

CATHOLICS FOR CHOICE

BRIEFING PAPER

The Vatican at Rio+20 – What's At Stake?

Essential Reading for the Rio+20 Conference

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RIO+20
United Nations
Conference on
Sustainable
Development

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As nations continue negotiations over the final document that will emerge from the United Nations Conference on Sustainable Development, widely known as Rio+20, taking place June 20-22, the Vatican’s delegation is once again attempting to subvert the democratic process and impose religious beliefs into the final agreement.

The Holy See has a limited but well-practiced playbook it follows at international conferences. The 1992 Rio Declaration on Environment and Development called for health services to “include women-centered, women-managed, safe and effective reproductive health care and affordable, accessible services, as appropriate, for the responsible planning of family size.” The Holy See fought tooth and nail to remove that clause and 20 years later is taking up that fight again. Having failed to convince Catholics the world over to agree with its draconian teachings against all modern methods of family planning and abortion, the Vatican is now seeking to use its privileged position under the banner of the Holy See at the UN to impose its agenda on everyone.

For more than 20 years, the Holy See has played an increasingly divisive role at the United Nations. The UN is a consensus-driven environment where one stubborn, dissenting party can shake and sometimes topple agreements shared by the rest of the members. Diplomats, policymakers and advocates alike have drawn attention to the Holy See’s intransigence in pushing its agenda, as well as its tendency to insist on outlier positions that situate it far from those of the prevailing consensus, but no solution to staving off these costly crusades has been forthcoming. The Holy See enjoys preferential treatment due to the UN’s respect for religious freedom, but its dogmatic agenda—at Rio and in other UN conferences—seeks to undermine international consensus on human rights and roll back the clock on norms and principles that are equally valued by United Nations members.

The Holy See has found a niche within the delicate diplomatic balance precisely because it is not like other nations. Nevertheless, it has never been a perfect fit as an ecclesiastical power among the states, and at international conferences the chafe is even more noticeable. The Holy See is often not fighting on the same side as policymakers who wish to guarantee rights and provide services to people around the world, and these divided loyalties are hiding in plain sight.

The Rio conference is about moving away from a “business-as-usual” approach to development. The Holy See should not be allowed to continue its usual head-on collision with widely accepted human rights, including reproductive rights.

Rights—With a Catch

The Holy See fights so bitterly over language because it is aware of what can hide beneath one phrase. “[T]he economy needs objective moral formation in order to function correctly,” said Archbishop Francis Chullikatt, permanent observer for the Holy See at the United Nations, when asked about the upcoming Rio+20 UN Conference on Sustainable Development.¹ He went on to describe many laudable ideas, including concerns about social justice, public health and the environment, but unfortunately, these affirmations came with a catch. The Holy See’s analysis of sustainable development included a rejection of reproductive rights, a position that is both antithetical to the health and well-being of people around the world, and at odds with the policy positions of most UN Member States. All this subtext was packed into the seemingly innocent words “objective” and “moral.”

Paying attention to the Holy See’s words is just the beginning. In preparation for the conference, delegates and advocates must be aware that the Holy See’s tactics and messages employed to delay, distract and derail at high-level meetings are possible because of the unique status as Nonmember State Permanent Observer that the government of the Roman Catholic church enjoys at the United Nations. The Rio conference offers an important opportunity for obtaining commitments from the international community on urgent and measurable goals such as fighting poverty and protecting the environment. Delegates who uphold these values must not allow the Holy See to spirit its rejection of sexual and reproductive health and rights into the conference proceedings and impose them on the people of the world.

Family Planning and Reproductive Health: Not a One-Size-Fits-All Issue

The Holy See's representatives typically deliver affirmations and rejections of basic rights braided tightly together, but the contradictions unravel themselves with a little examination. Mixed messaging is evident in many of the Holy See's statements about reproductive health issues, which range from abortion to contraception to sexuality education, but the Holy See's opposition to reproductive health and rights is unwavering. In a conversation with Nafis Sadik, then-executive director of the United Nations Population Fund, Pope John Paul II seemed to affirm individual decision making when he said that people have the "the liberty to decide responsibly, free from all social or legal coercion, the number of children they will have and the spacing of their births."²

"Free from coercion" is apparently not an unqualified freedom. The pope's affirmation of family planning is exclusively employed in support of Vatican-sanctioned natural family planning (NFP) and against any other form of contraception. When it signed on with reservations to the Convention on the Rights of the Child in 1990, the Holy See stipulated that it "interprets the phrase 'Family planning education and services' ... to mean only those methods of family planning which it considers morally acceptable, that is, the natural methods of family planning."³ A 2011 statement further clarified what is meant by "natural": "Regarding the term 'family planning' the Holy See in no way endorses contraception or the use of condoms."⁴ This is because "the Holy See supports the use of the natural methods for the regulation of fertility, not only for ethical reasons, but because these inexpensive methods respect the health of women and men by avoiding the possibility of dangerous side-effects, and enlist the full involvement and commitment of the man."⁵ To the Holy See, NFP *is* family planning, which it presents as a one-size-fits-all solution for all the world's women.

There is ample scientific evidence, however, that NFP is ineffective or inappropriate for some women, such as those who are breastfeeding, have irregular menstrual cycles or suffer persistent reproductive tract infections.⁶ For certain methods "in the presence of irregular cycles, the period of abstinence may be excessively long and unacceptable to some couples."⁷ Natural family planning also provides no protection against the spread of HIV or other sexually transmitted diseases. Making a full range of contraceptive methods available to all women allows them to reap substantial health benefits, including avoiding childbirth-related illness and death,⁸ by using their family

planning method of choice.⁹ Contrary to the Holy See's preference for NFP, some women need contraceptive methods that grant them control over their own fertility without relying upon a partner's cooperation. The Guttmacher Institute produced a detailed report with evidence that a significant number of women have partners who are opposed to their using contraception; for example, "an estimated six to 20 percent of current contraceptive use in Sub-Saharan Africa is covert."¹⁰ Offering only natural family planning is tantamount to taking choices about their own fertility out of many women's hands.

Human Rights: Obstructing a Natural Evolution

The Holy See attests to having a special grasp of human rights. The website for the Holy See Mission to the United Nations in Geneva says, "It is worth noting that the language of the UN human rights discourse and that of the Holy See and of the social doctrine of the Church coincide to a very significant degree."¹¹

Nonetheless, the Holy See's statements about human rights do not always coincide with each other. On the one hand, Pope John Paul II spoke of "the inalienable value of the human person, source of all human rights and every social order,"¹² and on the other, he warned that "human rights cannot become pretensions against human nature itself."¹³ Human rights come from the person, the pope said, and yet he needed to include a warning that they could somehow go against the nature of the person. In 1984, then-Permanent Observer Renato R. Martino, who was elevated to cardinal in 2003 but was an archbishop at the time, articulated his own warning about human rights: "Society may acknowledge or violate human rights, but it cannot manipulate the existence of human rights," because "these rights precede even the state."¹⁴

Actually, the Universal Declaration of Human Rights (UDHR) unequivocally situates the origin of these rights in the person, but not to the point of demanding a hands-off attitude from states, as Martino's words implied. Historically speaking, human rights only became an issue in the modern era with the creation of nation-states and the development of the concept of the autonomous individual.¹⁵

Martino flouted history by implying that legal organisms like the state have nothing to say about human rights, instead putting legislators and the legal system in the service of human rights, which the Holy See claims a privileged role in interpreting.

According to Msgr. Alberto Giovannatti, the first Permanent Observer for the Holy See, the common practice of looking to the UDHR for standard human rights concepts is incorrect because “the latter [UDHR] does not define human rights.”¹⁶ When Joaquin Navarro-Valls, former director of the Holy See Press Office, laid out the official position on the Beijing Conference on Women, however, he did feel empowered to define human rights in his rejection of reproductive rights: “The Holy See continues to insist that no human right to abortion exists.”¹⁷ This statement is an example of the Holy See maneuvering into a position where it attempts to interpret ineffable human rights concepts for the rest of the United Nations, which is then at a disadvantage when challenging the Holy See’s stance against reproductive rights.

In reality, the UN High Commissioner for Human Rights believes NGOs and advocates and civil society are all charged with constantly refining our understanding of human rights,¹⁸ in the same way that the law is a work in progress. When the Holy See objected at Beijing to what it perceived as “the affirmation of new human rights,”¹⁹ it was not doing so out of a privileged understanding of what human rights are, but as a way to obstruct the natural process of improving the implementation of those rights with additional safeguards for reproductive health.

There are some who find fault with the “voice” the Holy See employs at the United Nations. Even to those who are sympathetic to the Holy See’s perspective, such as Msgr. Robert L. Charlebois, Vice President of the Path to Peace Foundation, which supports the Holy See’s work, its diplomatic style may be seen as hard-edged. “The church is never talking about moral compromises. It’s an oxymoron,” Msgr. Charlebois said in 1995.²⁰ This uncompromising attitude was evident when Pope John Paul II referred to the 1994 UN Conference on Population and Development (ICPD) in Cairo in no uncertain terms as “the work of the devil.”²¹ The pope was protesting the efforts to prioritize reproductive health access at the conference in stronger terms than would be expected from an “objective” or “balanced” onlooker. Interestingly, polarizing an opposing view into the embodiment of evil is a tactic that can just as easily be used against the Holy See as by it. In 1994 the Vatican sent special envoys to Tehran and Tripoli to drum up support for the Holy See’s planned anti-reproductive rights stance at the forthcoming ICPD conference—a collaboration with radical regimes that *Washington Post* columnist Jim Hoagland likened to “sup[ping] with the devil.”²²

A Call for Accountability: Stepping outside the Cycle

So far, the Holy See has managed to utilize the ambiguity inherent in its church-as-state status to enjoy the best of both worlds as the situation suits—at the United Nations and beyond. The real question is far larger than the actual size of this tiny, anachronistic legal entity: exactly what law does apply to the Holy See? The United Nations charter upholds a principle known as the Rule of Law,²³ which means “all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated. . . .”²⁴ This standard is ostensibly in line with the Holy See’s own values: former Holy See Secretary for Relations with States Cardinal Jean-Louis Tauran described “respect for international law” as “one of the “three convictions that form the foundation of the international activity of the Holy See.”²⁵ But the Holy See’s behavior at the United Nations sometimes falls short of the “avoidance of arbitrariness” and “procedural and legal transparency” expected of other UN actors.²⁶

Doing away with all the loopholes and inconsistencies surrounding the Holy See’s status can only bring greater clarity to the United Nation’s relationship to all communities of faith by focusing its responsibility on all religious groups equally. Instead of engaging in the perpetual defense of its statehood, the Holy See could then concentrate all of its talents and resources on defending the most vulnerable of society at the UN and beyond.

Though it works hard to imply otherwise, the Holy See’s situation at the United Nations is not written in stone. International law expert Ian Brownlie said, “It would seem that the personality of political and religious institutions of this type can only be relative to those states prepared to enter into relationships with such institutions on an international plane.” If many of the underpinnings of the Holy See’s current situation fall back on circular reasoning, in this sense, states can choose to step outside of the cycle and shape their relationships with the Holy See, rather than vice versa.

How the Cycle Began: The History of the Holy See at the United Nations

Pope John Paul II, speaking with Vladimir Putin in 2003, said, “Look out the window. What kind of state do I have here? You can see my whole state right from this window.”²⁷ The pope acknowledged that it requires some effort to square the current reality of the Holy See, the government of a territorial holding known as Vatican City, with the common understanding of what a state is. In fact, over the centuries many have tried to answer the question: What kind of a state is the Holy See, if it is a state at all?

The Holy See, Vatican City, the Roman Catholic Church: *Is any of these a state?*

Though they are sometimes used interchangeably, there are important differences between the Holy See, Vatican City and the Roman Catholic church. The Holy See is the spiritual and temporal government of the Roman Catholic church. It consists of the pope, the Roman Curia—the various departments and institutes that assist the pope in running the church—and the College of Cardinals. The Holy See also governs Vatican City.²⁸

Vatican City is the temporal location of both the Holy See and the headquarters of the Roman Catholic church. It is the world’s smallest “city-state” at 108.7 acres, or as Cardinal Timothy M. Dolan tried to put it in perspective, “[Vatican City] is about the size of an 18-hole golf course, so it’s not that big.”²⁹ (In fact, Vatican City is smaller than an 18-hole golf course, which typically extends 125-150 acres in the US.³⁰)

According to the criteria established in 1933 at the Montevideo Convention on the Rights and Duties of States, Article 1 requires that a state must have a permanent population, a defined territory, a government and the ability to enter into relations with other states.³¹ Neither the Holy See, Vatican City nor the Roman Catholic church possesses all four of these criteria.

The Holy See doesn’t have a government—it *is* a government. Granting the Holy See state status is comparable to calling the US Congress a state. The territorial entity of Vatican City can only boast of a population of fewer than 1000 people who are citizens of other countries but are authorized to live within the territory for the term of their

employment. Upon termination of their service, Vatican City citizenship is revoked from those who held it during their residency, though many inhabitants are never granted citizenship.³² The fact that citizenship is temporary throws further doubt upon the Montevideo requirement for a permanent population. According to what seems to be a circular definition, Vatican citizenship “is based solely on the criterion of permanent residence,” but if one no longer meets the qualifications of citizenship, one reverts to one’s original citizenship.³³ Also, in contrast to most other countries, Vatican City citizenship cannot be acquired by inheritance or by being born within the territory.³⁴

The Holy See does maintain permanent diplomatic missions around the world and enters into international treaties, but these relationships frequently require defining how the Holy See, Vatican City and the Roman Catholic church interact with each other and how the Holy See’s responsibilities differ from those expected of other state actors. When it does sign a treaty, the Holy See’s signature tends to come with reservations or without meeting all of the criteria expected of other signatories. For instance, when it acceded to the Convention against Torture, the Holy See specified that it “undertakes to apply it insofar as it is compatible, in practice, with the peculiar nature of that State.”³⁵ At times, it signs on to treaties as “the Holy See, acting also in the name and on behalf of Vatican City State.”³⁶

How the Holy See Came to the United Nations

At best, the Holy See’s status at the United Nations is indeed “peculiar.” As a Nonmember State Permanent Observer it enjoys a rarely used designation it once shared only with Switzerland, which became a full member in 2002.³⁷ Since 2004, this title grants the Holy See some of the privileges of a state at the UN, such as being able to speak, reply and circulate documents at in the General Assembly. No other religion is situated at this elevated status. Other religions participate in the UN like most other nonstate entities—as nongovernmental organizations. The Holy See says that it has remained a Permanent Observer rather than seek full membership “by its own choice” because the security functions required by the UN charter would compromise the Holy See’s neutrality.³⁸

Because permanent observers are not formally recognized in the UN charter, the protocol for their admission was a product of custom, or as the UN archives suggest, a gentlemen’s agreement that grew out of a relationship between two leaders.

Nonmember states obtain permanent observer status by notifying the UN secretary-general that they have appointed an observer. If accepted, the secretary-general is then to acknowledge the appointment. Unlike other entities such as NGOs, they do not require an invitation from the General Assembly to send a permanent observer.³⁹ In 1960, when Secretary-General Dag Hammarskjöld explained how he decided whether to accept UN observers, the criteria were vague: "I have been following one line which seems to be the only possible one, that is, to accept observers when such an arrangement is proposed in the cases where the country in question is recognized diplomatically in this form or that form by a majority of UN members...."⁴⁰

Thus, when the Holy See gained permanent observer status, the bar was not set very high. In 1964, the Holy See followed this protocol and informed UN Secretary-General U Thant that it had dispatched a permanent observer to the UN's New York headquarters. The United Nations' archive of correspondence between the offices of Pope Paul VI and U Thant only documents the growth of their relationship during this time,⁴¹ but contains no specific mention of the Holy See's acceptance as a permanent observer. An April 2, 1964 article in the *New York Times* mentions that the Holy See sent permanent observers to a United Nations Trade Conference.⁴²

There is some question as to whether or not the Holy See actually did meet the criteria for permanent membership, however. According to the UN's International Law Commission, "From that statement [Legal Counsel's memorandum of 22 August 1962] of the position at United Nations headquarters, it was clear that observers were accepted only from nonmember States which were full members of one or more specialized agencies *and* were generally recognized by Members of the United Nations."⁴³ [Emphasis added.]

The Holy See met this first condition through its membership in UN organizations such as the International Atomic Energy Agency, but it is questionable if it met the second criteria in 1964, the year it appointed an observer. In 1959, when Pope John XXIII acceded to the papacy, only 24 state ambassadors appeared at the Vatican to affirm their diplomatic relationship.⁴⁴ Even by 1985, only 53 countries had diplomatic relations with the Holy See.⁴⁵ (At that time there were 159 UN member states.) The United States did not formalize relations with the Holy See until 1984.

The US extended official recognition to the Holy See under President Ronald Reagan's leadership, but not all Americans agreed with the decision. Senator Jesse Helms thought such a move was "clearly a violation of the First Amendment's guarantee of separation between the institutions of church and state."⁴⁶ Evidently he did not view the Holy See as a state, because it was the "church," and the United States was the "state." At the time, according to a report from the *Christian Science Monitor*,

"A number of religious groups, including the National Council of Churches, joined Americans United for Separation of Church and State in a three-year effort to challenge the constitutionality of US diplomatic ties with a church, taking the challenge all the way to the Supreme Court. But the high court refused to review a lower court ruling that the president alone has the authority under the Constitution to conduct foreign policy."⁴⁷

The same report contained the observations of a State Department official, who said, "The State Department was co-opted [by the White House] on this, without much dissent at high levels. It was not an atmosphere in which criticism could have been made."⁴⁸ The very recent accord between the Holy See and the United States did not spring out of a universal approval, then, but came as an order from the one person who had to be convinced of its wisdom—the president.

What Role Does a Nonmember State Permanent Observer Play?

While not required by UN procedure, Nonmember State Permanent Observers have an even larger role outside of the General Assembly, as they are normally invited to attend UN conferences and participate in these conferences with "all the privileges of a state," including the right to vote.⁴⁹ Other types of observers do not have this privilege. They may participate in UN conferences as nongovernmental organizations, which includes observing the proceedings, but may not vote or participate in the other formal aspects of the conference. Because UN conferences operate on consensus, the ability of a Nonmember State Permanent Observer—and the Holy See is the only such entity—to disagree with the majority consensus carries significant power.

Researchers studying group decision-making behavior found that a "tyranny of the minority" can often occur, with the smaller, dissenting group's aggression "leading to the minority outcome being implemented with larger probability than the majority

alternative.⁵⁰ That is, in the consensus decision making often used at the UN, an opinion held by a minority of stakeholders can easily be imposed over a majority holding a different opinion.

The official documents from UN conferences on women and population and development are replete with objections to the majority consensus made by representatives of the Holy See. For instance, the Holy See expressed multiple reservations to the Beijing Platform for Action, the final report from the 1995 Beijing Conference on Women. It took issue with the concepts of “women’s right to control their sexuality” and “women’s right to control ... their fertility,” asserting that these rights should be understood to refer only to “the responsible use of sexuality within marriage.” The Holy See also condemned “family planning” as “morally unacceptable” and disassociated itself with the consensus on the entire section on health, saying the text gave “totally unbalanced attention to sexual and reproductive health.”⁵¹

And in 1999, at the Cairo+5 conference at the Hague, Holy See delegate John Klink spoke five times in an hour to object to confidential sex counseling for adolescents, leading conference chair Anwarul Chowdhury of Bangladesh to plead, “I appeal to delegates of the Holy See to join the consensus.”⁵² Attendees described numerous obstruction tactics such as “opposition to specific inclusion of important new safe and effective options that increase women’s control over their reproductive capacity [that] undermined the final document.”⁵³

These objections represent sectarian religious positions, not governmental public policy positions. Yet, when they are entered formally into the final report of the conference, they serve to weaken support for the conclusions of the majority, and thus, the United Nations’ effectiveness at addressing real-world issues related to reproductive health. This is exactly what the Vatican and its handful of allies—nations such as Libya and the Sudan that do not support the recognition of full human rights for women—intend.

Perhaps connected to the Holy See’s obstructionism, a 2004 UN report suggested moving away from big international conferences, saying, “Member States have little appetite, however, for more such events, seeing them as costly and politically unpredictable.”⁵⁴ The report indicated that these meetings could be “only used sparingly to establish global norms,” and an alternative “might be small, informal,

high-level roundtable forums to allow real exchanges of experience and avoid entrenched positions.”⁵⁵

Unlike any other political or religious entity, the Holy See exists in a malleable realm in between the well-defined expectations for state members and NGOs, where what it lacks in territory and population it makes up for in maneuverability and political connections. “They are always there and always in the background and everyone is always in touch with them and they are in touch with everyone,”⁵⁶ said Alvaro de Soto, UN Assistant Secretary-General for Political Affairs in the 1990s, summarizing the extent of the Holy See’s influence underneath their apparent “low profile.”⁵⁷

The Rio conference is dedicated to creating institutional frameworks for sustainable development. The Holy See’s helpful or hindering presence is one part of the international framework charged with making considered changes that will move us all towards a better future. If the Holy See’s current status does not further that goal, then creating a different option for its participation at the UN is an important part of a sustainable future.

This document is an edited excerpt from a forthcoming publication from Catholics for Choice: ***The Catholic Church at the United Nations: Church or State?***

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