 1981, cited in CATHOLICS FOR A FREE CHOICE, THE HOLY SEE AND WOMEN'S RIGHTS: A SHADOW REPORT ON THE BEIJING PLATFORM FOR ACTION 9 (2000) [hereinafter SHADOW REPORT].

63 MARILEN J. DAÑGUILAN, M.D., WOMEN IN BRACKETS: A CHRONICLE OF VATICAN POWER AND CONTROL 43 (1997). Beatification precedes canonization to sainthood and signals the Vatican's approbation of the honored person's life or death.

64 *Id.*

65 See SHADOW REPORT, *supra* note 62, at 8. As of 1988 women held only 12% of chancery positions. As of 1993 women held only 4% of judicial positions on the diocesan tribunal that deals with annulments, and women held only 8% of all director of finance and administration positions in dioceses.

66 See *Woman*, THE CATHOLIC ENCYCLOPEDIA, *supra* note 4.

67 See SHADOW REPORT, *supra* note 62, at 8.

68 See *id.*, at 1.

69 See CENTRAL INTELLIGENCE AGENCY (CIA), THE WORLD FACTBOOK 1999: *Holy See (Vatican City)* (visited June 1, 2000) <<http://www.odci.gov/cia/publications/factbook/vt.html>>.

70 See HOLY SEE OBSERVER MISSION, STATEMENT REGARDING THE KEY ACTIONS FOR THE FUTURE IMPLEMENTATION OF THE PROGRAMME OF ACTION OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT (ICPD) [hereinafter ICPD+5 STATEMENT]. See also Key Actions for the Future Implementation of the Programme of

The Holy See at the United Nations

- Action of the International Conference on Population and Development (ICPD), *adopted* July 1, 1999, U.N. Doc. E/CN.9/1999/PC/4 [hereinafter Key Actions]; DAÑGUILAN, *supra* note 63, at 29-31.
- 71 See DAÑGUILAN, *supra* note 63, at 151.
- 72 See Laura Flanders, *Giving the Vatican the Boot*, MS. MAGAZINE, Oct./Nov. 1999.
- 73 RESERVATIONS AND STATEMENTS OF INTERPRETATION TO THE PLATFORM FOR ACTION OF THE FOURTH WORLD CONFERENCE ON WOMEN: HOLY SEE, ¶ 5 [hereinafter RESERVATIONS TO WORLD CONFERENCE ON WOMEN], *cited in* SHADOW REPORT, *supra* note 62, at 15.
- 74 See Flanders, *supra* note 72.
- 75 See GAINS DESPITE OPPOSITION, *supra* note 60, *citing* Martin Pendergast, *Condoms, the Church and HIV Prevention*, XX CONSCIENCE, Summer 1999, at 21, 23.
- 76 See *Press Release: Women Should Receive Expanded Health Care*, U.N. Population and Development Commission, 4th mtg., U.N. Doc. POP/762 (2000).
- 77 RESERVATIONS TO WORLD CONFERENCE ON WOMEN, *supra* note 73, ¶ 5.
- 78 *Id.*, ¶ 3.
- 79 However, both proposals were dropped from the document in the final compromise. See GAINS DESPITE OPPOSITION, *supra* note 60.
- 80 See SHADOW REPORT, *supra* note 62, at 8, *citing* *Fury at Pope's Pill Ban*, THE GUARDIAN, May 13, 1999.
- 81 See Flanders, *supra* note 72.
- 82 See WORLD HEALTH ORGANIZATION (WHO), EMERGENCY CONTRACEPTION: A GUIDE FOR SERVICE DELIVERY 20, WHO/FRH/FPP/98.19 (1998).
- 83 See Françoise Girard, *Cairo + Five: Reviewing Progress for Women Five Years After the International Conference on Population and Development*, JOURNAL OF WOMEN'S HEALTH AND LAW, Nov. 1999, at 12-13.
- 84 See SHADOW REPORT, *supra* note 62, at 8, *citing* *Sister Who Was Raped Reveals Abortion*, CATHOLIC CIRCLES, May-June 1998. See also *Kosovo: Controversy Over Contraceptives Aid Continues*, UNITED NATIONS FOUNDATION: UN WIRE, May 21, 1999 (visited June 1, 2000) <http://www.unfoundation.org/unwire/archives/how_article.cfm?article=2452>.
- 85 See DAÑGUILAN, *supra* note 63, at 94.
- 86 See *id.*
- 87 Programme of Action of the International Conference on Population and Development (ICPD), *adopted* Oct. 18, 1994, ¶ 25, U.N. Doc. A/CONF.171/13. The same language was agreed to at ICPD+5. See Key Actions, *supra* note 70, ¶ 63.
- 88 See DAÑGUILAN, *supra* note 63, at 154-55, *citing* Pope John Paul II, *Evangelium Vitae*, Mar. 30, 1995.
- 89 See *id.*, at 155.
- 90 See *id.* (emphasis in original).
- 91 See Flanders, *supra* note 72.
- 92 See SHADOW REPORT, *supra* note 62, at 11.
- 93 See *Rome's Hard Road*, *supra* note 61, at 24, *quoting* Mercedes Arzú Wilson. See also, Mercedes Arzú Wilson, *The Morning After Kill*, THE WANDERER, Oct. 15, 1999.
- 94 See *Rome's Hard Road*, *supra* note 61, at 24, *quoting* Countess Christine de Vollmer.
- 95 See Flanders, *supra* note 72.
- 96 See DAÑGUILAN, *supra* note 63, at 25-39.
- 97 RESERVATIONS TO WORLD CONFERENCE ON WOMEN, *supra* note 73, ¶ 9.
- 98 ICPD+5 STATEMENT, *supra* note 70.
- 99 See GAINS DESPITE OPPOSITION, *supra* note 60.
- 100 See Flanders, *supra* note 72.
- 101 *Id.*
- 102 ICPD+5 STATEMENT, *supra* note 70.