

**LEGATES OF THE ROMAN PONTIFF – PERMANENT OBSERVERS  
OF THE HOLY SEE <sup>missouri</sup> AT THE UNITED NATIONS**

by  
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Legates of the Roman Pontiff –

Permanent Observers of the Holy See Missions at the United Nations (Abstract)

The thesis addresses questions regarding the history of the gradual involvement of the representatives of the Holy See and the corresponding development of their legal status in the newly created international organization of the United Nations, the canonical determination of the office of papal legate to the UN in view of pertinent ecclesiastical legislation, the role and functions of papal representatives to the UN within the context of current world events, and the important contribution to the work of the United Nations in the service of humanity.

The first chapter examines the international status of the Holy See during the 1870–1929 period; the development of pre-United Nations international structures from 1939–1945; the participation of the Holy See in the early stages of development of UN agencies and international bodies, i.e. FAO, WFP, IFAD, UNESCO.

The second chapter examines the legal status of the Permanent Observer and the Mission of the Holy See at the United Nations in view of relevant special law; the development of CIC canons in the process of the revision of the Code of Canon Law and the reform of the Roman Curia; the important characteristics of the post of papal legate as ecclesiastical office; the presence of laity in the context of pontifical representation.

The third chapter is a study of the range of involvement of the Holy See in the United Nations, its agencies and related bodies throughout the world, more specifically in New York, Geneva, Vienna, Nairobi and other UN centres. This chapter reviews the extensive work undertaken by these UN bodies and the specifics of the Holy See's involvement.

The fourth chapter focuses on the work of the Permanent Observer of the Holy See in the context of the mission of the Church, as expressed in c. 747, §2; current diplomatic directions of the activity of Permanent Observers. Insights are presented into a possible expansion of the role and function of pontifical legates, especially in application of their leadership and mediation skills in light of the transformative and internal reform process underway at the United Nations and the world diplomatic community.



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## Abbreviations

AA	SECOND VATICAN COUNCIL, decree <i>Apostolicam autuositatem</i>
AAS	<i>Acta Apostolicae Sedis</i>
AJIL	<i>American Journal of International Law</i>
art.	article
arts.	articles
c.	canon
cc.	canons
CCEO	<i>Codex canonum Ecclesiarum Orientalium</i>
CD	SECOND VATICAN COUNCIL, decree <i>Christus Dominus</i>
CIC	<i>Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus</i>
CIC/17	<i>Codex iuris canonici, Pii Pontificis Maximi iussu digestus</i>
CLD	<i>Canon Law Digest</i>
CLSA Comm2	BEAL, J.P., J.A. CORIDEN, T.J. GREEN (eds.), <i>New Commentary on CIC</i>
CLSAP	<i>Canon Law Society of America Proceedings</i>
CTBTO	Preparatory Commission: Comprehensive Nuclear-Test Ban Treaty Organization
CU	SYNOD OF BISHOPS, post-synodal exhort. <i>Convenientes ex universo</i>
DCE	BENEDICT XVI, encyclical letter <i>Deus caritas est</i>
DH	SECOND VATICAN COUNCIL, decree <i>Dignitatis humanae</i>
DV	SECOND VATICAN COUNCIL, decree <i>Dei verbum</i>
ECOSOC	UN Economic and Social Council
<i>Exegetical Comm</i>	MARZOA, A., J. MIRA, R. RODRIGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), <i>Exegetical Commentary</i>
FAO	Food and Agriculture Organization
FC	PIUS XI, encyclical letter <i>Firmissimam constantiam</i>
FLANNERY1	FLANNERY, A. (ed.), <i>Vatican Council II</i> , vol. 1
FLANNERY2	FLANNERY, A. (ed.), <i>Vatican Council II</i> , vol. 2
GS	SECOND VATICAN COUNCIL, pastoral constitution <i>Gaudium et spes</i>
HV	PAUL VI, encyclical letter <i>Humanae vitae</i>
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IMO	International Maritime Organization
INTELSAT	International Telecommunications Satellite Organization
ITU	International Telecommunication Union
LE	<i>Leges Ecclesiae post Codicem iuris canonici editae</i>
LG	SECOND VATICAN COUNCIL, dogmatic constitution <i>Lumen gentium</i>
MM	JOHN XXIII, encyclical letter <i>Mater et Magistra</i>
NCRLC	National Catholic Rural Life Conference (USA)

OR	<i>L' Osservatore Romano (Italian ed.)</i>
ORe	<i>L' Osservatore Romano (English ed.)</i>
PB	JOHN PAUL II, apostolic constitution <i>Pastor bonus</i>
PT	JOHN XXIII, encyclical letter <i>Pacem in terris</i>
<i>Regolamento</i>	SECRETARIAT OF STATE, <i>Regolamento per le Rappresentanza pontificie</i>
REU	PAUL VI, apostolic constitution <i>Regimini Ecclesiae universae</i>
SOE	PAUL VI, motu proprio <i>Sollicitudo omnium Ecclesiarum</i>
UN	United Nations Organization
<i>UN47, UN48 etc</i>	<i>United Nations Yearbooks 1947–</i>
<i>UN Charter</i>	<i>United Nations Charter</i>
UN GA	United Nations General Assembly
UNCED	United Nations Conference on Environment and Development
UNCHS/Habitat	United Nations Centre for Human Settlements;
UNCOPUOS	United Nations Committee on Peaceful Use of Outer Space
UNCSD	United Nations Commission on Sustainable Development
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNHQ	United Nations Headquarters (New York)
UNIDO	United Nations Industrial Development Organization
UNISDR	United Nations International Strategy for Disaster Reduction
UNODC	United Nations Office on Drugs and Crime
UNOG	United Nations Office in Geneva
UNON	United Nations Office in Nairobi
UNOV	United Nations Office in Vienna
UNWTO	World Tourist Organization
UPU	Universal Postal Union
WFP	World Food Programme
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization
WTO	World Trade Organization

## Introduction

According to existing historical records, the dispatching of legates is an ancient practice among peoples and nations dating back to the Greco-Roman period.<sup>1</sup> Legates of the Roman Pontiff have travelled throughout the world for centuries, being sent as envoys to the Eastern Church, representing the Holy See in the courts of kings and emperors, before the rulers and governments of nation states. In the early 4th century, the Roman Pontiffs began sending legates to regional and ecumenical councils, such as the Council of Arles (314) and Niceae (325). As early as 314, the Bishop of Rome Pope Sylvester I (314–335) sent his legates, presbyters Claudianus and Vitus, together with deacons Eugenius and Cyriacus<sup>2</sup> to represent him at the Council of Arles in addressing the challenges posed by the Donatists, the issues regarding the validity of baptism of heretics and the date set for the celebration of Easter.<sup>3</sup> To the Council of Niceaea in 325, Pope Sylvester I sent as his legate Bishop Osius of Corduva, Hispania, together with two Roman presbyters, Vitus and Vincentius.<sup>4</sup> Osius had authority to represent the Bishop of Rome regarding a number of matters, including issues of Church unity, the challenges presented by the Arian heresy, the formulation of the Creed, the defining of the divinity of the Son of God, and the question of a common date for the celebration of Easter.<sup>5</sup> While the legate presided over theological discussions and proceedings of the Council,

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<sup>1</sup> See C. PHILLIPSON, *The International Law and Custom of Ancient Greece and Rome*, vol. 1, New York, Arno Press, 1979, pp. 43–98, 302–417.

<sup>2</sup> See J. HARDOUIN (ed.), *Acta conciliorum et epistolae decretales, ac constitutiones Summorum Pontificum* (=HARDOUIN), vol. 2, Paris, Typographia Regia, 1715, p. 266. See also J.D. MANSI (ed.), *Sacrorum conciliorum nova et amplissima collection* (=MANSI), vol. 2, Paris and Leipzig, H. Welter, 1901–1927, p. 476.

<sup>3</sup> See HARDOUIN, vol. 1, pp. 259–270.

<sup>4</sup> See *ibid.*, pp. 311, 375

<sup>5</sup> See C.J. HEFELE (ed.), *A History of the Christian Councils*, vol. 1, English translation by W.R. CLARK, Edinburgh, T&T Clark, 1894, pp. 231–447.

and the writing of the final decrees, the role of the emperor and his representatives was restricted to the organizational elements of the gatherings, for example ensuring order and providing for the material needs of those gathered for the council.<sup>6</sup>

In the current era, papal legates representing the Holy See are appointed to particular Churches and states, public authorities, international organizations, or to represent the Roman Pontiff on specified occasions. The role and function of papal legates are delineated in the 1983 Code of Canon Law, in conjunction with special law found in Pope Paul VI's motu proprio *Sollicitudo omnium Ecclesiarum* (1969), norms in the *Regolamento per le Rappresentanze Pontificie* (2003), and other Church documents and international law governing diplomatic practices.

The role and function of pontifical legates has undergone various stages of development during the past 1700 years. The work of papal legates was adapted to the needs of the Church and the realities that unfolded in each era, in order to meet the challenges faced by the Church in its relations with local bishops and the nations of the world. The 20th century has witnessed unprecedented changes in Church-State relations requiring the adaptation of pontifical legates to function effectively in an era of technological advancement, globalization and developing international diplomatic practices. Over the past 100 years, the Holy See has introduced extensive changes in relations with Churches, States and international organizations several times, in relatively rapid succession. As the world and the Church enter a time of even greater change affecting many different aspects of human life, the Church must be prepared to respond and make a substantive contribution.

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<sup>6</sup> See N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 1, Washington, Georgetown University Press, 1990, pp. 3–9.

Currently, the Holy See is extensively involved in the work of the United Nations. The parameters and depth of the Holy See's participation in the debates, discussions and resolutions of vitally urgent international issues allow for the Permanent Observers of the Holy See Missions at the United Nations and their staff members to make a substantive contribution to strengthening world peace and the security of peoples. The Permanent Observer in New York meets with Member State delegates at the table of the "family of nations" in the United Nations General Assembly, and participates in the work of its committees and related international bodies as a voice in defence of the dignity of the human person.

The United Nations and its Member States are undergoing an extensive self-review and transformative process to secure global peace and to address the ever-growing threats of global warming, international terrorism, abject poverty and economic stagnation, drought and famine, devastating wars and armed conflict, social and political instability, and the degradation of the environment. Technological advancement in the 21<sup>st</sup> century is proceeding at an accelerated pace in the fields of biological and chemical sciences, high-speed information technology and communications, together with a silent arms race in the development of new global weapons of unimaginable destructive capacities. Within the context of these rapid changes and transformative process, the role and function of the papal legate at the United Nations must be examined and modified for the Church to fulfill her mission.

The previous studies of the subject matter related to the legates of the Roman Pontiff concentrate on other aspects than the Holy See's representation at international organizations, specifically at the United Nations. Brian Udaigwe (1994) centered his

study around c. 363, §1, i.e., papal legates sent to particular Churches, similar to the studies of Kurian Vayalunkal (2004), Mirosław Adamczyk (1993) and Jean-François Lantheaume (1999). Fortunus Nwachukwu (1996) applied cc. 364–365 to an analysis of the Holy See's relations with the State of Israel. Gino Paro (1947) completed his study in the context of the CIC/17, with a detailed historical analysis of the right of papal legation, whereas Mario Oliveri's book (1982), examines Pope Paul VI's 1969 *motu proprio Sollicitudo omnium Ecclesiarum*, with a particular attention to relations between papal legates and particular Churches. The book co-authored by Robert Araujo and John Lucal on papal diplomacy (2004) focused on the years 1870–1939 and the League of Nations, while Robert Graham's book (1959) covered the historical period from the French Revolution to the post World War II period, and discussed extensively issues of papal sovereignty. In his 1996 book, Edward Gratsch provided a general overview of the Holy See's participation in specific issues before the UN during 1945–1995. Hyginus Cardinale (1976) wrote an extensive historical juridical book on a whole range of issues in the Holy See's relations with particular Churches, states and public authorities, dealing only briefly with the Holy See's presence at the United Nations.

As the above mentioned studies are valuable sources of historical juridical material concerning pontifical legates, nevertheless, they do not include a specific, historical juridical study of the pontifical legates as Permanent Observers of the Holy See Mission at the United Nations. The present thesis, therefore, attempts to address the following questions: the history of the gradual involvement of the representatives of the Holy See and the corresponding development of their legal status in the newly created international organization of the United Nations, the canonical determination of the office

of papal legate to the UN in view of pertinent ecclesiastical legislation, the role and functions of papal representatives to the UN within the context of current world events, and the important contribution to the work of the United Nations in the service of humanity, together with some potential future involvement of pontifical legates in the work of the international diplomatic community.

In order to respond to these questions, a systematic presentation of the stages of the involvement of the Holy See in the United Nations will be necessary, accompanied by an analysis of concepts and legislation pertaining to the sphere of international law, and, especially, of the relevant enactments and internal regulations of the United Nations. The canonical legislation will be presented in its recent development, including the process of the revision of the Code of Canon Law, and analyzed in order to determine the canonical aspects of the office of the papal legate sent to international organizations. Ecclesiastical documents of a pastoral character, especially of the Second Vatican Council, will provide a broader, theological context of the analysis of the parameters of the mission of the Holy See realized in the international forum of the United Nations.

The first chapter will study the international status of the Holy See during the 1870–1929 period; the development of pre-United Nations international structures from 1939–1945; the participation of the Holy See in the early stages of development of United Nations' agencies and international bodies; and its involvement with the first UN Specialized Agencies, such as FAO, WFP, IFAD and UNESCO.

The second chapter will examine the legal status of the Permanent Observer and the Mission of the Holy See at the United Nations in view of relevant special law; the development of CIC canons in the process of the revision of the Code of Canon Law and

the reform of the Roman Curia; the important characteristics of the post of papal legate as ecclesiastical office; the presence of laity in the context of pontifical representation.

The third chapter will be a study of the range of involvement of the Holy See in the United Nations, its agencies and related bodies throughout the world, more specifically in New York, Geneva, Vienna, Nairobi and other UN centres. This chapter will review the extensive work undertaken by these UN bodies and the specifics of the Holy See's involvement.

The fourth chapter focuses on the work of the Permanent Observer of the Holy See in the context of the mission of the Church, as expressed in c. 747, §2; current diplomatic directions of the activity of Permanent Observers; and present day challenges before the UN, including the defence of peace and of human rights and conflict resolution. Insights will be presented into a possible expansion of the role and function of pontifical legates, especially in application of their leadership and mediation skills in light of the transformative and internal reform process underway at the United Nations and the world diplomatic community.

## Chapter I

### The Holy See and the Early Years of the United Nations

#### 1.0 Introduction

The participation of legates of the Holy See in the work at the United Nations must be understood within the context of the historical events that preceded this development. The defeat of the Papal States by the Italian military forces of King Vittorio Emmanuele II in 1870 created a situation of two sovereigns co-existing within the context of the new Italian State. The “Roman Question” had remained unresolved until the 1920s, culminating with the signing of the 1929 Lateran Treaties and the establishment of the Vatican City State.

The Second World War (1939–45) brought unprecedented devastation to Europe, Asia and the international community as a whole. Measures to bring a resolution to this global crisis began, already during the war, with the creation of a united Allied front that generated the impetus leading to the defeat of the Axis forces. Through the efforts of the Allies, the United Nations was established in 1945 at the San Francisco Conference. The international community of nations began its journey in developing and establishing structures that could prepare a foundation for a lasting peace in the world.

Within the context of these post World War II processes involving the establishment of international organizations, the Holy See was both present and involved in its capacity as a participant with a spiritual mission, offering its message of peace and respect for the dignity of the human person. As the United Nations’ principal organs, institutions and Specialized Agencies took form during the 1940s and 1950s, the Holy See’s representatives and legates were invited to participate in these processes. The Holy

See chose not to join the United Nations Organization as a Member State, but to contribute through its participation by sending its legates as Permanent Observers to various United Nations subsidiary bodies and Specialized Agencies, to make its contribution through being present to the debates and deliberations of this newly developing international organization.

### **1.1 The Holy See and the Italian State (1870–1929)**

A brief examination of relations between the Holy See and the Italian State is important prior to a historical examination of the involvement of the Holy See and legates of the Roman Pontiff at the United Nations Organization and its affiliated international organizations, agencies, funds, commissions, committees, conferences and programmes. During the period from 1870 to 1929, the Church-State relationship between the Holy See and the Italian State underwent several stages of development in the context of changes in the Italian political landscape. The collapse of the Papal States and subsequent occupation of Rome, beginning on 20 September 1870, by the Italian military forces of King Vittorio Emmanuele II, created a difficult situation for the new Italian State and Pope Pius IX (1846–1878): two sovereigns existed within one territory. In an attempt to address Church-State issues that had arisen, the Italian Parliament and Senate unilaterally passed legislation entitled “La Legge della Guarentigie” (The Law of Guarantees)<sup>1</sup> on 13

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<sup>1</sup> See La Legge della Guarentigie, in *Gazzetta Ufficiale del Regno D'Italia*, no. 134, 15 May 1871, English translation in S.Z. EHLER, and J.B. MORRALL (eds.), *Church and State Through the Centuries*, Westminster, The Newman Press, 1954, pp. 287–291. The Law of Guarantees was divided into 2 sections: (1) The Prerogatives of the Supreme Pontiff and of the Holy See, (2) Relations of the State with the Church. Section I described the Roman Pontiff as “sovereign,” “sacred and inviolable” (art. 1) with a range of privileges and an annual endowment from the State to pay for the Church’s expenses and building maintenance (art. 4). Access to the Vatican, the Lateran and Castel Gandolfo residences would continue to be granted (art. 5) and the Roman Pontiff would be assured of the freedom to perform his spiritual ministry (art. 9). The reception of envoys and sending of legates would be allowed according to International Law (art. 11) with the

May 1871 which failed to fundamentally ensure the separation of Church and State. The Law of Guarantees curtailed the Holy See's freedom of action in temporal matters.<sup>2</sup> The implementation of the Law of Guarantees was left to the discretion of the Italian State and as a unilaterally imposed law was not conformed to the principles of international law based upon agreements between sovereign States. The Law of Guarantees as a whole was formally rejected by Pope Pius IX, who responded with the decree *Non expedit*, on 11 October 1874, forbidding Catholic participation in the Italian parliamentary electoral process.

The Italian government continued to address its relations with the Holy See within the framework of the Law of Guarantees. Pope Pius IX and subsequent pontiffs continued to conduct foreign relations within the context of the existing diplomatic practices and legal parameters.<sup>3</sup> The fifteen hundred year practice of the right to legation by a

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freedom of communication assured (art. 12). Section II deals with "Relations of the State with the Church" (arts. 13–19) and although Bishops were not required to take oaths to the King (art. 15), the disposal of ecclesiastical goods and the conferring of benefices outside the city of Rome (and suburban Sees) was subjugated to the authority of the State (art. 16).

<sup>2</sup> Article 4 provided State funds for the Holy See, in effect establishing a state-funded religious institution: "The endowment of an annual income of 3,225,000 lire is reserved for the benefit of the Holy See. With this sum, equal to that which figures in the Roman Budget under the headings: 'Apostolic Palaces, Sacred College, Ecclesiastical Congregations, Secretariat of State and Diplomatic Representation Abroad', provision shall be made for the personal income of the Sovereign Pontiff and the various ecclesiastical needs of the Holy See, the usual maintenance and upkeep of the Apostolic palaces and their dependencies, the salaries, gratuities and pensions of the attendants mentioned in the preceding Article and of those attached to the Pontifical Court and for the accidental expenses, such as the maintenance and upkeep of the museums and libraries pertaining to the Court and the salaries, wages and pensions of those employed there [...]" (ibid., p. 288). Article 16 restricts the authority of the Church in temporal affairs, subjecting some areas to royal assent: "However, until otherwise provided by special law spoken of in art. 18, the acts of those authorities which have as their object the disposal of ecclesiastical goods and the provision to major or minor benefices, except those of the city of Rome and the suburban Sees, shall remain subject to the 'exequantur' and the royal 'placet'" (ibid., p. 290).

<sup>3</sup> Articles 11 and 12 addressed issues concerning international relations and communication, appearing to ensure the Holy See's ability to function in international fora: "Art. 11. Envoys of foreign Governments, accredited to His Holiness, shall enjoy in the Kingdom all the prerogatives and immunities accorded to diplomatic agents to International Law. Offences against them shall

sovereign Holy See had not been successfully addressed by the occupying forces of the Italian State. The absence of agreement between the Holy See and the Italian State created an unsettling situation that continued for decades into the twentieth century, generally referred to as the “Roman Question.”

Pope Leo XIII (1878–1903) succeeded Pius IX and during his 25-year pontificate wrote encyclicals addressing urgent Church-State and social issues: *Inscrutabili Dei consilio* (21 April 1878) on the evils of society, *Diuturnum illud* (29 June 1881) on the origin of civil power, *Immortale Dei* (1 November 1885) on the Christian constitution of States, *Libertas praestantissimum* (20 June 1888) on the nature of human liberty, *Sapientiae Christianae* (10 January 1890) on Christians as citizens and *Rerum novarum* (15 May 1891) on capital and labour. The 1871 Law of Guarantees was never amended and remained unacceptable to subsequent Roman Pontiffs. The “Roman Question” eluded successful resolution for decades until more focused efforts were engaged in the mid-1920s.

A renewed momentum for the resolution of the relationship between the Holy See and the Italian State came with the election of Pope Pius XI (1922–1939) on 6 February 1922 and the appointment of Benito Mussolini as Italian Prime Minister by King Vittorio Emanuele III on 31 October 1922. As a result of thirty months of intensive negotiations,

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be punished with the penalties liable for offences against envoys of foreign Powers accredited to the Italian Government. Envoys of His Holiness accredited to foreign Governments are assured, in the territory of the Kingdom, of the prerogatives and immunities customary according to the aforesaid International Law to facilitate their departure to the place of their mission and their return from it. Art. 12. The Sovereign Pontiff may correspond freely with the Episcopate and with the whole Catholic world, without any interference by the Italian Government. For this purpose, he is to have the right of establishing, in the Vatican or in his other residences, postal and telegraph offices staffed by his own chosen employees [...]” (ibid., p. 289).

the Lateran Treaty Agreements<sup>4</sup> were signed at the Lateran Palace on 11 February 1929 by Secretary of State Cardinal Pietro Gasparri for the Holy See and Prime Minister Benito Mussolini for the Italian State. These consisted of three agreements: the Conciliation Treaty,<sup>5</sup> the Financial Convention,<sup>6</sup> and the Concordat.<sup>7</sup> The Conciliation

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<sup>4</sup> See *Inter Sanctam Sedem et Italiae Regnum Conventiones*, in *Acta Apostolicae Sedis* (=AAS), 21 (1929), pp. 209–295, English translation by B. WILLIAMSON, *The Treaty of the Lateran* (=WILLIAMSON), London, Burns, Oates & Washbourne Ltd., 1929, pp. 42–66. The three agreements, the Conciliation Treaty, the Financial Convention and the Concordat were negotiated between representatives of the Holy See and the Italian State from 1926–1928, undergoing over 30 drafts, with final signatures on 11 February 1929. The Italian Parliament and Senate ratified the agreements in May 1929.

<sup>5</sup> See *Trattato Fra La Santa Sede e L'Italia*, 11 February 1929, in AAS, 21 (1929), pp. 209–271, English translation in WILLIAMSON, pp. 42–50 (=Conciliation Treaty). The Conciliation Treaty consists of 27 articles replacing Section I of the abrogated Law of Guarantees (1871). The treaty recognizes the sovereignty of the Holy See in international matters (art. 2) and sovereign jurisdiction over the Vatican City State (art. 3). It recognizes the person of the Supreme Pontiff to be sacred and inviolable over the whole of Italy, with penalties for public libel or offences (art. 8). According to international law, persons permanently domiciled within the Vatican City State are subject to the sovereignty of the Holy See (art. 9). Italy recognizes the right of the Holy See to passive and active legation, with accredited representatives to the Holy See accorded diplomatic immunity, privileges, freedom of movement, etc. according to international law (arts. 12, 19). Ownership of the four major Basilicas, the residence at Castel Gandolfo, specifically mentioned universities, seminaries and other major properties/churches listed in the treaty were agreed upon (arts. 13–16). Access and safe passage for visiting the Supreme Pontiff, his legates, cardinals and dignitaries for conclaves or councils are assured (art. 21). International law enforcement issues are addressed and agreed upon (arts. 22–23). The Holy See declares it will not take part in temporal rivalries between States [...] (art. 24).

<sup>6</sup> See *Convenzione Finanziaria*, 11 February 1929, in AAS, 21 (1929), pp. 273–274, English translation in WILLIAMSON, pp. 50–51. The Financial Convention consists of three articles and is considered an integral part of the Lateran Treaty. Indemnity payments by the Italian State to the Holy See consisted of cash and consolidated stock equal to the cash sum of 750 million Italian lire and 5% Italian Bearer Bonds with a nominal value of 1 billion Italian lire (art. 1), with the condition that the Holy See accept this payment as final settlement arising from the events of 1870 (art. 2). Article 3 refers to these transactions being exempt from stamp duty or tax.

<sup>7</sup> See *Concordato Fra La Santa Sede e L'Italia*, 11 February 1929, in AAS, 21 (1929), pp. 275–294, English translation in WILLIAMSON, pp. 52–66. The Concordat consists of 45 articles replacing Section II of the abrogated Law of Guarantees (1871). Italy assures the Catholic Church freedom to exercise its spiritual mission, with jurisdiction in ecclesiastical matters (art. 1). Agreement is reached to guarantee the freedom of the Holy See to communicate with bishops, clergy and the whole Catholic Church; to publish ecclesiastical documents, letters; to have collections inside and outside churches (art. 2). Articles 3–10 address exemptions from Italian military service for seminarians; clergy exemption from jury service; episcopal permission requirements for ecclesiastics requesting employment within Italian public or government services; exemption of buildings consecrated to religious service from police search and occupation, without prior arrangements with ecclesiastical authorities; exemption of edifices for

Treaty addresses issues of sovereignty, jurisdiction and international relations: “Italy recognizes the sovereignty of the Holy See in the international sphere, with the attributes inherent in its nature and in conformity with the requirements of its mission in the world;”<sup>8</sup> and “Italy recognizes the full propriety and the absolute power and sovereign jurisdiction of the Holy See over the Vatican as actually constituted with all its appurtenances and endowments, creating in such mode *la Città del Vaticano* for that special end by the modality of the present Treaty.”<sup>9</sup> Article 4 recognizes the exclusive sovereignty of the Holy See over the Vatican City State,<sup>10</sup> with no interference by the Italian Government. Article 12 acknowledges the issue of the Holy See’s right to legation:

The Italian State recognizes the right of the Holy See to legations, active and passive, according to the general rules of international law. The representatives of Foreign Governments to the Holy See shall continue to enjoy in the Kingdom of Italy all the prerogatives of immunity belonging to diplomatic agents according to International law, and their seats shall continue to remain in Italian

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public worship from demolition without prior ecclesiastical agreement. Article 11 lists certain days of obligation as public holidays. Article 12 agrees that priests celebrating the “Chapter Mass” shall chant a prayer for the prosperity of the King of Italy and the Italian State. Articles 13–15 deal with military ordinaries and chaplains, related jurisdictional issues and the Pantheon Church. Articles 16–18 address matters concerning the delimitation of dioceses and parishes. The exclusive right of the Holy See to appoint archbishops and bishops, with the prior notification of the Italian Government of nominations to assure no objection of a political nature to the nomination is agreed upon (art. 19). The bishops’ “oath of fidelity to the Italian State” in the prescribed oath as written into the treaty (art. 20) and the Holy See’s authority to appoint ecclesiastical benefices to ecclesiastical authorities are also agreed upon. Subsequent articles 27–43 address a range of issues including ecclesiastical properties outside Rome; harmonization of Italian civil and property laws to meet the new provisions and changes found in the Lateran Treaty; abolition of certain taxes; property administration; the Italian State’s recognition of the civil effects of the sacrament of matrimony regulated by canon law (art. 34); instruction in Christian doctrine and school issues; and the sole jurisdiction of Holy See in directing all Catholic universities, seminaries, academies, colleges, institutions for training and instruction of ecclesiastics and granting of approved degrees without State intervention. Art. 44 states that both parties agree that possible differences of opinion regarding interpretation of the Concordat will be resolved through mutual accord. The 1929 Concordat was amended on 18 February 1984, in the “Agreement Between the Italian Republic and the Holy See.”

<sup>8</sup> Conciliation Treaty, art. 2, in WILLIAMSON, p. 43.

<sup>9</sup> *Ibid.*, art. 3, p. 43.

<sup>10</sup> *Ibid.*, art. 4, p. 43.

territory and enjoy the immunity due to them by International law, even when these States have no diplomatic relations with Italy.

Italy will in every case leave the correspondence of all States free, comprising the belligerents to the Holy See and vice versa, and preserve the free access of the bishops of the whole world to the Apostolic See.

The High Contracting Parties agree to establish normal diplomatic relations by means of an Italian ambassador accredited to the Holy See, and of a Pontifical nuncio to Italy, who shall be dean of the Diplomatic Corps in accordance with the customary right recognized by the Congress of Vienna by the Act of June 9, 1815. Through the effects of the recognized sovereignty and without prejudice to what is provided in the successive art. 19, the diplomats to the Holy See and the couriers sent in the name of the Supreme Pontiff shall enjoy in the territory of the Kingdom, even in time of war, the same consideration as is due to the diplomats and couriers of the Cabinet of other foreign governments, according to the norm of International law.<sup>11</sup>

On 10 March 1929, Pope Pius XI held an audience with the diplomatic corps represented at the Holy See and expressed his thoughts on the signing of the Lateran

#### Treaty Agreements:

There are guarantees which We cannot accept. That is a distinction the numerous dilettante students of International law overlooked. That distinction lies between moral and juridical guarantees.

Juridical guarantees are those which the ancient and solemn language of Roman law spoke of as defence and guardianship – *defensio, tutela*.

Defence against enemies, against the insolvent. But We do not believe We have an enemy in the world, so We turn to the second point, defence against the insolvent; but We have believed and continue to believe in the perfect loyalty and constant persevering good-will of those who have shown themselves so prompt and willing to treat with Us.

Still less can We accept guarantees which imply guardianship, for as the Apostle Paul has said, the richest heir does not differ from a slave while he is under guardianship. How, then, can We impose upon Ourselves and others the preoccupying responsibilities which defence and guardianship imply?

But while We are unwilling to consider juridical guarantees We may well consider moral guarantees. The most magnificent of these are expressed by Diplomatic guarantees of which the Diplomatic Corps attached to the Holy See are the representation.<sup>12</sup>

The text of the Lateran Treaty emphasized the spiritual mission of the Church as a moral authority present among the international community, functioning outside of the

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<sup>11</sup> Ibid., art. 12, p. 46.

<sup>12</sup> PIUS XI, address to Diplomatic Corps at the Holy See, 10 March 1929, English translation in WILLIAMSON, p. 70.

temporal interests of States. Article 24 of the Conciliation Treaty clearly expresses this fundamental understanding of the Vatican City State and the Holy See in its relations with States:

The Holy See, in relation to the Sovereignty which belongs to it also in the International sphere, declares that it remains and will remain outside all temporal competitions between the States and International Congresses held for such objects, at least unless the contending parties both appeal to its mission of peace, reserving in every case the right to make its moral and spiritual power felt. In consequence of this the Città del Vaticano will always be considered in every case neutral territory and inviolable.<sup>13</sup>

Article 26 of the Conciliation Treaty declares the Holy See's independence and freedom to conduct its affairs without interference and to fulfill its spiritual mission in the world:

The Holy See holding by the agreements signed today becomes adequately assured as far as is requisite that due provision is made for its necessary liberty and independence for the pastoral government of the Church of Rome and of the Catholic Church in Italy and the world, declares "the Roman Question" definitely and irrevocably composed and hence eliminated, and recognizes the Kingdom of Italy under the Dynasty of Savoy with Rome as the capital of the Italian State. On her part Italy recognizes the State of the Città del Vaticano under the Sovereignty of the Supreme Pontiff. The Law of 13 May 1871, n. 214, and every contrary disposition to the present Treaty is therefore abrogated.<sup>14</sup>

The 1929 Lateran Treaty reaffirmed the Holy See's right to legation, to send and receive diplomatic representatives, to establish its membership and participation in the activities of international organizations in fulfillment of its spiritual mission in the world. Following the First World War (1914–1918), the Covenant of the League of Nations<sup>15</sup>

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<sup>13</sup> Conciliation Treaty, pp. 49–50.

<sup>14</sup> *Ibid.*, p. 50.

<sup>15</sup> See J. EPPSTEIN, *The Catholic Tradition of the Law of Nations* (=EPPSTEIN), London, Burns, Oates and Washbourne, 1935, pp. 475–488. The Covenant consisted of 26 articles: addressing: membership (art. 1); the structures and functions of the Assembly, Council, permanent Secretariat and voting procedures (arts. 2–6); the seat of the League in Geneva (art. 7). The Covenant also includes articles referring to the reduction of armaments (art. 8), guarantees against aggression (art. 10), action in case of war or danger of war (art. 11), the arbitration and/or inquiry of disputes (arts. 12, 13, 15), sanctions of the League and disputes with non-Members (arts. 16, 17), registration, publication and review of treaties (arts. 18, 19), abrogation of inconsistent

was adopted at the Paris Peace Conference in April 1919, in an attempt to address developing international issues in the post-war period. From its inception, the attitude of League of Nations Members was not amiable to the Holy See participating in international matters, including the period after the signing of the 1929 Lateran Treaty. The League of Nations was viewed with guarded suspicion by the Holy See who remained uninvited to participate in substantive matters addressed by the League. The Fundamental Law of 1929 was replaced by Pope John Paul II in 2001 with *La Nuova Legge Fondamentale Dello Stato della Città del Vaticano*.<sup>16</sup>

## 1.2 World War II, Post-war Peace and the United Nations

The 1930s brought economic hardship and the rise of fascist dictatorships in both Europe and Japan leading to the militarization and polarization of world powers. By 1940

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obligations and engagements that remain valid (arts. 20–21), mandatories, control of colonies and territories (art. 22), social activities (art. 23), international bureaux (art. 24), promotion of Red Cross (art. 25), and amendments of the Covenant (art. 26). The Covenant established a Permanent Court of International Justice (art. 14). In 1918, US President Woodrow Wilson prepared 14 points as the basis for his January 1919 proposal for the creation of the League of Nations, presented to the Paris Peace Conference. On 18 April 1919, the Peace Conference adopted the draft Covenant. On 28 June 1919, the Treaty of Versailles, together with additional peace treaties and the Covenant of the League of Nations were signed, coming into force on 10 January 1920. On 15 November 1920, US President Woodrow Wilson convened the 1<sup>st</sup> Assembly with 41 states and representatives in Paris. The United States Congress refused to ratify the Treaty of Versailles and the Covenant, and consequently the United States was never a Member of the League of Nations. International confidence with the work of the League of Nations gradually deteriorated with Costa Rica withdrawing in 1925, Brazil in 1926, Germany and Japan in 1933, Paraguay in 1935, Guatemala, Honduras and Nicaragua in 1936, Italy and El Salvador in 1937, Chile and Venezuela in 1938, Austria (annexed by Germany) in 1938, Hungary, Peru and Spain in 1939. The USSR was expelled in 1939, Rumania in 1940 and Haiti in 1942. The League of Nations officially ceased to exist on 18 April 1946. See *Essential Facts about the League of Nations*, 10th ed., Geneva, League of Nations Information Section, 1939, pp. 11–29.

<sup>16</sup> JOHN PAUL II, motu proprio *La Nuova Legge Fondamentale Dello Stato della Città del Vaticano*, in *AAS suppl.*, 71 (2000), pp. 75–83, was promulgated 26 November 2000, and came into effect 22 February 2001. The Fundamental Law promulgated on 7 June 1929 was abrogated. The Supreme Pontiff is the Head of State who possesses all executive, legislative and judicial powers, and governs the Vatican State through the Pontifical Commission for the Vatican City State. Judicial power is exercised in the Supreme Pontiff's name through the Magistrate, Court of First Instance, Court of Cassation and Court of Appeal, executive power through the *Governorate* and legislative power through the commission composed of appointed Cardinals.

and the signing of the Tripartite Pact,<sup>17</sup> the major Axis powers consisting of Nazi Germany, Fascist Italy and the Empire of Japan had unleashed the most horrific global war upon the peoples of the world, unprecedented in human history. The Second World War (1939–1945) resulted in the mass killing and deaths of tens of millions of people and the destruction of thousands of cities, towns and villages. The merciless genocide of millions of Jews and innocent civilian populations devastated the European and Asian landscapes.

During the six years of the Second World War, the Holy See unceasingly called for the cessation of military hostilities in the world. As the Vicar of Christ, Pope Pius XII's message of peace and call to international unity in the pursuit of peace and security was continuous and unwavering.<sup>18</sup> In October of 1939 Pope Pius XII called the States of the world to embrace peace and seek out measures to ensure a unity of nations, the common good of all humanity.<sup>19</sup>

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<sup>17</sup> See Tripartite Pact, Berlin, 1940, in *The American Journal of International Law* (=AJIL), vol. 35, no. 1, (1941), pp. 34–35. The 1940 Tripartite Pact was signed by Nazi Germany, Fascist Italy and Imperial Japan (referred to as the Axis Powers) in Berlin on 27 September 1940, laying the groundwork for the establishment of a new world order in Europe and Asia. Additional states joined the pact as minor Members in 1940–1941, such as Hungary, Romania, Bulgaria, Kingdom of Yugoslavia.

<sup>18</sup> A detailed compilation of Holy See written documents and statements made in the pursuit of peace and on behalf of the victims of World War II can be found in P. BLET, R. A. GRAHAM, A. MARTINI, and B. SCHNEIDER (eds.), *Actes et Documents du Saint-Siège relatifs à la Seconde Guerre Mondiale*, Città del Vaticano, Libreria editrice Vaticana, 1965–1981, 12 vols. This diplomatic history in twelve volumes covers the period 1939–1945 and includes Pope Pius XII's speeches, letters, the Secretary of State's minutes of meetings, diplomatic notes and correspondence sent to and received from civil and ecclesiastical authorities, nuncios and apostolic delegates throughout the world.

<sup>19</sup> See PIUS XII, encyclical letter *Summi Pontificatus*, 20 October 1939, in AAS, 31 (1939), pp. 437–440, English translation by H. DENZINGER (ed.), *The Sources of Catholic Dogma*, translated by R. J. DEFERRARI from the 13th edition of the *Enchiridion Symbolorum*, Fitzwilliam, NH, Loreto Publications, 1955, pp. 613–614: “For the human race, although by the law of natural order established by God it is disposed into classes of citizens, and likewise into nations and states, yet is bound by mutual bonds in juridical and moral affairs, and coalesces into a single

From the outset of World War II in 1939, nations collaborated in resisting the Axis powers and forged ahead to prepare the groundwork for an international peace to follow the final cessation of military hostilities. As the Axis powers moved to impose a new world order by war and invasion of sovereign countries, the Allied nations<sup>20</sup>

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great congregation of peoples destined to pursue the common good of all nations, and is ruled by special norms which both preserve unity and direct them daily to more prosperous circumstances.

Surely, there is no one who does not see, if rights are claimed for the state, which is quite absolute and responsible to no one, that this is entirely opposed to naturally ingrained law, and wholly refutes it; and it is clear, likewise, that such rights place at the discretion of rulers of the state the bonds lawfully agreed upon by which nations are joined to one another; and they impede an honest agreement of minds and mutual collaboration for helpful action. If, Venerable Brothers, properly organized and long lasting understandings between states demand this, the bonds of friendship, from which rich fruits arise, demand that peoples recognize the principles and norms of the natural law by which nations are joined to one another, and be obedient to the same. In similar fashion these same principles demand that for every nation its own liberty be preserved, and that those rights be assigned to all by which they may live and may advance day by day on the road of civil progress to more prosperous circumstances; finally, they demand that pacts entered upon, as exacted and sanctioned by international law, remain unimpaired and inviolable.

There is no doubt that then only can nations live peacefully together, then only can they be governed publicly by established bonds, when mutual trust exists between them; when all are convinced that the trust given will be preserved on both sides; finally when all accept these words as certain 'better is wisdom than weapons of war'; and, furthermore, when all are prepared to inquire into and discuss a matter more extensively, but not by force and threats to bring about a critical situation, if delays, disputes, difficulties, changes of front stand in the way, all of which indeed can arise not only from bad faith, but also from a change of circumstances and from a mutual clash of individual interests.

But then to separate the law of nations from the divine law, so that it depends upon the arbitrary decisions of the rulers of the state as its only foundation, is nothing other than to pull it down from its throne of honour and security, and to hand it over to a zeal which is excessive and concerned with private advantage, and which strives for nothing other than to assert its own rights and deny those of others."

<sup>20</sup> The number of States known as the Allies or Allied nations grew as the Second World War progressed. The original Allies which signed mutual defence pacts prior to 1939 were Poland, France and the United Kingdom. The Inter-Allied Declaration of St. James Palace of 12 June 1941 was adopted by representatives of the UK, Canada, Australia, New Zealand, South Africa, Belgium, the Provisional Government of Czechoslovakia, Greece, Luxembourg, the Netherlands, Norway, Poland and General de Gaulle, leader of Free Frenchmen, with a pledge to work together in war and peace. Under the Inter-Allied Declaration of St. James Palace of 24 September 1941, a declaration of principles was signed by the representatives of Belgium, Czechoslovakia, Greece, Luxembourg, the Netherlands, Norway, Poland, the USSR, Yugoslavia and General de Gaulle, leader of Free Frenchmen. The 1942 Declaration of United Nations was signed by 26 nations: US, UK, USSR, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, South Africa, Yugoslavia. In addition, 21 nations adhered to the declaration: in 1942 – Mexico, Philippines, Ethiopia; in 1943

responded to this aggression with military force throughout the world. In his State of the Union address to the 77th United States Congress on 6 January 1941, President F.D. Roosevelt spoke of his Four Freedoms as goals achievable by the generations of that time. He stated:

In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

The first is freedom of speech and expression – everywhere in the world.

The second is freedom of every person to worship God in his own way everywhere in the world.

The third is freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants – everywhere in the world.

The fourth is freedom from fear, which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbour – anywhere in the world.

That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called “new order” of tyranny which the dictators seek to create with the crash of a bomb.

To that new order we oppose the greater conception – the moral order. A good society is able to face schemes of world domination and foreign revolutions alike without fear [...].

The world order which we seek is the cooperation of free countries, working together in a friendly, civilized society.

This nation has placed its destiny in the hands and heads and hearts of its millions of free men and women, and its faith in freedom under the guidance of God. Freedom means the supremacy of human rights everywhere. Our strength is our unity of purpose.<sup>21</sup>

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– Iraq, Brazil, Bolivia, Iran, Colombia; in 1944 – Liberia, France; in 1945 – Ecuador, Peru, Chile, Paraguay, Venezuela, Uruguay, Turkey, Egypt, Saudi Arabia, Syria and Lebanon. Only those states that adhered to the 1942 Declaration by United Nations and had previously declared war against Nazi Germany and Imperial Japan were invited to the 1945 United Nations Conference at San Francisco. See *Yearbook of the United Nations 1946–47 (=UN47)*, Success Lake, NY, Department of Public Information, United Nations, 1947, pp. 1–2, pp. 867–868.

<sup>21</sup> F.D. ROOSEVELT, State of the Union Address to the 77th United States Congress, 6 January 1941, *Peace and War, United States Foreign Policy 1931–1941*, Washington, United States Government Printing Office, 1943, p. 194. After the start of the war in 1939, in trying to secure peace in Europe and to contain a further escalation, President Roosevelt appointed Myron Taylor on 14 December 1939, as his “special envoy” to the Vatican to seek out opportunities that could result in a cessation of military hostilities. As the United States did not have diplomatic relations with the Holy See for over 70 years, the appointment was controversial in the United States. Nevertheless, the US President’s special envoy continued his work with the Holy See throughout the wartime and postwar periods until 1950. US Presidents Nixon, Ford, Carter and Reagan, also appointed personal envoys to the Pope, with full diplomatic relations being established on 10

With the 1941 Atlantic Charter<sup>22</sup> in place, the United States had prepared for future military action against the Axis powers. The United States entered the war after the attack on Pearl Harbour in December 1941 and, on 1 January 1942, 26 countries signed the

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January 1984, and William A. Wilson confirmed by the US Senate on 7 March 1984 as the first US Ambassador to the Holy See. The first Apostolic Nuncio to the United States was Archbishop Pio Laghi, in "The Vatican File," Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, NY, 2006, < <http://www.fdrlibrary.marist.edu/vatican.html>> (22 July 2007) and US Department of States, Bureau of European and Eurasian Affairs, "Holy See," October, 2006, <<http://www.state.gov/r/pa/ei/bgn/3819.htm>> (15 November 2007).

<sup>22</sup> See The Atlantic Charter, 14 August 1941, in *AJIL*, vol. 35, no. 4, (1941), pp. 191–193. The Atlantic Charter was a joint declaration signed by US President Franklin D. Roosevelt and British Prime Minister Winston Churchill. It had originally been intended by President Roosevelt that the USSR would become a signatory, but the Soviet Union had been invaded by Nazi Germany on 22 June 1941, and Joseph Stalin was not eager to participate at that time. The Atlantic Charter outlined their common purpose and goals in fighting the Axis powers. The Atlantic Charter was a first step leading to the Declaration by United Nations signed on 1 January 1942, in Washington, and the 1945 Charter of the United Nations signed in San Francisco. The 1941 Atlantic Charter reads:

"The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world. First, their countries seek no aggrandizement, territorial or other; Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned; Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them; Fourth, they will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great and small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity; Fifth, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security; Sixth, after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want; Seventh, such a peace should enable all men to traverse the high seas and oceans without hindrance; Eighth, they believe that all of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments" (ibid.).

Declaration by United Nations.<sup>23</sup> In 1943, two important meetings took place in Moscow and Teheran. In October, four major powers – the United States, United Kingdom, USSR and China – signed the Moscow Conference Joint Four-Nation Declaration<sup>24</sup> pledging their support to create an international organization that would promote peace and security for all its Members. On 1 December 1943, following a meeting in Teheran (Iran), Franklin Roosevelt, Winston Churchill and Joseph Stalin stated in the Teheran Conference Declaration of the Three Powers<sup>25</sup> their commitment to build international structures to ensure peace and security of nations after the conclusion of the war. On 7 October 1944, informal conversations were concluded at Dumbarton Oaks in

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<sup>23</sup> See Declaration by United Nations, 1 January 1942, in *AJIL*, vol. 36, no. 3, (1942), pp. 191–192. Representatives of 26 nations fighting the Axis powers signed the 1942 Declaration by United Nations in Washington, DC. In its opening statement, the Declaration incorporated the purposes and principles of the 1941 Atlantic Charter. The Declaration reads: “The governments signatory hereto, Having subscribed to a common program of purposes and principles embodied in the Joint Declaration of the President of the United States of America and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, dated 14 August 1941, known as the ‘Atlantic Charter’, Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world, Declare: (1) Each Government pledges itself to employ its full resources, military or economic, against those Members of the tripartite Pact and its adherents with which such government is at war. (2) Each Government pledges itself to cooperate with the Governments signatory hereto and not to make a separate armistice or peace with the enemies. The foregoing declaration may be adhered to by other nations which are, or which may be, rendering material assistance and contributions in the struggle, for victory over Hitlerism” (ibid.).

<sup>24</sup> See Moscow Conference Joint Four-Nation Declaration on General Security, 30 October 1943, in *UN47*, p. 3, signed by the United States, United Kingdom, USSR and China. Additional declarations were made by the USA, UK and USSR regarding the future of Italy and Austria, together with a statement on behalf of the 32 United Nations, that Nazi perpetrators of mass murder and atrocities being committed throughout Europe will be judged and punished by Allied forces and newly established governments after the conclusion of the war. See in *AJIL*, vol. 38, no. 1, (1944), pp. 3–8.

<sup>25</sup> See Teheran Conference Declaration of the Three Powers, 1 December 1943, in *AJIL*, vol. 38, no. 1, (1944), pp. 9–10. The declaration states that “With our Diplomatic advisors we have surveyed the problems of the future. We shall seek the cooperation and active participation of all nations, large and small, whose peoples in heart and mind are dedicated, as are our own peoples, to the elimination of tyranny and slavery, oppression and intolerance. We will welcome them, as they may choose to come, into a world family of Democratic Nations” (ibid., p. 9). The three powers also agreed upon measures to be taken regarding post-war assistance to Iran.

Washington, DC (August – October, 1944) between the United States, USSR, United Kingdom and China. The results of these gatherings were the Proposals for the Establishment of a General International Organization<sup>26</sup> to be called the United Nations. These proposals were widely distributed for international discussion and comment among the Allied nations. On 11 February 1945, Franklin Roosevelt, Winston Churchill and Joseph Stalin met in Yalta and resolved a final issue of Security Council voting procedures, issuing a Joint Communiqué on the Crimean Conference.<sup>27</sup> It was announced that a Conference of United Nations would meet at San Francisco on 25 April 1945. The Dumbarton Oaks Proposals became the foundation for the formulation of the 1945 Charter of the United Nations. On 12 April 1945, US President Roosevelt died in Warm Springs, GA. Eighty-two days after taking the vice-presidential oath, Harry Truman was sworn in as the President of the United States on the day of President Roosevelt's death. President Truman decided to proceed with the course of planned events and agreements put into place by President Roosevelt, although not having participated in any of the preceding negotiations, meetings or conferences (1941–1945) leading up to the scheduled 25 April 1945 San Francisco United Nations Conference on International Organization.

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<sup>26</sup> See Proposal for the Establishment of a General International Organization, Dumbarton Oaks, 8 December 1944, Washington, in *AJIL*, vol. 39, no. 1, (1945), pp. 57–79. The Dumbarton Oaks document consisted of 12 chapters outlining proposals to be incorporated into the 1945 Charter of the United Nations, including its purposes, principles, membership, principal organs, the General Assembly, the Security Council, International Court of Justice, arrangements for the maintenance of international peace and security including prevention and suppression of aggression, arrangements for international economic and social cooperation, the Secretariat, amendments and transitional arrangements.

<sup>27</sup> See Joint Communiqué on the Crimean Conference, Yalta, 11 February 1945, in *AJIL*, vol. 39, no. 2, (1945), pp. 103–107. The Conference took place in Yalta 4–11 February 1945 and the joint communiqué addresses issues decided upon concerning the defeat of Germany, the occupation and control of Germany, the United Nations Conference, a Declaration on liberated Europe, Poland, Yugoslavia, meetings of Foreign Secretaries, unity for peace as for war, and arrangements for dealing with freed prisoners.

On 15 April 1945, Pope Pius XII gave his encyclical letter *Communium interpretes dolorum* in Rome, at St. Peter's Basilica, appealing for prayers for peace during the month of May:

But you know what gifts, what resources, what consolations we need most in these critical times. In the first place we must ask most humbly that minds and souls be illumined and renewed by the precepts of Christian doctrine, for from them alone private and public salvation must be awaited. Secondly, that the internecine strife of peoples and nations cease to rage and that all classes of citizens, joined in a friendly pact, strive peacefully to build from the heaped up piles of rubble – under the auspices of justice and charity – a new building for the human community. But something more must be sought from the divine Redeemer and His most holy Mother by prayer and penance. We must seek a true and sincere peace, that may quickly end this calamitous and bloody conflict.

In the midst of such great destruction and perturbation of affairs, while many are still angry and inimical to one another, it is certainly not easy to achieve such a peace. Peace must be tempered by the impartial scale of justice, which embraces in fraternal charity all peoples and all nations and which does not bear hidden germs of discord and strife. Therefore, those who must come to agreement in this most grave cause, and those on whose recommendations not only the fate of their nations depends, but also the relationships of all mankind and the future course of the ages, especially need celestial help. We therefore desire that the faithful pray humbly to God. We also desire that during the month of May, innocent children especially beg from the Mother of divine Wisdom expressly this heavenly light for those who will adjudicate the universal cause. Let them consider seriously and ponder before God whatever has transgressed the limits of justice and equity. If these matters are not resolved, it would be detrimental both for the victors and the vanquished, since then their solutions could themselves bear the seeds of future wars.<sup>28</sup>

As a result of invitations sent on 5 March 1945 by the sponsoring states: the United States, United Kingdom, USSR and China, representatives of 50 countries arrived in San Francisco for the 25 April 1945 opening of the United Nations Conference on International Organization.<sup>29</sup> Working from 25 April to 26 June 1945, the Preparatory Commission of the Conference proceeded to engage attending representatives to agree

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<sup>28</sup> PIUS XII, encyclical letter *Communium interpretes dolorum*, 15 April 1945, nn. 4–5, in *AAS*, 37 (1945), pp. 97–100, English translation and abstract in *Tablet*, 185 (1945), p. 201. See also contemporary English translation <[http://www.vatican.va/holy\\_father/pius\\_xii/encyclicals/documents/hf\\_p-xii\\_15041945\\_communium-interpretes-dolorum\\_en.html](http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_15041945_communium-interpretes-dolorum_en.html)> (15 December 2007).

<sup>29</sup> See United Nations Conference on International Organization, *Documents of the United Nations Conference on International Organization*, San Francisco, vols. 1–16, New York, US Library of Congress and United Nations Information Organization, 1945–1946.

upon the texts of the Charter of the United Nations and the Interim Arrangements Agreement based upon the results of the Dumbarton Oaks Proposals, as supplemented at the Crimean Conference and with the Chinese Proposals.<sup>30</sup>

The 111-article United Nations Charter was unanimously adopted on 25 June 1945, signed on 26 June 1945, and ratified by five permanent Members of the Security Council and the majority of signatories, bringing it into force on 24 October 1945.<sup>31</sup> Within the span of 31 years (1914–1945), the human family had endured the scourges of two of the most horrific wars of all time and was determined to take measures to lay institutional foundations that would enhance the possibilities of building a world which would ensure its Members peace, security and justice. The Charter Preamble proclaims:

WE THE PEOPLES  
OF THE UNITED NATIONS  
DETERMINED

To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

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<sup>30</sup> See The Chinese Proposals, 1 May 1945, in *Documents of the United Nations Conference on International Organization*, vol. 3, San Francisco, New York, US Library of Congress and United Nations Information Organization, 1945–1946, p. 25. The Chinese Proposals were submitted to the San Francisco Conference. They read: “(1) The Charter should provide specifically that adjustment or settlement of international disputes should be achieved with due regard for principles of justice and international law. (2) The Assembly should be responsible for initiating studies and making recommendations with respect to the development and revision of the rules and principles of international law. (3) The Economic and Social Council should specifically provide for the promotion of educational and other forms of cultural co-operation” (ibid.).

<sup>31</sup> See Charter of the United Nations (=UN Charter), in *UN47*, pp. 831–843. The UN Charter was signed by Plenipotentiaries of 51 states on 26 June 1945, with Poland signing later and included as the 51st original signatory. The Charter came into force on 24 October 1945 when instruments of ratification had been deposited from the Security Council’s five permanent Members, namely United States of America, France, Republic of China, United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics and a majority (24) of the remaining signing states: Argentina, Brazil, Belarus (Byelorussian SSR), Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, El Salvador, Haiti, Iran, Lebanon, Luxembourg, New Zealand, Nicaragua, Paraguay, Philippine Commonwealth, Poland, Saudi Arabia, Syria, Turkey, Ukraine (Ukrainian SSR), and Yugoslavia. The remaining 24 states deposited their instruments of ratification later in 1945: Australia, Belgium, Bolivia, Canada, Colombia, Costa Rica, Ecuador, Ethiopia, Greece, Guatemala, Honduras, India, Iraq, Liberia, Mexico, Netherlands, Norway, Panama, Peru, Union of South Africa, Uruguay, Venezuela. The Charter is divided into 19 Chapters.

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and  
 to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and  
 to promote social progress and better standards of life in larger freedom,  
**AND FOR THESE ENDS**  
 to practice tolerance and live together in peace with one another as good neighbours, and  
 to unite our strength to maintain international peace and security, and  
 to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and  
 to employ international machinery for the promotion of the economic and social advancement of all peoples,

**HAVE RESOLVED TO  
 COMBINE OUR EFFORTS TO  
 ACCOMPLISH THESE AIMS**

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.<sup>32</sup>

The signatories of the United Nations Charter also signed the Interim Arrangements Agreement (26 June 1945), establishing the Preparatory Commission of the United Nations “for the purpose of making provisional arrangements for the first sessions of the General Assembly, the Security Council, the Economic and Social Council, and the Trusteeship Council, for the establishment of the Secretariat, and for the convening of the International Court of Justice.”<sup>33</sup>

With 51 Members present, the 1<sup>st</sup> General Assembly opened in London, UK on 10 January 1946, and the Security Council held its first meeting on 17 January 1946. On 13 February 1946, the Convention on the Privileges and Immunities of the United Nations was adopted.<sup>34</sup> On 31 October 1947, the UN General Assembly adopted the Agreement

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<sup>32</sup> Ibid., p. 831.

<sup>33</sup> UN Interim Arrangements, San Francisco, 26 June 1945, in *UN47*, pp. 34–50.

<sup>34</sup> See UNITED NATIONS GENERAL ASSEMBLY (=UN GA), 1<sup>st</sup> Session, resolution 22 (I) “Privileges and Immunities of the United Nations,” 13 February 1946, in *Official Records of the United Nations General Assembly*, 1947, pp. 25–33.

between the United Nations and the United States of America regarding the Headquarters of the United Nations.<sup>35</sup>

By the end of 1947, the first meetings and sessions of the United Nations principal organs, the General Assembly,<sup>36</sup> the Security Council,<sup>37</sup> the Economic and

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<sup>35</sup> See UN GA, 3<sup>rd</sup> Session, resolution 169 (II) “Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,” 31 October 1947, in *Official Records of the United Nations General Assembly*, 1948, pp. 91–102.

<sup>36</sup> See UN Charter, General Assembly, arts. 9–22. Art. 9: “1. The General Assembly shall consist of all the Members of the United Nations [...]” Art. 11: “1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or both. 2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it [...]” Art. 13: “1. The General Assembly shall initiate studies and make recommendations for the purpose of: (a) promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; (b) promoting international co-operation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion [...]” Art. 17: “1. The General Assembly shall consider and approve the budget of the Organization [...]” 3. The General Assembly shall consider and approve any financial and budgetary arrangements with Specialized Agencies with a view to making recommendations to the agencies concerned” (in *Yearbook of the United Nations 1975* [=UN75], New York, Office of Public Information, United Nations, 1976, pp. 1098–1099). The General Assembly has four types of committees: Main Committees, Procedural Committees, Standing Committees and Subsidiary/ad hoc bodies. The six Main Committees are: First Committee (Disarmament and International Security Committee), Second Committee (Economic and Financial Committee), Third Committee (Social, Humanitarian and Cultural Committee), Fourth Committee (Special Political and Decolonization Committee), Fifth Committee (Administrative and Budgetary Committee), Sixth Committee (Legal Committee). The Procedural Committees are: the General Committee and Credentials Committee. The 2 Standing Committees are: Advisory Committee on Administrative and Budgetary Questions, and the Committee on Contributions. There are eight Subsidiary and ad hoc bodies. See *Yearbook of the United Nations 2002* (=UN2002), New York, Department of Public Information, United Nations, 2003, pp. 1518–1520.

<sup>37</sup> See UN Charter, Security Council, Chapters V–VIII, XII. Chapter V, art. 24: “1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under their responsibility the Security Council acts on their behalf. 2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations.” The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, arts. 33–38 (Pacific Settlement of Disputes); VII, arts. 39–51 (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression), VIII, arts. 52–54 (Regional Arrangements) and XII, arts. 75–85 (International Trusteeship System), (UN75, pp. 1099–1102, 1104–1105).

Social Council,<sup>38</sup> the Trusteeship Council,<sup>39</sup> had taken place. The preparatory work had been continued on various levels of Member State participation, including the major

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<sup>38</sup> See UN Charter, Economic and Social Council, Chapter X. Art. 61: “1. The Economic and Social Council shall consist of 54 Members of the United Nations elected by the General Assembly [...]” Art. 62: “1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the Specialized Agencies concerned. 2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all. 3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence. 4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.” Art. 63: “1. The Economic and Social Council may enter into agreements with any of the agencies, referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly. 2. It may co-ordinate the activities of the Specialized Agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.” Art. 64: “1. The Economic and Social Council may take appropriate steps to obtain regular reports from the Specialized Agencies. It may make arrangements with Members of the United Nations and with the Specialized Agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly. 2. It may communicate its observations on these reports to the General Assembly.” Art. 66: “1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly. 2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of Specialized Agencies [...]” Art. 68: “The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.” Art. 69: “The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.” Art. 70: “The Economic and Social Council may make arrangements for representatives of the Specialized Agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the Specialized Agencies” (*UN75*, pp. 1103–1104). The Economic and Social Council (=ECOSOC) consists of 54 Member States of the United Nations, elected by the General Assembly, for three year terms in accordance with art. 61 of the UN Charter. Subsidiary organs of ECOSOC report to the Council such as: nine Functional Commissions on Crime Prevention and Criminal Justice, Human Rights, Narcotic Drugs, Population and Development, Science and Technology for Development, Social Development, the Status of Women, Sustainable Development, and the Statistical Commission; five Regional Commissions: Economic Commission for Africa (ECA), Economic Commission for Europe (ECE), Economic Commission for Latin America and the Caribbean (ECLAC), Economic and Social Commission for Asia and the Pacific (ESCAP), Economic and Social Commission for Western Asia (ESCWA); 2 Standing Committees: Committee on Non-Governmental Organizations and the Committee for Programme and Coordination (CPC); eight Expert Bodies: Ad Hoc Group of Experts on International Cooperation in Tax Matters,

powers involved in the post-war reconstruction programs in Europe and around the world. The Atomic Energy Commission, Military Staff Committee and Commission for Conventional Armaments were also convened. The International Court of Justice,<sup>40</sup> and the UN Secretariat,<sup>41</sup> were also in place by the end of 1947.

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Committee for Development Policy, Committee on Economic, Social and Cultural Rights, Committee on Energy and Natural Resources Development, Committee of Experts on Public Administration, Committee of Experts on the Transport of Dangerous Goods, Permanent Forum on Indigenous Issues, UN Group of Experts on Geographical Names (see *UN2002*, pp. 1526–1527).

<sup>39</sup> See UN Charter, Trusteeship Council, Chapter XIII. In 1945, this Council was established to deal with the administration and supervision of territories held under mandate, detached from enemy states as a result of World War II and non-Members of the United Nations that have not yet attained independence (see *UN75*, p. 1105). In 1994, with the independence of Palau, the Trusteeship Council (consisting of the five permanent Members of the Security Council: China, France, Russian Federation, United Kingdom and the United States) completed its mission as specified in the UN Charter and fulfilled its mandate. On 25 May 1994 the Trusteeship Council adopted resolution 2200 (LXI) amending its rules of procedure and suspended any further meetings, until required (see “International Trusteeship System,” in *Yearbook of the United Nations 1994* [=UN94], New York, Department of Public Information, United Nations, 1995, pp. 214–217).

<sup>40</sup> See UN Charter, International Court of Justice, Chapter XIV, art. 92: “The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.” Art. 93: “1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice. 2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendations of the Security Council” (*UN75*, p. 1106). See also, Statutes of the International Court of Justice, 24 October, 1945, in *UN47*, pp. 843–850; Rules of Court, 6 May 1946, in *UN47*, pp. 596–608.

<sup>41</sup> See UN Charter, Secretariat, Chapter XV, art. 97: “The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.” Art. 98: “The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.” Art. 99: “The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.” Art. 100: “1. In the performance of their duties, the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. 2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in

The Economic and Social Council (ECOSOC) began its work in 1947 with the following Commissions holding their first meetings: Economic and Employment, Transport and Communications, Statistical, Human Rights, Social, Status of Women, Narcotic Drugs, Fiscal, Population, Economic Commissions for Europe, and Economic Commission for Asia and the Far East.<sup>42</sup> Specialized Agencies<sup>43</sup> were brought into relationship with the United Nations such as the International Labour Organization, Food and Agriculture Organization, United Nations Educational, Scientific and Cultural Organization, and International Civil Aviation Organization. As of 1 July 1947, the International Bank for Reconstruction and Development, International Monetary Fund, World Health Organization, International Refugee Organization, International Trade Organization, Universal Postal Union and the International Telecommunications Union were not brought into relationship with the United Nations.<sup>44</sup> On 10 December 1948, the General Assembly adopted the Universal Declaration of Human Rights<sup>45</sup> and on the 4<sup>th</sup>

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the discharge of their responsibilities.” Art. 101: “1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly. 2. Appropriate staff shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat (UN75, p. 1106).”

<sup>42</sup> See Organs of the United Nations Chart, in UN47, p. xxxvi.

<sup>43</sup> See UN GA, 2<sup>nd</sup> Session, resolution 179 (II) “Co-ordination of the Privileges and Immunities of the United Nations and Specialized Agencies” and “Convention on the Privileges and Immunities of the Specialized Agencies,” 21 November 1947, in *Official Records of the United Nations General Assembly*, 1948, pp. 112–129. Specialized Agencies report to the United Nations Economic and Social Council (ECOSOC), (UN75, p. 1103).

<sup>44</sup> See UN47, p. xxxvi.

<sup>45</sup> See UN GA, 3<sup>rd</sup> Session, resolution 217 (III) “International Bill of Human Rights,” “A Universal Declaration of Human Rights,” 10 December 1948, in *Official Records of the United Nations General Assembly*, 1949, pp. 71–79, in *Yearbook of the United Nations 1948–1949* (=UN49), Success Lake, NY, Department of Public Information, United Nations, 1950, pp. 535–537. The Declaration consisted of 30 articles and was adopted by 48 votes, with eight abstentions. In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama,

anniversary of the creation of the United Nations in 1949, the cornerstone of the new UN Headquarters was laid in New York City.

### **1.3 The Holy See and the First Emerging UN Agencies: FAO and UNESCO**

With the advent of new international organizations and the increased importance of agencies and bodies affecting the whole of mankind and its future, the Holy See became increasingly involved in international matters, as the decades progressed, within the context of its spiritual mission. The work of the Holy See with United Nations agencies, commissions, funds, committees, programmes and affiliated organizations is spread over five major cities worldwide, including five additional centres where UN organizations are located.

#### **1.3.1 Rome: The Food and Agriculture Organization (FAO)**

In response to a growing need to address world hunger and starvation, President Roosevelt convened the United Nations Conference on Food and Agriculture, at Hot Springs, VA, in May, 1943, with 44 nations attending. As a result, the United Nations Interim Commission on Food and Agriculture was established in Washington, DC, in July, 1943, which proposed organizational structures and functions for the future Food and Agriculture Organization of the United Nations (FAO). Twenty nations indicated agreement to proceed with the Commission's proposals. On 16 October 1945, in Quebec City, Canada, the Constitution of the Food and Agriculture Organization<sup>46</sup> was signed and FAO was established as the first permanent United Nations international

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Paraguay, Peru, Philippines, Siam (Thailand), Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, Venezuela. Abstained: Belarus (Byelorussian SSR), Czechoslovakia, Poland, Saudi Arabia, Ukraine (Ukrainian SSR), Union of South Africa, USSR, and Yugoslavia (p. 535). A detailed historical review of the stages of development of the Universal Declaration of Human Rights can be found in *UN49*, pp. 524–535.

<sup>46</sup> See Constitution of the Food and Agriculture Organization of the United Nations, in *UN47*, pp. 693–697; see also Food and Agriculture Organization, in *UN47*, pp. 685–687.

organization. On 14 December 1946, FAO was brought into relationship with the United Nations organization as a Specialized Agency.<sup>47</sup>

The FAO Constitution's preamble identifies the organization's working principles:

The Nations accepting this Constitution, being determined to promote the common welfare by furthering separate and collective action on their part for the purposes of

- raising levels of nutrition and standards of living of the peoples under their respective jurisdictions,
- securing improvements in the efficiency of the production and distribution of all food and agricultural products,
- bettering the condition of rural populations, and thus contributing toward an expanding world economy, hereby

establish the Food and Agricultural Organization of the United Nations [...].<sup>48</sup>

The budgetary and policy-making structure of FAO consists of an annual Conference with one representative from each Member State participating in deliberations and the decision-making process. Conference decisions are accepted by a simple majority vote, with a two-thirds majority required for admission of new Members. The Conference appoints an Executive Committee consisting of 9 to 15 Members, which exercises delegated power given to them. The Conference also appoints FAO's Director-General to direct the work of the organization, collaborating with the Executive Committee and the Conference membership. FAO staff is appointed by the Director-General.<sup>49</sup> The functions of FAO are outlined in Article 1:

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<sup>47</sup> See UN GA, 1st Session, resolution 50 (I) "Agreement with Specialized Agencies, FAO," 14 December 1946, in *Official Records of the United Nations General Assembly*, 1947, p. 78; UN GA, 2<sup>nd</sup> Session, resolution A/78, 30 September 1946, in *Official Records of the United Nations General Assembly*, 1947, pp. 1–9; UN GA Supplementary Agreement, resolution A/615, 12 August 1948, in *Official Records of the United Nations General Assembly*, 1949, pp. 1–7; The Agreement Between the United Nations and the Food and Agriculture Organization of the United Nations, 14 December 1946, in *UN47*, pp. 698–702.

<sup>48</sup> Constitution of the Food and Agriculture Organization, in *UN47*, p. 693.

<sup>49</sup> See "The Food and Agriculture Organization of the United Nations", in *UN47*, p. 686.

1. The Organization shall collect, analyze, interpret, and disseminate information relating to nutrition, food and agriculture.

2. The Organization shall promote and, where appropriate, shall recommend national and international action with respect to

(a) scientific, technological, social and economic research relating to nutrition, food and agriculture;

(b) the improvement of education and administration relating to nutrition, food and agriculture, and the spread of public knowledge of nutritional and agricultural science and practice;

(c) the conservation of natural resources and the adoption of improved methods of agricultural production;

(d) the improvement of the processing, marketing, and distribution of food and agricultural products;

(e) the adoption of policies for the provision of adequate agricultural credit, national and international;

(f) the adoption of international policies with respect to agricultural commodity arrangements;

3. It shall also be the function of the Organization

(a) to furnish such technical assistance as governments may request;

(b) to organize, in cooperation with the governments concerned, such missions as may be needed to assist them to fulfill the obligations arising from their acceptance of the recommendations of the United Nations Conference on Food and Agriculture; and

(c) generally to take all necessary and appropriate action to implement the purposes of the Organization as set forth in the Preamble.<sup>50</sup>

As of 1 April 1951, FAO Headquarters was moved to Rome and offices were established at the United Nations in Geneva and New York, with regional offices throughout the world.<sup>51</sup> The FAO budget for its first financial year was US\$2.5 million, with 45 contributing countries.<sup>52</sup>

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<sup>50</sup> Ibid., p. 694.

<sup>51</sup> See Food and Agriculture Organization, in *Yearbook of the United Nations 1952* (=UN52), New York, Department of Public Information, 1953, p. 838. FAO also maintains liaison offices in Brussels, Geneva, Washington, DC, and Yokohama, Japan; regional offices in Accra, Ghana; Bangkok, Thailand; Cairo, Egypt and Santiago, Chile; and sub-regional offices in Apia, Samoa; Bridgetown, Barbados; Budapest, Hungary; Harare, Zimbabwe and Tunis, Tunisia. See *Yearbook of the United Nations 2004* (=UN2004), New York, Department of Public Information, 2006, p. 1487.

<sup>52</sup> Ibid., p. 698. Of the 45 countries assessed for the first financial year, the top ten countries contributed 78.6% of the total budget: United States (25.0%), United Kingdom (15.0%), USSR (8.0%), China (6.5%), France (5.69%), Canada (5.06%), India (4.25%), Brazil (3.46%), Australia (3.33%), and the Union of South Africa (2.31%). The remaining 35 countries contributed 19.4%, with an additional 2.0% provision for new Members.

As FAO began to take form in its initial years in Washington, its important mission became of special interest to the Executive Director of the National Catholic Rural Life Conference (NCRLC) Msgr. Luigi Ligutti, an expert in rural and agricultural matters throughout the United States, with extensive first-hand observations of the devastated regions of post-war Europe. Msgr. Ligutti understood the vital role that FAO would be able to fulfill in meeting the challenges of malnutrition and poverty throughout the world, the inescapable relationship between nutrition and health, and agricultural and economic policy. Initially supporting the work of FAO through the work of the NCRLC and personal efforts, Msgr. Ligutti believed that the Holy See needed to be directly involved with the work of FAO, not as a Member, but as a Permanent Observer.<sup>53</sup>

Vigorously pursuing the support of the Holy See, he realized the assistance of Archbishop Romolo Carboni, Apostolic Nuncio to Italy (26 April 1969 – 19 April 1986), and Msgr. Giovanni Battista Montini,<sup>54</sup> substitute Secretary of State. On 26 July 1948, Msgr. Montini appointed Msgr. Ligutti as the Holy See Observer to FAO in Washington, DC for the November 1948 FAO Conference. To work with Msgr. Ligutti, Dr. Emilio Bonomelli, director of the Vatican Estates at Castel Gandolfo, was appointed Co-

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<sup>53</sup> See V.A. YZERMANS, *The People I Love: Biography of Luigi G. Ligutti*, Collegetown, MN, Liturgical Press, 1976, pp. 231–247.

<sup>54</sup> See *ibid.* In 1937, Msgr. Giovanni Battista Montini was appointed substitute for ordinary affairs under Cardinal Eugenio Pacelli, the Secretary of State and travelled with him to Budapest (1938) for the International Eucharistic Congress. After Cardinal Pacelli's election to the papacy in 1939, Pope Pius XII reconfirmed Msgr. Montini in his position under the new Secretary of State, Cardinal Luigi Maglione. When Cardinal Maglione died in 1944, Msgr. Montini continued to discharge his office directly under the Pope. During World War II, he was responsible for organizing extensive relief work and the care of political refugees. In the secret consistory of 1952, Pope Pius XII announced that he had intended to raise Monsignors Montini and Domenico Tardini to the Sacred College, but they had both asked to be dispensed from accepting. Instead he conferred on both of them the title of Pro-Secretary of State. On 1 November 1954 Msgr. Montini was appointed Archbishop of Milan. See Biography of Paul VI <[http://www.vatican.va/holy\\_father/paul\\_vi/biography/hf\\_p-vi\\_bio\\_16071997\\_biography\\_en.html](http://www.vatican.va/holy_father/paul_vi/biography/hf_p-vi_bio_16071997_biography_en.html)> (20 November 2007).

observer of the Holy See at FAO.<sup>55</sup> On 7 May 1953, Dr. Emilio Bonomelli was officially appointed to work with Msgr. Ligutti as Permanent Observer of the Holy See at FAO, where he served until his death on 18 February 1970.<sup>56</sup>

An application was made by the Holy See to FAO for Permanent Observer status. During 15–29 November 1948, the 4th Session of the FAO Conference was held in Washington, DC. At the Fifth plenary meeting on 23 November 1948, the admission of the Holy See as Permanent Observer was addressed:

The General Committee has carefully reviewed the request presented by the Holy See that it be permitted to take part as a permanent observer in the Conferences, meetings and activities of the Organization, both at the central seat of the Organization and in its regional offices, especially in those where the activity of the Holy See is likely to be most efficacious.

The General Committee agrees with the views of the Council that this request is of an exceptional character, since the application would involve participation not only in the Conferences of the Organization, but in other aspects of its activities as well, and because of the unique status of the applicant. The General Committee therefore suggest that, in the absence of any provision in the Constitution or the Rules that would cover this special request, the Conference be requested to take a vote on the application, and unanimously recommends that it be accepted.<sup>57</sup>

On that same day, the Conference approved the application of the Holy See as a Permanent Observer with 41 votes in favor, one against and one abstention.<sup>58</sup> On 27 February 1949, Msgr. Ligutti was officially appointed Permanent Observer of the Holy See to the Food and Agriculture Organization of the United Nations,<sup>59</sup> and served at the FAO until his retirement. The decision of the FAO Conference to admit the Holy See as a

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<sup>55</sup> See *ibid.*

<sup>56</sup> See A.G. FILIPAZZI, *Rappresentanze e rappresentanti pontifici dalla seconda metà del XX secolo*, (=FILIPAZZI, *Rappresentanze*), Città del Vaticano, Libreria editrice Vaticana, 2006, p. 273.

<sup>57</sup> Report of the Conference of FAO, 4<sup>th</sup> Session, Washington, DC, 15–29 November 1948, Part III, General Actions by the Conference, sec. V, p. 3, in FAO Corporate Document Repository, <<http://www.fao.org/docrep/x5580E/x5580e00.htm>> (15 July 2007).

<sup>58</sup> See *ibid.*, p. 4.

<sup>59</sup> See *L'Osservatore Romano*, Italian ed. (=OR), 28 February – 1 March, 1949, p. 2.

Permanent Observer to an international organization marked the first time that the Holy See was identified with this special title and would, in future decades, be invited to participate in the work of United Nations and its Specialized Agencies and related organizations in this capacity. The representatives of the Holy See attended FAO Conferences and meetings in virtue of invitations issued by FAO's governing body. Invited to participate in the Conference sessions, committees and open meetings, the Holy See was active in presenting statements and contributing their expertise in the field.<sup>60</sup> In effect, by being a Member of a Specialized Agency,<sup>61</sup> the Holy See shared the

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<sup>60</sup> In November 1957, the 9<sup>th</sup> Session of the FAO Conference adopted resolution 43/57 clarifying rules regarding the granting of observer status for attending FAO Conferences, Council and related committee meetings, which can be found in Section L: Granting of Observer Status (in Respect of Nations), Appendix B & C (Report of the Conference of FAO, 9<sup>th</sup> Session, Rome, 2–23 November, 1957), *Basic Texts of FAO of the UN*, vol. 2, pp. 159–164; see also FAO Corporate Document Repository <<http://www.fao.org/docrep/009/j8038e/j8038e12.htm>> (15 July 2007). The adopted resolution states:

“Appendix B: Non-Member States

1. States which, while not Member Nations or Associate Members of the Organization, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, on request, and subject to the provisions of paragraph B.4 [re: former Members], be invited by the Conference or the Council to be represented by an observer at a session of the Conference or council.
2. Such non-Member States may, on request and with the approval of the Council, attend regional or technical meetings of the Organization. In cases of urgency, however, where there is insufficient time to consult the Council, the Director-General may on request invite such non-Member States to send an observer to such meetings [...].

Appendix C: Status of Observers

I. Observers from nations admitted to meetings of the Organization may be permitted:

1. To make only formal statements in Conference and Council plenaries and in commissions of the Whole, subject to the approval of the General Committee of the Conferences, or of the Council;
2. To participate in the discussions of the commissions and committees of the Conference and Council and in the discussions of technical meetings, subject to the approval of the Chairman of the particular meeting and without the right to vote;
3. To receive the documents other than those of a restricted nature for and the report of the particular meeting;
4. To submit written statements on particular items of the agenda;
5. To attend a private meeting of the Council or of a commission or committee established by the Conference or Council, subject to the following rule:

When it is decided that the Council or a commission or committee established by the Conference or Council shall hold a private meeting, the Conference, Council, commission or committee,

same rights and privileges of participation at meetings and conferences as Member States, except for voting.

In his 8 December 1953 address to the 7<sup>th</sup> Session of the Conference of FAO, Pope Pius XII expressed his support and blessings upon the work being accomplished by this newly formed international organization. Pius XII understood the work of FAO as the struggle of humankind with global inequities, tirelessly engaging the scourge of poverty and hunger in the world. The Holy See's Permanent Observer and staff at FAO continuously addressed these issues facing the world community.<sup>62</sup>

John XXIII was also an ardent supporter of the work of FAO. In November 1959, he reiterated:

We are anxious to tell you that the Church is very interested in the FAO. With material concern, the Church looks upon the great and beautiful example

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subject to the provisions of the Constitution and the General Rules of the Organization and to the principles laid down in the present resolution, shall at the same time, determine the scope of such a decision with respect to observers of Member Nations and Associate Members that are not Members of the commission or committee and to observers of non-Member nations that have been invited to be represented at the session of the commission or committee" (ibid.).

<sup>61</sup> The Holy See (Vatican City State) is a Member of UN Specialized Agencies: the UPU – Universal Postal Union and ITU – International Telecommunications Union (Vatican, 1929). These agencies came into relationship with the United Nations as Specialized Agencies after the establishment of the United Nations.

<sup>62</sup> See PIUS XII, *Discorso di Sua Santità Pio XII*, 8 December 1953, in *Discorsi e Radiomessaggi di Sua Santità Pio XII*, 15 (1953), Città del Vaticano, Typis polyglottis Vaticanis, 1954, p. 497, English translation of address of Pius XII to the 7<sup>th</sup> Session of the Conference of FAO in *Paths to Peace: Documents of the Holy See to the International Community (=Paths)*, New York, Liturgical Publications Inc., 1986, pp. 296–297. Pope Pius XII stated at the Conference: "The civilized world looks with a profound sadness at pitiful pictures of victims of famine when the earth is capable of feeding all mankind. To suppress definitively such a wound certainly merits some sacrifice and justifies austere dedication. Was not Christ concerned to satisfy the hunger of the crowds which were following him? Did He not teach to His disciples the prayer which asks God our daily bread? In pursuing the goal which you have set yourselves, you are realizing without any doubt an intention dear to Him who consecrated Himself to the salvation of humanity. That is why we wish you may continue your task without weakening. It is no doubt only at its start, but already experience has taught you much; your tools are perfecting themselves, your credit is growing among governments who are appreciating more and more the usefulness and the fruits of your action. If the final term is not yet in view, at least you can hope that a wider comprehension and a more active collaboration will come to reinforce and multiply the results obtained and to guarantee a more rapid further development" (p. 297).

you offer with your technicians working all over the world to organize the struggle against hunger, to improve soil, plants, animal species, fishing techniques, dairy organization, forestry development [...] and all this in order to assist the most unhappy and the most deprived of our brothers and sisters, those who suffer, those who are hungry! This is truly a great and wonderful thing which inspires admiration, edification, confidence in the future.

You know that, with a full heart, we exhort the pilgrims who come to see us to undertake material as well as spiritual actions motivated by the love of God and neighbour which Church traditions call the “works of mercy.” And, what is the entire activity of the FAO except an immense work of mercy, a work of mercy on a world-wide scale! We scarcely need to exhort you, so eloquent is the very lesson itself which you give to the world. Rather, we want to rejoice with you, to congratulate you warmly, to assure you that we bless your works.

We would like to pick out one characteristic which, in our view, accompanies these fine activities: it is that spirit, wisely realistic and at the same time serenely optimistic, which animates your organization. The FAO does not fear difficulties: it confronts them. It is not discouraged by the number and the size of the obstacles which appear in its way: the ruins and ravages brought about by war, the extent of poverty in certain regions, the epidemics spread by malnutrition [...]. The FAO wisely saw the most efficient means to provide, to improve, and to share food through careful distribution, and put its services at the disposition of interested governments. The Church highly esteems this spirit of positive achievement and of disinterested service: it praises this reasonable boldness, and this confidence in the possibility of solving the great human problems. The Church is also optimistic.<sup>63</sup>

FAO’s biennium budget expanded from the original US\$2.5 million (1945–1946) to US\$70.56 million (1970–1971)<sup>64</sup> during the tenures of Msgr. Ligutti and Dr. Bonomelli as Permanent Observers from 1948 to 1970. The period was one of great expansion of the organization from the first financial assessment of 45 countries in 1946 to 119 countries in 1970.<sup>65</sup> On the occasion of FAO’s 25th anniversary, Pope Paul VI was the first Roman Pontiff to visit FAO Headquarters in Rome and to personally address the

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<sup>63</sup> JOHN XXIII, allocution to the 10<sup>th</sup> Session of the Conference of the Food and Agriculture Organization, 10 November 1959, in *AAS*, 51 (1959), pp. 865–866, English translation in *Paths*, pp. 300–301.

<sup>64</sup> See Food and Agriculture Organization, in *Yearbook of the United Nations 1969 (=UN69)*, New York, Office of Public Information, 1970, pp. 868–869. For 1970, out of a total of 119 Members, the contribution levels of the top seven countries was 68.91% of the FAO 1970 assessment: United States (31.57%), Federal Republic of Germany (8.82%), United Kingdom (8.33%), France (7.55%), Japan (4.76%), Italy (4.08%), and Canada (3.80%).

<sup>65</sup> See *ibid.*

Members of the 15th Session. The Holy Father shared his message of hope with the

Members:

Historians will point out the remarkable accomplishments of FAO, its progressive influence, its unflagging dynamism, the boldness of its views, the variety and breadth of its activities – since ‘it is above all else an institution orientated to action’ – the courage of its pioneers and finally the love of man and the universal sense of brotherhood which are the driving force behind its undertakings [...]. We have not ceased to follow with sympathetic interest your generous and disinterested initiatives – particularly the campaign against hunger – to render homage to your many activities and to call upon the Catholics of the entire world to collaborate generously therein, together with all men of good will [...].<sup>66</sup>

During the next 35 years, five additional Holy See Permanent Observers served at the FAO. On 9 July 1969, Msgr. Silvio Luoni<sup>67</sup> was appointed as Assistant Permanent Observer by Pope Paul VI and, effective 1 January 1970, he served as the Permanent Observer. Msgr. Luoni continued his service at the FAO until his transfer on 18 August 1971 to the United Nations Office at Geneva as the Holy See’s Permanent Observer.<sup>68</sup> On 8 September 1971, Archbishop Agostino Ferrari-Toniolo, auxiliary bishop of Perugia, Italy (1967), titular Archbishop of Tarasa in Byzacena and President of the Pontifical Commission for Social Communication, was appointed by Pope Paul VI both as the Holy See’s Permanent Observer at the FAO and Consultor of the Secretariat of State on social questions and information, where he served until his retirement in 1992.<sup>69</sup> On 1 October 1992, Pope John Paul II appointed Bishop Alois Wagner, auxiliary bishop of Linz,

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<sup>66</sup> PAUL VI, address to the 15<sup>th</sup> session of the Conference of the Food and Agriculture Organization, 16 November 1970, in *AAS*, 62 (1970), p. 830, English translation in *Paths*, p. 12.

<sup>67</sup> See “Vatican Bulletin,” in *L’Osservatore Romano*, Eng. ed. (= *ORe*), 17 July 1969, p. 7.

<sup>68</sup> See *ibid.*, in *ORe*, 26 August 1971, p. 7.

<sup>69</sup> See *ibid.*, in *ORe*, 16 September 1971, pp. 6, 8.

Austria (1969), titular bishop of Siccenna (1969), as Permanent Observer at the FAO where he served until his resignation in 1999.<sup>70</sup>

FAO expanded its global efforts in the 1970–1995 period and in 1995 approved a biennium budget of US\$650 million (1996–1997), addressing emergency food assistance and shortages in 26 countries, expanding its many programs and projects with the objective of enhancing world food security. In October 1995, the FAO Conference marked its 50th anniversary, further establishing pledging targets for 1997 and 1998 to a record US\$1.3 billion.<sup>71</sup> Nevertheless, many nations of the world still faced horrific starvation and malnutrition. In his address to the participants of the 28th FAO Conference on 23 October 1995, Pope John Paul II spoke of these injustices<sup>72</sup> and the need for an

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<sup>70</sup> See *ibid.*, in *ORE*, 7 October 1992, p. 12. Archbishop Alois Wagner was also Vice-President of the Pontifical Council “Cor Unum” (1981–1992).

<sup>71</sup> See Food and Agriculture Organization, in *Yearbook of the United Nations 1995 (=UN95)*, New York, Department of Public Information, 1996, pp. 1469–1472.

<sup>72</sup> See JOHN PAUL II, address to participants in the 28th Conference of the United Nations Food and Agriculture Organization (FAO), 23 October 1995, in *ORE*, 1 November 1995, p. 7: “It is not by chance that the beginning of FAO coincided with the formation of that broader Organization, the United Nations, whose ideals inspired FAO and with whose activity it is associated. The establishment of FAO was thus intended to emphasize the complementarity of the principles contained in the *Charter of the United Nations*: true peace and effective international security are achieved not only by preventing wars and conflicts, but also by promoting development and creating conditions which ensure that basic human rights are fully guaranteed [...].

As you are well aware, there are many reasons for this paradoxical situation in which *abundance coexists with scarcity*, including policies which forcibly reduce agricultural production, widespread corruption in public life, and massive investment in sophisticated weapons systems to the detriment of people’s primary needs. These and other reasons contribute to the creation of what you call ‘structures of famine.’ Here we are speaking of the mechanisms of international business by which the less favoured countries, those most in need of food, are excluded in one way or another from the market, thus preventing a just and effective distribution of agricultural products [...]. Nor can a serious analysis of the underlying causes of hunger overlook that attitude found in the more developed countries, where a consumerist culture tends to exalt artificial needs over real ones. This has direct consequences for the structure of the world economy, and for agriculture and food production in particular [...].

These many reasons have their source not only in a false sense of the values which should sustain international relations, but also in a widespread attitude which emphasizes *having* over *being*. The result is a real inability on the part of many to appreciate the needs of the poor and the starving; indeed, to appreciate the poor themselves in their inalienable human dignity. An effective campaign against hunger thus calls for more than merely indicating the proper

advanced and developed role that FAO can play in the future renewal of the human spirit to a culture of sharing and ethical choices, to a renewed respect for the dignity of the human person.<sup>73</sup>

On 8 July 1999, Pope John Paul II appointed Archbishop Agostino Marchetto, titular bishop of Astigi, as the Permanent Observer at the FAO.<sup>74</sup> On 20 June 2002, Pope John Paul II appointed Msgr. Renato Volante, Nunciature Counsellor to the Secretariat of State, as the Permanent Observer at the FAO.<sup>75</sup> Msgr. Volante is currently representing the Holy See at FAO.

Since its creation in 1945, as the first of the international organizations of the United Nations, the FAO, as a UN Specialized Agency, has developed into a global organization with a staff of 3,821 (2004), providing US\$368.3 million for technical assistance in food and agriculture, fishing, forestry and rural development.<sup>76</sup> FAO's basic mission continues into the present: to reduce food insecurity and rural poverty; to promote enabling policies and regulatory framework for food and agriculture, fisheries and forestry; to secure sustainable increases in availability and supply of food; to generate information for food and agriculture, fisheries and forestry.<sup>77</sup>

### 1.3.2 Rome: World Food Programme (WFP)

In addition to its presence as Permanent Observer at the FAO, the Holy See became a Permanent Observer at the World Food Programme (WFP). The United Nations and FAO jointly established the WFP on 19 December 1961. It began its work on

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functioning of market mechanisms or attaining higher levels of food production. It is necessary, first and foremost, *to recover a sense of the human person [...]*" (ibid.).

<sup>73</sup> See *ibid.*

<sup>74</sup> See "Vatican Bulletin," in *ORe*, 14 July 1999, p. 12.

<sup>75</sup> *Ibid.*, in *ORe*, 3 July 2002, p. 12.

<sup>76</sup> See Food and Agriculture Organization, in *UN2004*, pp. 1486–1487.

<sup>77</sup> See *ibid.*

1 January 1963 on an experimental basis for three years.<sup>78</sup> In response to urgent world needs for food aid in 1962, the WFP was activated on 18 April 1962 to meet the needs of developing crises.<sup>79</sup> On 20 December 1965, the FAO Conference and the UN General Assembly established the WFP to function on a continuous basis, providing direct food aid where needed.<sup>80</sup> Project agreements for food aid were US\$12.1 million (November–December 1963), with a Statement of Pledges to UN/FAO World Food Programme in cash, commodities and services totaling US\$90.9 million.<sup>81</sup> In 1994, the WFP’s governing body adopted a mission statement, the first mission statement that had been adopted by a United Nations organization.<sup>82</sup>

The primary focus of the WFP is food security, the eradication of hunger and poverty, and ensuring the nutritional needs of the poorest of the world are met. Since 1 January 1996, the WFP has been administered by a 36-member executive board: 18 Member States’ representatives elected by ECOSOC and 18 by the Council of the Food and Agricultural Organization (FAO).<sup>83</sup>

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<sup>78</sup> See UN GA, 16th Session, resolution 1714 (XVI) “World Food Programme,” 19 December 1961, in *Yearbook of the United Nations 1961* (=UN61), New York, Office of Public Information, 1962, pp. 249–252.

<sup>79</sup> See United Nations Economic and Social Council, 33<sup>rd</sup> Session, 18 April 1962, resolution 878 (XXXIII), in *Yearbook of the United Nations 1962* (=UN62), New York, Office of Public Information, 1963, pp. 239–240.

<sup>80</sup> See UN GA, 20<sup>th</sup> Session, resolution 2095 (XX) “World Food Programme,” 20 December 1965, in *Yearbook of the United Nations 1965* (=UN65), New York, Office of Public Information, 1966, pp. 308–309.

<sup>81</sup> World Food Programme, in *Yearbook of the United Nations 1963* (=UN63), New York, Office of Public Information, 1964, pp. 211–213.

<sup>82</sup> See World Food Programme Mission Statement, Rome, 1994, <[http://wfp.org/policies/Introduction/mission/index.asp?section=6&sub\\_section=1](http://wfp.org/policies/Introduction/mission/index.asp?section=6&sub_section=1)> (22 June 2007).

<sup>83</sup> See World Food Programme, in *UN2004*, pp. 1224–1226. In 2004, 43 years after its establishment, the WFP had delivered US\$2.9 billion worth of food aid in 80 countries to 113 million people (89 million women and children, including 8.7 million boys and 7.9 million girls through school feeding programmes; 2.8 million refugees and 6.9 million internally displaced persons). The United States was the largest contributor of US\$1.0 billion.

### 1.3.3 Rome: International Fund for Agricultural Development (IFAD)

The Permanent Observer at the FAO is also the Permanent Observer at the International Fund for Agricultural Development (IFAD). As a result of the work of the 1974 World Food Conference, a decision was reached to establish a UN Specialized Agency, functioning as an intergovernmental financial organization, to assist the poor of rural areas to overcome poverty within specific country-context situations. The Agreement to create the fund was adopted by the United Nations Conference on Establishing IFAD<sup>84</sup> held on 13 June 1976 in Rome. IFAD was brought into relationship with the United Nations on 15 December 1977<sup>85</sup> and began its work in 1978. During the period of its work (1978–2004), IFAD has invested more than US\$8.5 billion in 676 programmes and projects reaching more than 250 million of the rural poor. An additional US\$15.2 billion has been invested in co-financing involving governments and other financing sources, making the total IFAD investment to reach US\$23.7 billion.<sup>86</sup> The Holy See's Permanent Observers participate intensively in the work of IFAD in its goal of alleviating hunger and poverty in the world, emphasizing the correlation between poverty, development and the solidarity of nations in this struggle.<sup>87</sup>

In 2004, there were 163 Members of the IFAD Governing Council, with a Secretariat staff of 316 and a programme of work totaling US\$462.5 million.<sup>88</sup> According

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<sup>84</sup> See Agreement Establishing the International Fund for Agricultural Development, 13 June 1976, IFAD, Rome, 4<sup>th</sup> printing, 1998.

<sup>85</sup> See UN GA, 32<sup>nd</sup> Session, resolution 32/107 "Agreement Between the United Nations and the International Fund for Agricultural Development," 15 December 1977, in *Official Records of the United Nations General Assembly*, 1978, pp. 86–88.

<sup>86</sup> See IFAD Annual Report 2004 "Enabling the rural poor to overcome poverty," Rome, IFAD, 2005.

<sup>87</sup> See A. WAGNER, intervention "Eradication of poverty depends on development through solidarity," in *ORe*, 31 January 1996, p. 6.

<sup>88</sup> See International Fund for Agricultural Development, in *UN2004*, p. 1508.

to IFAD's 2004 Annual Report, 75 percent of the world's poorest – 800 million men, women and children – are dependent on their rural and agricultural resources for survival. IFAD's Strategic Framework for 2002–2006 focuses on enabling the rural poor, with the objectives of strengthening their capacity and organization, improving their access to natural resources and technologies and increasing their access to financial markets and services.

#### **1.3.4 Paris: United Nations Educational, Scientific and Cultural Organization (UNESCO)**

The decision to proceed with the creation of a United Nations Agency to deal with cultural issues was made in the summer of 1945 at the San Francisco Conference. During the 1930s, there had been initiatives made by the International Institute of Intellectual Cooperation in Paris to establish a similar international body.<sup>89</sup> In 1942, the Conference of Allied Ministers (including French, British and US representation) began consultations about the rebuilding of cultural institutions after the cessation of military hostilities in the world.<sup>90</sup> Convened by the governments of the United Kingdom and France, 44 UN Member States met for the first conference in London from 1 to 16 November 1945. Several draft proposals of a constitution were discussed: one prepared by the Conference of Allied Ministers of Education, a French proposal, and several additional proposals by other attending delegations.<sup>91</sup> During this first Conference, a Constitution was adopted establishing an International Educational, Scientific and Cultural Organization to be based in Paris, with Instruments for a Preparatory Commission to manage the

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<sup>89</sup> See P. PETITJEAN, "Visions and Revisions, Defining UNESCO's Scientific Culture," in J. LAMAR (ed.), *Sixty Years of Science at UNESCO 1945–2005*, Paris, UNESCO Publishing, 2006, pp. 29–30.

<sup>90</sup> See UNESCO, in *UN47*, p. 703.

<sup>91</sup> See *ibid.*

organization until ratification of the Constitution was achieved. Membership was open to all UN Member States.<sup>92</sup> On 4 November 1946, the UNESCO Constitution was ratified by the required number of States and signed in London on 16 November 1946. The 1<sup>st</sup> Session of the General Conference of UNESCO opened in Paris on 19 November 1946, with 500 delegates, observers and consultants in attendance, representing 48 countries.<sup>93</sup> UNESCO was subsequently brought into relationship with the United Nations as a Specialized Agency by an Agreement approved by the General Assembly.<sup>94</sup>

The preamble of the UNESCO Constitution reflected the devastating effects that World War II had upon the global community and the imperative need for peace and security:

The Governments of the States parties to this Constitution on behalf of their peoples declare, that since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;  
 that ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;  
 that the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;  
 that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfill in a spirit of mutual assistance and concern;  
 that a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting

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<sup>92</sup> See *ibid.*, p. 704.

<sup>93</sup> See UNESCO General Conference, 1<sup>st</sup> Session, 20 November–10 December 1946, Conference Report UNESCO/C/30, Paris, 1947, p. 19; See also UNESCO, in *UN47*, pp. 705–706.

<sup>94</sup> See UN GA, 1<sup>st</sup> Session, resolution 50 (I) "Agreement with Specialized Agencies," 14 December 1946, in *Official Records of the United Nations General Assembly*, 1947, p. 78; UN GA, 2<sup>nd</sup> Session, resolution A/77, 30 September 1946, in *Official Records of the United Nations General Assembly*, 1947, pp. 1–10; UN GA resolution A/77/Corr.1, 12 December 1946, in *Official Records of the United Nations General Assembly*, 1947, p. 1; UN GA Supplementary Agreement, resolution A/615, 12 August 1948, in *Official Records of the United Nations General Assembly*, New York, 1949, pp. 1–7; Agreement Between the United Nations and UNESCO, in *UN47*, pp. 717–721.

and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind.<sup>95</sup>

Article 1 of the UNESCO Constitution states the important role this new international organization would play in the post-war era:

The purpose of the Organization is to contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, for the rule of law and for human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.<sup>96</sup>

The 1947 approved budget was US\$6 million and the UNESCO Program for 1947 included four large-scale comprehensive projects involving: the reconstruction and rehabilitation of educational, scientific and cultural life in countries devastated by war; fundamental education; education for international understanding and the Hylean Amazon research project.<sup>97</sup> Specialized efforts were undertaken in the fields of education, natural sciences, social sciences, philosophy and humanities, arts and letters, libraries and museums, mass communication, programs for the exchange of persons, and information in specialized fields.<sup>98</sup>

The establishment and development of contacts with UNESCO had been of interest to the Holy See from the early years of the organization's formation.<sup>99</sup> In 1946, the Holy See unofficially followed the proceedings of the 1<sup>st</sup> Session of the UNESCO General Conference and, in 1947, established a provisional liaison committee with UNESCO, headed by Msgr. J. Blanchet, Rector of the Catholic Institute in Paris, together

<sup>95</sup> UNESCO, in *UN47*, pp. 712–713.

<sup>96</sup> UNESCO Constitution, in *Yearbook of the United Nations 1950 (=UN50)*, Success Lake, NY, Department of Public Information, 1951, p. 713.

<sup>97</sup> See *ibid.*, pp. 707–711.

<sup>98</sup> See *ibid.*

<sup>99</sup> See F. RUSSO, "Pope Paul VI Assigns International 'John XXIII Peace Award' to UNESCO," (=RUSSO, 'John XXIII Peace Award' to UNESCO), in *ORe*, 5 December 1974, p. 4.

with Jean Rupp and Jean Larnaud.<sup>100</sup> During UNESCO's 2<sup>nd</sup> Session of the General Conference, held in Mexico City (November–December 1947), the issues of peace and security came to the forefront of debate among the attending Delegates and Members. The President of the French Delegation, Jacques Maritain, proposed the text of an Appeal before the General Conference to reject the inevitability of war and violence.<sup>101</sup> Adopted by acclamation by delegates representing 40 nations, the resolution stated:

The representatives of Education, Science and Culture, meeting together at Mexico City at the UNESCO General Conference;

AWARE of the responsibilities imposed upon them by the Constitution of the Organization to further universal respect for justice, for the rule of law, for human rights, and the fundamental freedoms of the peoples of the world, without distinction of race, sex, language or religion;

CONCERNED at the dangers to peace resulting from currents of thought conducive to the idea that another war is inevitable;

TROUBLED by the indifference, resignation and even calm acceptance which such currents of thought meet in certain sections of public opinion;

address a solemn appeal to all who are concerned for the dignity of Man and for the future of civilization, particularly educationalists, scientists, artists, writers and journalists throughout the world;

adjure them to denounce the pernicious idea that war is inevitable;

to act as the mouthpiece of the conscience of the nations, refusing collective suicide;

to combat, by every means in their power, surrender to fear and every form of thought or action which may threaten a just and lasting peace.<sup>102</sup>

In November–December 1948, as a result of efforts in bringing to fruition the endeavours of the provisional liaison committee with UNESCO, the Holy See was

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<sup>100</sup> See *ibid.*

<sup>101</sup> See "UNESCO Appeal," *The UNESCO Courier*, vol. 1, no. 1 (February 1948), p. 1. At the beginning of the Conference, Jacques Maritain expressed his assessment of the future and our choices within the context of the post-war world: "We meet at a particularly grave moment in the world's history. In face of international tension and growing antagonism, the danger of which it would be vain to under-estimate, vast sections of public opinion risk abandoning themselves to the idea of the inevitability of war [...]. What makes UNESCO's task seem at first paradoxical is that it presupposes unity of thought among men whose conceptions are different and even opposed. However deem we go there is no longer any common basis for speculative thought. In these conditions is unity of thought conceivable? [...] Agreement may still result spontaneously, not from a common speculative philosophy, but from a common practical philosophy. This is enough to launch a great enterprise" (*ibid.*).

<sup>102</sup> *Ibid.*

invited as an observer to its Third Session of the UNESCO General Conference held in Beirut, Lebanon. The UNESCO Executive Board proposed the establishment of the status of Permanent Observer, giving an opportunity for the Holy See to participate with similar privileges as enjoyed by Member States, except the right to vote<sup>103</sup> and, at its 25th Session (15–27 January 1951), passed a preliminary resolution (25/EX/SR 14) for the “Admission of Permanent Observers of non-Member States.”<sup>104</sup> During its 26th Session (7 June–9 July 1951), the Executive Board confirmed the “Status of Permanent Observers appointed to UNESCO by non-Member States” and “authorized the Director-General to grant facilities to observers of non-Member States as described in documents 26 EX/22.”<sup>105</sup> The UNESCO Director-General would invite non-Member States as observers to General Conferences, committee meetings, seminars, other conferences, etc.<sup>106</sup>

In 1952, the Holy See was invited by the Director-General of UNESCO to attend proceedings as an observer. Pope Pius XII appointed Archbishop Angelo Giuseppe Roncalli as the first Permanent Observer on 9 June 1952, with Msgr. Angelo Pedroni as assistant Observer.<sup>107</sup> Following Archbishop Roncalli’s elevation to the College of

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<sup>103</sup> See F. RUSSO, “The Church and UNESCO,” in *ORe*, 5 December 1974, pp. 3–5.

<sup>104</sup> See UNESCO, Executive Board, Resolutions and Decisions Adopted by the Executive Board at its 25<sup>th</sup> Session, 15–17 January 1951, 25 EX/Decisions, Paris, 9 February 1951, p. 31.

<sup>105</sup> See *ibid.*, Resolutions and Decisions Adopted by the Executive Board at Its 26<sup>th</sup> Session, 7 June to 9 July 1951, 26 EX/Decisions, Paris, 27 July 1951, p. 21.

<sup>106</sup> See UNESCO, Records of the General Conference, 7<sup>th</sup> Session, Paris, Rules of Procedure, Rule 6, UNESCO, 1952, p. 106: “Notification of Sessions: The Executive Board shall, before each session of the General Conference, decide upon the list of States, not Members of the United Nations or of UNESCO, which are to be invited to send observers to that session. The Director-General shall notify these States of the convening of the session, and shall invite them to send observers” (*ibid.*).

<sup>107</sup> See *OR*, 9–10 June 1952, p. 2. From 1925–1935 Archbishop Roncalli (appointed titular Archbishop of Areopolis 1925) served in Bulgaria and as Apostolic Delegate to Bulgaria (1931–1935); from 1935–1944 as the Apostolic Delegate (appointed titular Archbishop of Mesembria 1934) to Turkey and Greece; and from 1944–1953 as the Apostolic Nuncio to France. As the papal Nuncio in Paris, he assumed responsibilities as Permanent Observer at UNESCO from June 1952 to January 1953, at which time he was elevated to the College of Cardinals and appointed

Cardinals and appointment as Patriarch of Venice, Pope Pius XII appointed Msgr. Giuseppe Sensi as Permanent Observer at UNESCO, on 21 May 1953.<sup>108</sup> Assisting him as part of the Holy See Observer Delegation were Msgr. Angelo Pedroni and Mr. Jean Larnaud.<sup>109</sup> After Msgr. Sensi's 21 May 1955 appointment as Apostolic Nuncio to Costa Rica,<sup>110</sup> Msgr. Felice Pirozzi was appointed by Pope Pius XII as the Holy See's Permanent Observer at UNESCO, on 26 June 1955.<sup>111</sup> On 19 September 1960, Pope John XXIII appointed Msgr. Pirozzi as Apostolic Delegate to Madagascar<sup>112</sup> and on 4 November 1960 appointed Msgr. Angelo Pedroni as Permanent Observer at UNESCO. Msgr. Pedroni served in Paris for almost five years until 7 April 1965 when he was appointed Apostolic Delegate to Thailand.<sup>113</sup> Pope Paul VI appointed Msgr. Giovanni Benelli as the Holy See's Permanent Observer at UNESCO on 11 May 1965. He was appointed Apostolic Pro-Nuncio to Senegal the following year on 11 June 1966.<sup>114</sup>

On 16 September 1967, Pope Paul VI appointed Msgr. Giuseppe (Josip) Zabkar<sup>115</sup> the Holy See's Permanent Observer at UNESCO. He worked in Paris less than two years until his appointment on 17 May 1969 as Apostolic Pro-Nuncio to Finland and Apostolic

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Patriarch of Venice. On 28 October 1958, Archbishop Roncalli was elected Supreme Pontiff <[http://www.vatican.va/news\\_services/liturgy/saints/ns\\_lit\\_doc\\_20000903\\_john-xxiii\\_en.html](http://www.vatican.va/news_services/liturgy/saints/ns_lit_doc_20000903_john-xxiii_en.html)> (20 September 2007).

<sup>108</sup> See *OR*, 22 May 1953, p. 1.

<sup>109</sup> See UNESCO, Records of the General Conference, 2<sup>nd</sup> Extraordinary Session, Resolutions and Proceedings, Paris, UNESCO, 1953, p. 10.

<sup>110</sup> See *OR*, 22 May 1955, p. 1. Archbishop Sensi was elevated to the College of Cardinals at the 24 May 1976 Secret Consistory (see *ORe*, 3 June 1976, p. 3).

<sup>111</sup> *Ibid.*, 26 June 1955, p. 1.

<sup>112</sup> See *ibid.*, 24 September 1960, p. 1.

<sup>113</sup> See *ibid.*, 6 Novembre 1960, p. 1; see also *OR*, 11 April 1965, p. 1.

<sup>114</sup> See *ibid.*, 12 May 1965, p. 1 and *OR*, 12 June 1966, p. 1. Archbishop Giovanni Benelli was elevated to the College of Cardinals at the 27 June 1977 Consistory, together with Archbishop Joseph Ratzinger (see *ORe*, 30 June 1977, p. 1).

<sup>115</sup> See "UNESCO", in FILIPAZZI, *Rappresentanze*, p. 267.

Delegate in Scandinavia.<sup>116</sup> Msgr. Edoardo Rovida was appointed as Msgr. Zabkar's replacement at UNESCO on 7 June 1969. After two years of service in Paris he was appointed Apostolic Nuncio to Panama, on 2 August 1971.<sup>117</sup> On 9 August 1971, Pope Paul VI appointed Msgr. Luigi Conti as Permanent Observer at UNESCO where he served until his appointment as Apostolic Nuncio to Haiti, on 1 August 1975.<sup>118</sup>

During the period between 1946–1975, State membership at UNESCO expanded from 30 Member States (at the 1<sup>st</sup> Session of the UNESCO Conference in 1946) to 136 Member States in 1975. The global scope of work being done by UNESCO had grown through the implementation of extensive projects and programmes in the fields of education, natural sciences, social sciences, humanities and culture, communications and technical assistance. The original 1947 budget of US\$6 million had grown to a biennium 1975–1976 budget of US\$165.1 million.<sup>119</sup> In recognition of the extraordinary work being done by UNESCO and to pay tribute to its humanitarian work in promoting peace, Pope Paul VI awarded UNESCO the John XXIII Peace Prize.<sup>120</sup> Archbishop Giovanni Benelli, Substitute of the Secretary of State (former Permanent Observer at UNESCO), attended the 18th General Conference of UNESCO and announced the award of the prize in Paris on 14 November 1974 with an address to those attending.<sup>121</sup>

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<sup>116</sup> See "Vatican Bulletin," in *ORe*, 29 May 1969, p. 10.

<sup>117</sup> See *ibid.*, in *ORe*, 19 June 1969, p. 12. See also *ibid.*, in *ORe*, 12 August 1971, p. 2.

<sup>118</sup> See *ibid.*, in *ORe*, 19 August 1971, p. 8. See also *ibid.*, in *ORe*, 14 August 1975, p. 8.

<sup>119</sup> See UNESCO, in *UN75*, p. 1017.

<sup>120</sup> See RUSSO, " 'John XXIII Peace Award' to UNESCO," pp. 3–5. The John XXIII Peace Prize was first awarded by Pope Paul VI to Mother Teresa of Calcutta (1971) as proposed by the Council of the John XXIII Peace Prize Foundation. The second time Pope Paul VI awarded the prize, it was to UNESCO (1974). In 1980, Pope John Paul II personally conferred the John XXIII Peace Prize to six catechists in Kumasi, Ghana (one from each African country that he visited during his pastoral African pilgrimage), who represented thousands of faithful African catechists upholding and serving the cause for peace (see *ORe*, 2 June 1980, p. 10).

<sup>121</sup> See Statement by H.E. Msgr. Giovanni Benelli, Substitute of the Secretary of State, at the 18<sup>th</sup> General Conference of UNESCO Announcing the Award of the John XXIII International Peace

On 13 August 1975, Pope Paul VI appointed Msgr. Lorenzo Frana<sup>122</sup> as Permanent Observer at UNESCO, where he served until his resignation in 2002. Pope John Paul II appointed the current Permanent Observer of the Holy See at UNESCO, Msgr. Francesco Follo, on 11 May 2002.<sup>123</sup> That same year, on the occasion of the 50<sup>th</sup> Anniversary of the Permanent Mission of the Holy See to UNESCO, Pope John Paul II sent a Message of greetings to Msgr. Follo at the colloquium being held in Paris.<sup>124</sup>

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Prize, 14 November 1974, UNESCO, Paris, 1974, English translation in *Paths*, pp. 121–125. Msgr. Benelli stated: “In its self-imposed role as the guardian of civilization, UNESCO is concerned not only with the defence of man but also with his promotion. Thus, in its educational and cultural programmes, it sets out to encourage the formulation of all the individual’s higher potentialities and values. Deciding to give precedence to ‘being more’ the Organization invites men not to become – in his search after ‘having more’ – a prey to selfish appetites, generators of conflicts of interests and ever-deepening rifts [...]” (ibid.).

Ideas rule the world, as we say. Yes, but what ideas? UNESCO has the noble mission of encouraging the growth of ideas capable of enlightening mankind and of helping man to prove by his actions that he has a constant concern for truth and objectivity. UNESCO does this by stimulating scientific research, by evaluating the chances of implementing it given the cultural realities existing in the various nations, by encouraging the comparing of ideas, and by helping to formulate a vital process of thought suitably adapted to the real needs of men. In this way, UNESCO helps to set mankind on the road to truth, seeing to it that the yearnings after happiness and peace do not remain unfulfilled, or worse still, receive only an illusory satisfaction as a result of the tricks to which propagandists of all types resort [...].

Of course, the Church and UNESCO are two very distinct realities, which, in some respects – whether essential or minor – differ greatly from each other; but although each has its own specificity and pursues its own particular mission, they both meet up on the common ground of the disinterested spirit in which they serve mankind; the mission of both of them is, in fact, to accomplish a task of an intrinsically dedicated nature, which, if it is not to come to grief, can have precious little [in common] with calculations, maneuvering or actions aimed at serving any particular interests [...].

Servants of man in the task of enabling him to be a living, aware and active member of society, UNESCO and the Church come together in this gigantic and I would say almost superhuman effort to recombine the unity of the human family. It is this grandiose view of things which actuates and stimulates within each of them, according to their individual universalist vision, their efforts on behalf of dialogue, encounter, defence and promotion. For the Church, as for UNESCO, a human being is not an individual shut away within his own destiny: he is an essentially social person, member of a universal community within which he has the right to be recognized, listened to and respected, because he is an irreplaceable, active element of that community” (ibid.).

<sup>122</sup> See “Vatican Bulletin,” in *ORe*, 21 August 1975, p. 7.

<sup>123</sup> See *ibid.*, in *ORe*, 15 May 2002, p. 12.

<sup>124</sup> See JOHN PAUL II, message for the 50<sup>th</sup> anniversary of the Permanent Mission of the Holy See to the United Nations Organization For Education, Science and Culture (UNESCO), 25 November 2002, in *ORe*, 15 January 2003, p. 6. Pope John Paul II wrote: “The institutions that

UNESCO continues its work in promoting global cooperation in the fields of education, natural sciences, social and human sciences, culture, communication and promoting a culture of peace with the International Decade (2001–2010) for a Culture of Peace and Non-Violence for the Children of the World. It expanded its work in its global agenda in 2004, by holding conferences in Albania, France, Kyrgyzstan, Spain, Viet Nam and Yemen. UNESCO membership in 2004 was 190, with six associate Members. It has a worldwide staff of 2,181 and a 2004–2005 biennium budget of US\$610 million.<sup>125</sup>

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prevailed at the foundation of UNESCO more than 50 years ago, stressed the importance of education for peace and solidarity, not losing sight of the fact that ‘if wars are born in people’s minds, it is in the human spirit that the defences of peace must be built’ (*Constitution of UNESCO*, 16 November 1945). Today these intuitions have been fully confirmed. The phenomenon of globalization has become a reality defining economies, politics and culture, bringing with it positive and negative values. They are areas that offer a challenge to our sense of responsibility so that a truly worldwide solidarity can be organized that alone can give our earth a secure future and lasting peace. In the name of the mission she has from her Founder to be the universal sacrament of salvation, without ignoring any situation, the Church never ceases to speak and act in favour of justice and peace, inviting nations to dialogue and understanding. Thus she bears witness to the truth she has received about man, his origin, his nature and his destiny. She knows that this search for the truth is the person’s innermost pursuit and that it is not defined by what he possesses but by what he is, by the capacity to surpass self and to mature in humanity. The Church also knows that, by inviting our contemporaries to seek the truth about themselves with burning rigour, she calls them to their true freedom, while other voices, enticing them to take an easier path, contribute to enslave them to the renewed fascination and power of today’s idols.

It is precisely the noble mission of UNESCO to foster such reciprocal knowledge of cultures and to encourage their institutional dialogue by all sorts of projects at the international level, namely, meetings, exchanges, formation programmes. Building bridges between human beings, and, even sometimes rebuilding them when the folly of war has worked to destroy them, is a long-term, never finished project that entails the formation of consciences, the education of youth and the change of mentalities. This is a major opportunity for a globalization that will not produce a homogenization of values or reduce everything to the laws of the global market, but rather bring about the possibility of pooling the legitimate treasures of each nation in order to serve the good of all.

For her part, the Catholic Church rejoices in what has been done, even if she knows its limitations, and she continually encourages the peaceful encounter of human beings through their cultures and the consideration of the religious and spiritual dimension of individuals, which is part of their history. This really is the reason for the presence of the Permanent Observer of the Holy See at the United Nations Organization for Education, Science and Culture, who for 50 years has been a vigilant witness to the catholic nature of the Church and to her resolute dedication to the service of the human community” (ibid.).

<sup>125</sup> See UNESCO, in *UN2004*, pp. 1488–1489.

#### **1.4 Conclusion**

The creation of the United Nations Organization and adoption of its Charter in 1945 was an unprecedented act of the human will to address the horrors faced by a world engulfed in self-destruction. Only a year before, millions were being killed by the ravages of war and millions more were being systematically exterminated by the Nazi regime in Europe. The establishment of the organs and structures of this international institution and its affiliated bodies was intended to create the environment and venue for the emerging community of nations, as they address international issues and share common goals. The nations of the world committed themselves to working together for the common good and in defence of the dignity of the human person, in the context of mutual respect for each other's sovereignty and freedom. The combined will of the majority of humankind committed itself to promote social justice, work for better standards of living, and to reaffirm fundamental human rights of individual freedom and development. The maintenance of international peace and security was the collective will of those present at San Francisco.

From the outset of these historic events, the Holy See was very attentive to the direction and developments of the United Nations, observing the establishment of international structures and organizations that could provide an important venue for the building of a culture of peace. Foundational to the Holy See's role at the United Nation is its spiritual mission. With this mission, the Holy See responded to invitations for participation and proceeded to send its Permanent Observers to the emerging United Nations Specialized Agencies and UN affiliated bodies. These formative years of development of such international agencies as FAO and UNESCO laid the foundation for

the growth and expansion of the United Nations Organization and its related bodies for decades to come. The Holy See was present and participated as a Permanent Observer in this process of bringing the community of nations of the world together at the United Nations table of peace, cooperation and development.

## Chapter II

### Pontifical Legation to the United Nations

#### 2.0 Introduction

The appointment of legates of the Roman Pontiff as observers and delegates to the United Nations and its related bodies is a relatively new innovation dating back to the post World War II period.<sup>1</sup> These legates are entrusted with an ecclesiastical office representing the Roman Pontiff in a stable manner in public authorities to which they are appointed.<sup>2</sup> Legates also represent the Apostolic See as observers or delegates to pontifical missions at international meetings, conferences and councils.<sup>3</sup> With the expansion of the scope of work done by the United Nations, the Roman Pontiff has established Missions of the Holy See, appointing Permanent Observers and Delegates (Permanent Representatives) at the United Nations Headquarters in New York, United Nations Offices in Geneva and Vienna, and pontifical legates at UN Specialized Agencies and affiliated bodies in Nairobi, Madrid, London, Montreal, and Berne. Pontifical legates and their staff at the United Nations work within the extensive framework of issues and matters before the General Assembly and over 25 UN Specialized Agencies, Commissions and Programmes world-wide. The ecclesiastical office and functions of pontifical legates appointed to the United Nations are subject to both canon law and international law.

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<sup>1</sup> On 26 July 1948, Msgr. Luigi Ligutti (Executive Director of the National Catholic Rural Life Conference – NCRLC, United States) was appointed the first Permanent Observer of the Holy See at the newly established Food and Agriculture Organization (FAO), a Specialized Agency of the United Nations. See V.A. YZERMANS, *The People I Love: Biography of Luigi G. Ligutti*, Collegeville, MN, Liturgical Press, 1976, pp. 231–247.

<sup>2</sup> See c. 363, §1.

<sup>3</sup> See c. 363, §2.

## 2.1 Legal Foundations of Pontifical Legation to the United Nations

The *CIC* reaffirms the Roman Pontiff's right to legation as the "innate and independent right to appoint, send, transfer and recall his own legates either to particular Churches in various nations or regions or to states and public authorities"<sup>4</sup> within the context of post-Vatican II *ad intra* and *ad extra* dimensions of Church relations.<sup>5</sup> As the Holy See is a signatory of the 1961 Vienna Convention on Diplomatic Relations, the norms of international law must be observed in regard to the appointment, sending and recalling of legates appointed to international organizations and bodies such as the United Nations.

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<sup>4</sup> *CIC*, c. 362. Canon 362 developed throughout the work of the Code Commissions drafts and Schemas. *CIC/17* c. 265 which states that "it is the right of the Roman Pontiff, independent of civil power, to send into any part of the world Legates, with or without ecclesiastical jurisdiction" (English translation in E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001, p. 113), was incorporated into Sections I, 2 and III, 1, of the motu proprio *Sollicitudo omnium Ecclesiarum* (=SOE), 24 June 1969, in *AAS*, 61 (1969), pp. 473–484, English translation in *ORe*, 17 July 1969, pp. 2–3, 12, and later formulated as c. 1 at the 1974 and 1975 Sessions of the Code Commission (*Communicationes*, 25 [1993], pp. 93, 152–153). The canon was formulated as c. 177 in "Populo Dei" (*Communicationes*, 12 [1980], pp. 237–238) and was published as c. 299 in the 1980 *Schema Codicis* (cf. *Relatio*, in *Communicationes*, 14 [1982], p. 185). The final version of the canon was formulated as c. 361 in the 1982 *Schema Codicis* and promulgated as c. 362 in the *CIC* in 1983.

<sup>5</sup> See G. LAJOLO, *Nature and Function of Papal Diplomacy*, Singapore, Institute of Southeast Asian Studies, 2005, p. 21. Cardinal Giovanni Lajolo was the Holy See's Secretary for Relations with States from 7 October 2003 to 15 September 2006, when he was appointed President of the Pontifical Commission for Vatican City State. He explains: "[...] First, the ancient practice of papal legation has been confirmed and 'coded,' so to speak, in treaties and conventions, such as the Congress of Vienna and the Vienna Convention on Diplomatic Relations. Second, throughout history the active and passive right to send and receive envoys has been attributed to the Holy See, not to the Papal States nor, later, to the Vatican City State. In fact, during the period that the papacy did not enjoy the exercise of temporal sovereignty because of the occupation – from 1870 to 1929 – of the Papal Territories by the then-newly created Kingdom of Italy, the Popes continued to exercise, with unaltered recognition on the part of sovereign States, their diplomatic prerogatives. Third, the international community, in recognizing the papal active and passive rights of legation, has always taken into primary consideration the moral and spiritual nature of papal diplomacy" (ibid.). Cf. D. LE TOURNEAU, "La mission *ad extra* des représentants pontificaux," in *Ius Ecclesiae*, 9 (1997), pp. 485–507; cf. G. LAJOLO, "Funzione ecclesiale delle rappresentanze pontificie," in *La Scuola Cattolica*, 3 (1969), pp. 205–231.

### 2.1.1 International Personality of the Holy See

The Holy See, commonly referred to as the government of the Catholic Church, is the subject of international law and has international personality. Functioning as its central government, it remains a constitutive part of the Catholic Church with its executive, legislative and judicial functions combined into the Holy See.<sup>6</sup>

The absolutist tendencies of the modern states, reducing religion to its merely social function and attributing to the state the authority in spiritual matters, met with the reaction of the Catholic Church. The goal of a new Church's theory of the relationship between Church and state was to defend the juridical position of the Church against the attacks in a scientific and methodical manner. Inevitably, the Church started to explain itself in a predominantly defensive way, employing the categories adopted by the civil law, particularly the notion of perfect society (*societas perfecta*).<sup>7</sup>

According to Cardinal Ottaviani, a juridically perfect society is one “which has a complete good in its order as its end, and has by right all the means to attain that end; and it is self-sufficient and independent in its order, that is, fully autonomous.”<sup>8</sup> Consequently, a “juridically imperfect society” is one “which by reason of its incomplete end, which is a part of or means to another end, is not self-sufficient or independent.”<sup>9</sup>

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<sup>6</sup> For a discussion of the notion of the Apostolic See as moral person (c. 113, §1), see G. BARBERINI, *Le Saint-Siège: sujet souverain de droit international* (=BARBERINI, *Le Saint-Siège*), Paris, Les Éditions du Cerf, 2003, pp. 21–36.

<sup>7</sup> See M. ZIMMERMANN, *Structure sociale et Église* (=ZIMMERMANN, *Structure sociale et Église*), 3<sup>rd</sup> ed., Strasbourg, Cerdic Publications, 1988, p. 11.

<sup>8</sup> “[...] quae bonum in suo ordine completum tamquam finem habens, ac media omnia ad illud consequendum iure possidens, est in suo ordine sibi sufficiens et independens, id est plene autonoma” (A. OTTAVIANI, *Institutiones iuris publici ecclesiastici* (=OTTAVIANI, *Institutiones iuris publici ecclesiastici*), ed. 4a emendata et aucta adiuvante Iosepho Damizia, vol. 1, [In Civitate Vaticana], Typis polyglottis Vaticanis, 1958, p. 46).

<sup>9</sup> “[...] quae ratione finis incompleti, qui est pars vel medium ad alium finem, nec sibi sufficiens nec independens est” (ibid.).

This concept applied to the Church allowed to prove that the Church fulfills all the requirements of the juridically perfect society:

The Church is a perfect society, whose *autonomy* or sovereignty is vested in the Roman Pontiff, under whose authority the bishops enjoy a divinely established power. The *end* of the Church is spiritual, supernatural, religious, *viz.*, the realization of the Kingdom of God, though in a visible way. The *means* are proportionate to the end, - the visible government, the infallible teaching office, the sacred ministry, which convey truth and grace.<sup>10</sup>

The terminology of perfect society was historically important to defend the rights of the Church because of various attempts to claim the supremacy of the state over the Church. Although the concept that the Church is a perfect society remains valid, it is of little importance nowadays due to a different social and cultural setting.

Today, the Holy See is identified as having international personality due to the expanded interpretation of sovereignty, autonomy, power of self-organization and capacity to enter into and act upon international juridical acts.<sup>11</sup> More specifically,

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<sup>10</sup> C.A. BACHOFEN, *A Commentary on the New Code of Canon Law*, 6th ed., revised and enlarged, vol. 1, St. Louis, MO, B. Herder Book Co., 1931, pp. 192–193.

<sup>11</sup> See V. BUONOMO, "The Holy See in the Contemporary International Community" (=BUONOMO, *Holy See*), in G. DE SIMONE (ed.), *Civitas et Iustitia*, Rome, Lateran University Press, 2004, pp. 11–14: "Turning to the canon law, the Holy See appears as a sovereign entity; indeed, it is the central organ of government of the Church. This is the idea which emerges from c. 361 of the *codex iuris canonici (CIC)* or from c. 48 of the *Codex canonum Ecclesiarum orientalium (CCEO)*. So far this perception presents no problem at all for international law: the Holy See is the "government" of the Catholic Church, i.e. of an entity which, as it has been analyzed, is by its very nature sovereign, original, with an autonomous capacity and powers of self-organization (*ibid.*, p. 14)." See also H. E. CARDINALE, *The Holy See & the International Order* (=CARDINALE, *Holy See*), Gerrards Cross, Coli Smythe, 1976, pp. 86–89: "In recent years one finds the term supra-national often used as an attribute of the Church and the Holy See. This is to be understood in an entirely different sense from the meaning of the word used in a political context, where it is perfectly homogenous. For this reason such an attribute should be applied sparingly and cautiously to religious bodies. When applied, the sense is that the Catholic Church and the Holy See, because of their origin and their ultimate aims, occupy a distinct and pre-eminent position in relations to the other members of the international community which belong to the temporal order. The Catholic Church and the Holy See are often referred to as supra-national rather than international entities in the sense that by their very nature they are not tied to any particular people, nation or form of political government but carry out a spiritual mission that is universal, i.e. directed to all mankind without distinction. Their strength derives from this

[...] [according] to the principles and rules of the international law, a subject of the international order is a *sovereign entity* with *autonomy* which is evident in its *power of self-organization*, and therefore with the *capacity* to accomplish internationally acts with juridical relevance and the corresponding aptitude to be subject to the norms of the said order [...].<sup>12</sup>

That is to say, the Church is understood as a community of people united by the link of baptism: this image expresses not only the autonomy of the aims and the authority *vis-à-vis* powers external to the Church – her *sovereignty*, but also her very own institutional physiognomy – her *self-organization power* – structured upon the basis of an ensemble of juridical regulations produced internally – that is the *originality* of her domestic legal system. The Church would thus be a “puissance,” in the typical expression applied by international law to its subjects.<sup>13</sup>

Previous models of the international personality of States, meeting criteria of a permanent population, a defined territory, government and capacity to enter into relations with other States<sup>14</sup> did not apply to the Holy See. Although the Vatican City State has its own international personality and can enter into relations with other international personalities, it is represented by the Holy See when it enters into international agreements. A clarification on the use of the titles “Vatican City State” and “Holy See” came from the UN Secretariat in 1957, when UN Secretary-General Dag Hammarskjöld identified the issue and confirmed that the appropriate title to be used was the Holy See.<sup>15</sup>

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diversion of being ‘supra,’ i.e. above, all cultural and political forms and open to all peoples and nations. It is in this sense that the term has been used above” (ibid., pp. 93–94).

<sup>12</sup> BUONOMO, *Holy See*, p. 11.

<sup>13</sup> Ibid., p. 14.

<sup>14</sup> The Montevideo Convention on Rights and Duties of States (Inter-American), 26 December 1933, was signed at the 7<sup>th</sup> International Conference of American States by 20 national representatives (and ratified by the United States) and outlined these four criteria for statehood and its international personality.

<sup>15</sup> See S. VEROSTA, “The Holy See and the International Organizations – 1972 Day of Peace at the Permanent Mission of Holy See at the IAEA,” in *ORe*, 3 May 1973, p. 4. Dr. Verosta wrote: “The year 1957 brought an important clarification concerning the relations of the Holy See with the international organizations. In the course of a conversation in Geneva Secretary-General Dag Hammarskjöld made the very pertinent remark that asking for an audience in the Vatican he did not wish to see the ruler of the State of the Vatican City, but the head of the Catholic Church. Since 1929 the Holy See has indeed been a twofold subject of international law, as the Head of the Catholic Church and as the ruler of the small and permanently neutral State of the Vatican City. The Secretariat of the UN, in a note of 29 October 1957, made this quite clear, emphasizing that the relations between the Secretariat of the UN and the Secretariat of State of His Holiness

There are various models and criteria that describe what constitutes an international personality. The United Nations itself had adopted a position on its international personality on 11 April 1949, when the International Court of Justice gave an opinion on “Reparation for Injuries Suffered in the Service of the United Nations.”<sup>16</sup>

The Court ruled that

[...] the Organization was intended to exercise and enjoy, and is in fact exercising and enjoying, functions and rights which can only be explained on the basis of possession of a large measure of international personality and the capacity to operate upon an international plane. It is at present the supreme type of international organization, and it could not carry out the intentions of its founders if it was devoid of international personality. It must be acknowledged that its Members, by entrusting certain functions to it, with the attendant duties and responsibilities, have clothed it with the competence required to enable those functions to be effectively discharged.

Accordingly, the Court has come to the conclusion that the Organization is an international person. That is not the same thing as saying that it is a State, which it certainly is not, or that its legal personality and rights and duties are the same as those of a State [...]. What it does mean is that it is a subject of international law and capable of possessing international rights and duties, and that it has capacity to maintain its rights by bringing international claims.<sup>17</sup>

Numerous authors argue in favour of the possession of international personality by the Holy See. Pio Ciprotti indicates that the Holy See’s international juridical status remained unchanged from 1870 to 1929, with the Roman Question not successfully addressed.<sup>18</sup> He bases his position on three arguments. Firstly, the rights of active and passive legation of the Holy See were not changed, ambassadors continued to be received

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‘are to be considered as relations between the United Nations and the Holy See. Also the Holy See is represented by delegations or Observers, accredited by the Secretariat of State to the various organs of the UN’ ” (ibid.).

<sup>16</sup> See *UN49*, pp. 936–945. The United Nations mediator in Palestine, Count Folke Bernadotte and other UN officers were killed while performing their duties as peace mediators for the United Nations. The Secretary-General introduced the debate to the General Assembly asking the question to be decided whether the United Nations had international personality and the legal capacity to present a claim for reparations. The question was referred to the International Court of Justice for an opinion, which was rendered on 11 April 1949. See BUONOMO, *Holy See*, p. 12.

<sup>17</sup> Ibid., p. 939.

<sup>18</sup> See P. CIPROTTI, “The Holy See: Its Function, Form and Status in International Law,” in *Concilium*, 8 (1970), pp. 63–73.

and papal legates sent to states and particular Churches throughout the world. Secondly, international conventions and concordats signed by the Holy See during this period were negotiated and recognized by the signing parties; some were registered and acknowledged as in force by the League of Nations. Thirdly, the Holy See continued to accept invitations to participate in the arbitration and mediation of disputes arising among States, with Heads of States, including non-Catholic States, visiting the Supreme Pontiff during this period.<sup>19</sup> Ciprotti presents valid arguments clarifying the position of the continuity of the right of papal legation, even during historical periods of political unrest in the world. Robert Araujo discusses and presents the issues of the Holy See's international personality in a historical study<sup>20</sup> and writes more extensively about the transitional period from the 1870s to the 1920s and the League of Nations.<sup>21</sup> Józef Krukowski, former Dean of the Faculty of Canon Law at the Catholic University of Lublin, presented his view that certain features define the "public juridical stance" of the Apostolic See, such as its sovereignty and neutrality in political affairs.<sup>22</sup> He maintained that the position that the Apostolic See has prerogatives, such as its legislative authority (bilateral pacts with individual States), its diplomatic capacity (active and passive legation) and actual participation in the work of international organizations (UN, FAO, UNESCO),<sup>23</sup> which are the core characteristics of international juridical status. G. van

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<sup>19</sup> See *ibid.*, pp. 67–69.

<sup>20</sup> See R.J. ARAUJO, "The International Personality and Sovereignty of the Holy See," in *Catholic University Law Review*, 50 (2001), pp. 291–360. For the summary of the history of the development of the notion of international personality, see also BARBERINI, *Le Saint-Siège*, pp. 9–20.

<sup>21</sup> See R.J. ARAUJO and J.A. LUCAL, *Papal Diplomacy and the Quest for Peace*, Ann Arbor, MI, Sapientia Press, 2004.

<sup>22</sup> See J. KRUKOWSKI, "The Juridical Personality of the Church in Relation to the State," in *Studia canonica*, 14 (1980), pp. 377–389.

<sup>23</sup> See *ibid.*, pp. 380–382.

den Brande (University of Leuven) makes a valuable observation, that even though the Papal States no longer existed after 1870 and the Vatican City State had not yet been created, nevertheless, the Holy See's international juridical status still endured precisely due to its internationally recognized spiritual sovereignty, role and function in the world.<sup>24</sup> As a subject of international law, the Holy See continued to enter into international agreement during the 1870–1929 period.<sup>25</sup> Pope John Paul II spoke in similar terms of the Holy See's sovereignty and spiritual mission in his address to the UN General Assembly in 1979:

The formal reason for my intervention today is, without any question, the special bond of cooperation that links the Apostolic See with the United Nations Organization, as is shown by the presence of the Holy See's Permanent Observer to this Organization. The existence of this bond which is held in high esteem by the Holy See, rests on the sovereignty with which the Apostolic See has been endowed for many centuries. The territorial extent of the sovereignty of the Holy See is limited to the small State of Vatican City, but the sovereignty itself is warranted by the need of the papacy to exercise its mission in full freedom, and to be able to deal without any dependence on other sovereignties. Of course the nature and aims of the spiritual mission of the Apostolic See and the Church make their participation in the tasks and activities of the United Nations Organization very different from that of the States, which are communities in the political and temporal sense.<sup>26</sup>

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<sup>24</sup> See G. VAN DEN BRANDE, "The Political Role of Papal Diplomacy," in *Concilium*, 9 (1982), pp. 34–39: "This spiritual sovereignty in turn was based on deep-rooted juridical and social arguments in a centuries-old practical reality. It is analogous to, but not identical with, that of a State. It is rooted in a grouping which is distinct (based on purely spiritual values), organized (there is a definite hierarchy), and goes its own independent way, freely taking measures as it deems opportune for its mission or its unity" (*ibid.*, p. 35).

<sup>25</sup> See BUONOMO, *Holy See*, p. 19: "Examples of such Agreements are the following: with the Government of Russia (1882), the Concordat with Guatemala (1884), the Conventions with Switzerland for the Canon Ticino (1884–1888) and for the Diocese of Basilea (1886), the Concordat with Portugal on royal investiture in the East Indies (1886), the Concordat with Montenegro (1886), with Colombia (1887), the Agreements with Great Britain over the Island of Malta (1890), the Concordat with Ecuador (1890), the Convention with Spain (1904), the Concordat with Serbia (1914), the Concordats with Lettonia (1922), Bavaria (1924), Poland (1925), Romania (1927) and Lithuania (1927), The *Modus vivendi* with Czechoslovakia (1927), the Conventions with Portugal for the East Indies (1928) and with Colombia (1928) (*ibid.*, Cf. in this context L. OPPENHEIM–H. LAUTERPACHT, *International Law*, vol. 1, *op. cit.*, pp. 251–252).

<sup>26</sup> See JOHN PAUL II, address to the United Nations General Assembly "Dignity of the Human Person Founded on Justice and Peace," 02 October 1979, New York, in *AAS*, 71 (1979), p. 1143, English translation in *ORe*, 15 October 1979, p. 1.

The appointment of pontifical legates to the United Nations is based upon the *ad extra* religious mission of the Church. The Church's universal nature and mission also includes being present to the world as a unifying force for peace and freedom. Therefore, the pontifical legates at the United Nations focus their work on the task of the Church as outlined in *Gaudium et spes*:

Christ did not bequeath to the Church a mission in the political, economic, or social order: the purpose he assigned to it was a religious one. But this religious mission can be the source of commitment, direction, and vigour to establish and consolidate the community of men according to the law of God. In fact, the Church is able, indeed it is obliged, if times and circumstances require it, to initiate action for the benefit of all men, especially of those in need, like works of mercy and similar undertakings [...]

By its nature and mission the Church is universal in that it is not committed to any one culture or to any political, economic or social system. Hence it can form a very close unifying effect on the various communities of men and nations, provided they have trust in the Church and guarantee it true freedom to carry out its mission. With this in view the Church calls upon its members and upon all men to put aside, in the family spirit of the children of God, all conflict between nations and races and to consolidate legitimate human organizations in themselves.<sup>27</sup>

The right of papal legation is reiterated in the motu proprio *Sollicitudo omnium Ecclesiarum*: "the Roman Pontiff has the natural and independent right freely to appoint, send, transfer and recall his representatives without prejudice to the norms of international law as regards the sending and recalling of constituted legates to states (no. III, 1)."<sup>28</sup> One can speak of two dimensions of legation: the right of legation *ad intra* which "[...] is an absolute right and carries with it complete freedom and independence from every authority whatsoever, with regard to nomination, assignment, transfer or

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<sup>27</sup> *GS*, no. 42, English translation in FLANNERY1, p. 828.

<sup>28</sup> *SOE*, in *ORe*, 17 July 1969, p. 3.

recall” and the right of legation *ad extra* which “[...] should develop in conformity with International Law.”<sup>29</sup>

Knut Walf makes critical observations concerning the system of papal legation in the global context. He acknowledges that legates of the Roman Pontiff enjoy a high degree of acceptance and esteem, known as having a universal, mediating, and peace-building function: “[...] the Vatican [possessing] qualities as a quasi supra-national institution that are otherwise sought at the United Nations and possibly also found there.”<sup>30</sup> From the start of their participation in the work of the United Nations and its related agencies and bodies, the Holy See has consistently been invited to make important contributions through interventions and discussions on a consultative basis. The status of Permanent Observer was also discussed at the 1975 Conference of Vienna, where agreement was reached for the Convention on the Relations of States with International Organizations of a Universal Character, proposing norms for Permanent Observer Missions to an International Inter-Governmental Organization, which hold equivalency to Permanent Missions of Member States.<sup>31</sup>

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<sup>29</sup> M. OLIVERI, *The Representatives: The Real Nature and Functions of Papal Legates* (=OLIVERI, *Representatives*), Gerrards Cross, Van Duren Publishers, 1981, p. 79. See also G. PARO, *The Right of Papal Legation* (=PARO, *Papal Legation*), Canon Law Studies no. 211, Washington, The Catholic University of America Press, 1947, pp. 46–184. Gino Paro wrote a historical-juridical study of the right of papal legation, tracing back its historical background to the fourth century.

<sup>30</sup> K. WALF, “The Nature of Papal Legation: Delineation and Observations,” (=WALF, “Nature of Papal Legation”), in *The Jurist*, 63 (2003), p. 98. See also CARDINALE, *Holy See*, pp. 93–95.

<sup>31</sup> See BUONOMO, *Holy See*, pp. 39–40: “It should be remembered that the *status* of Permanent Observer used by the Holy See was amply confirmed by the attitude assumed by the Pontifical Delegation to the Conference of Vienna in 1975, which had been called to adopt the *Convention on the Relations of States with International Organizations of a Universal Character*. On that occasion, indeed, the Holy See worked to obtain a double recognition: the insertion in the Convention of norms regarding the Permanent Observer Mission to an IGOs, which are equivalent *de facto* to the Permanent Observer Mission of the Member States, and then a substantial equivalence of Permanent Observers to the Delegates of Member States from a diplomatic-protocol perspective, albeit with different natures and tasks (art. 7). The same thing holds analogously for intergovernmental Conferences convened by IGOs (arts. 71–72). It should

As the Holy See is a signatory of the 1961 Vienna Convention on Diplomatic Relations, the norms of international law must be observed in regard to the appointment, sending and recalling of legates appointed to international organizations and bodies such as the United Nations. On 7 December 1959, the United Nations General Assembly passed resolution 1450 (XIV) convoking an international conference to develop a convention of diplomatic intercourse and immunities, which had not been comprehensively updated since the 1815 Congress of Vienna. As a result of the work completed by the International Law Commission and the preparation of draft articles to be considered, the United Nations Conference on Diplomatic Intercourse and Immunities met at the Neue Hofburg in Vienna, from 2 March to 14 April 1961. Present at the Conference were 320 delegates from 81 States (of which 75 were UN Members), including the Holy See, six members of related agencies or parties to the Statute of the International Court of Justice, with observers from four related agencies (ILO, FAO, UNESCO, IAEA) and two inter-governmental organizations (League of Arab States and the Asian-African Legal Consultative Committee).<sup>32</sup>

The Vienna Convention on Diplomatic Relations consisting of 53 articles was adopted on 14 April 1961 and came into force on 24 April 1964, 30 days after 22

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also be remembered that this Convention has not entered into effect and therefore does not constitute a conventional type of obligation. However, the greater part of the norms contained in it are in fact applied in international practice, and especially by States which have the headquarters of IGOs on their territory. It is therefore possible to include this fact among those international norms which are in force and binding as the result of customary procedure” (ibid.). The 1975 Vienna Convention on the Relations of States with International Organizations of a Universal Character requires 35 instruments of ratification or accession to come into force. To date, only 33 states participants have done so, leaving the Convention not in force, see <[http://untreaty.un.org.proxy.bib.uottawa.ca/ENGLISH/bible/englishinternetbible/partI/chapterII/I/treaty\\_36.asp](http://untreaty.un.org.proxy.bib.uottawa.ca/ENGLISH/bible/englishinternetbible/partI/chapterII/I/treaty_36.asp)> (23 May 2007). See also J.G. FENNESSY, “The 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character,” in *AJIL*, vol. 70, no. 1 (January 1976), pp. 62–72.

<sup>32</sup> See UNITED NATIONS, UN Doc. A/Conf. 20/14, in *UN61*, pp. 511, 517.

instruments of ratification or accession were deposited with the Secretary-General (according to art. 51 of the Convention).

The Preamble highlighted the purpose of the new Convention:

*Recalling* that peoples of all nations from ancient times have recognized the status of diplomatic agents,

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

*Believing* that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

*Realizing* that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

*Affirming* that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

*Have agreed* [...] <sup>33</sup>

The Holy See participated in the Conference at the Neue Hofburg, signed the Convention on 18 April 1961 and submitted instruments of ratification to the UN Secretary-General on 17 April 1964.<sup>34</sup> The codification of diplomatic law in the form of an international convention on diplomatic intercourse, privileges and immunities was a major advancement in establishing regulatory provisions in this area of international law. As a signatory of the Convention, the Holy See and its diplomatic practices, legates, nunciatures and missions are therefore subject to the provisions of the Vienna Convention on Diplomatic Relations.

The United Nations Conference on Consular Relations was held at the Neue Hofburg in Vienna from 4 March to 22 April 1963, with 92 States represented, including

<sup>33</sup> E. DENZA, *Diplomatic Law*, Oxford, Clarendon Press, 1998, p. 423.

<sup>34</sup> See UNITED NATIONS, *Treaty Series*, vol. 596, New York, UN Publications, 1964, pp. 95–110, 212.

the Holy See. Unanimously adopted on 22 April 1963, the Convention on Consular Relations, consisted of 79 articles which “codified the rules governing consular relations in general, facilities, privileges and immunities relating to consular posts, career consular officers and other members of a consular post.”<sup>35</sup> The Convention came into force 19 March 1967, in accordance with article 77. The Holy See signed the Convention on 24 April 1963 and submitted instruments of ratification on 8 October 1970, becoming subject to the articles of the Convention on Consular Relations.<sup>36</sup>

The level of acceptance of the Holy See’s Permanent Observer Mission by the international community of nations present at the United Nations has grown and developed into a fruitful relationship of cooperation and attentiveness to the Holy See’s contribution to substantive issues of debate, the formulation of international law legislation, interreligious dialogue, advocacy in the defence of the dignity of the human person and human rights throughout the world.<sup>37</sup> In the 20<sup>th</sup> century, the Holy See has undergone a process of professionalization of papal diplomatic services conforming to a global diplomatic practice of requiring professional practitioners and a skilled diplomatic corps able to respond and adapt to developing diplomatic requirements and procedures.<sup>38</sup>

Diplomatic relations between the Church and States throughout the world in the post-

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<sup>35</sup> *UN63*, pp. 510–513.

<sup>36</sup> See UNITED NATIONS, *Treaty Series*, vol. 596, New York, UN Publications, 1964, pp. 261–282. As of 31 December 2004, there were 181 States parties to the 1961 Vienna Convention on Diplomatic Relations and 166 States parties to the 1963 Vienna Convention on Consular Relations, in *UN2004*, p. 1317.

<sup>37</sup> See C. MIGLIORE, “Ways and Means of the International Activity of the Holy See,” in MSGR. W. ONCLIN CHAIR 1999, *Church and State Changing Paradigms*, Leuven, Katolieke Universiteit Leuven, Faculty of Canon Law, 1999, pp. 31–41.

<sup>38</sup> See D. ALVAREZ, “The Professionalization of the Papal Diplomatic Service, 1909–1967,” in *The Catholic Historical Review*, 1989, pp. 233–248. Cf. I. MARTIN, “The Church’s Relations with Foreign Governments,” in *Concilium*, 8 (1970), pp. 94–103; G. BENELLI, “Validità della diplomazia pontificia,” in *La Civiltà Cattolica*, vol. 2, quaderno 2924 (1972), pp. 268–278.

Vatican II period underwent unprecedented expansion and extension of relations.<sup>39</sup> The Holy See's expansion of global diplomatic activity included a focused attention to involvement and participation in the work of international organizations.<sup>40</sup>

Although the Holy See participated in the work of such agencies as FAO and IAEA since the 1950s, the formal invitation of Secretary General U Thant in 1964 to the Holy See to send a Permanent Observer to the United Nations marked the beginning of a higher level of participation. In 2004, the United Nations General Assembly passed resolution A/Res/58/314 formally acknowledging and establishing the range and levels of participation of the Holy See as a Permanent Observer.<sup>41</sup>

Although the great majority of nations acknowledge the right of papal legation and the Holy See's important contribution at the table of the community of nations at the UN, certain NGOs (Non-governmental Organizations) have attempted to disseminate misleading information to discredit the Holy See's reputation and position at the United Nations. Objections presented by organizations such as The National Secular Society,<sup>42</sup> Catholics for a Free Choice,<sup>43</sup> and The Center for Reproductive Law & Policy<sup>44</sup> among

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<sup>39</sup> Cf. J.C. OTERO, "Church-State Relations in the Light of Vatican II," in *Concilium*, 8 (1970), pp. 113–125. Cf. G. CAPRILE, "La diplomazia pontificia e i suoi compiti," in *La Civiltà Cattolica*, vol. 2, quaderno 2924 (1972), pp. 164–166; P. HUIZING, "Church and State in Public Ecclesiastical Law," in *Concilium*, 8 (1970), pp. 126–135; G. MUCCI, "La diplomazia pontificia dopo il Concilio," in *La Civiltà Cattolica*, vol. 2, quaderno 3336 (1989), pp. 535–546.

<sup>40</sup> Cf. B. BERTAGNA, "Santa Sede ed organizzazioni internazionali," in *Monitor ecclesiasticus*, 106 (1981), pp. 250–286.

<sup>41</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314 (=UN GA, resolution 58/314), 16 July 2004, in *Official Records of the United Nations General Assembly*, New York, 2005, pp. 1–2

<sup>42</sup> See NATIONAL SECULAR SOCIETY, "Catholic Church Abuses Its Position at the UN," 4 February 2004, <<http://www.secularism.org.uk/32964.html>> (15 November 2007).

<sup>43</sup> Catholics For a Free Choice is an organization based in Washington, DC, actively promoting a pro-choice agenda, publicly challenging the Catholic Magisterium on reproductive issues, with affiliated members in 40 US States at <[www.catholicsforchoice.org](http://www.catholicsforchoice.org)> (23 November 2007).

<sup>44</sup> The Center for Reproductive Law & Policy is a legal firm located at 120 Wall Street, New York City, specializing in constitutional law, health & health care law, civil rights. With 10 staff

others, challenge the Holy See's presence at the United Nations by making peripheral arguments about the separation of Church and State, Vatican statehood and the status of the Permanent Observer Mission at the United Nations and demanding that the Holy See should be reduced to an international NGO,<sup>45</sup> outside of the participatory sphere of dialogue within the United Nations. These arguments have failed to be convincing and the vast majority of Member States of the United Nations fully support and highly value the contribution made by the Holy See.

In his final year of office, the former UN Secretary-General Kofi Annan spoke at the annual United Nations service held at Holy Family Church in New York, where he addressed the importance of faith in the work of the United Nations:

Men and women of faith are crucial to the United Nations. As teachers and guides, you can be agents of change, and inspire people to new levels of public service. You can help bridge the chasms of ignorance, fear and misunderstanding that plague our world. You can set an example of interfaith dialogue, cooperation and respect. My predecessor Dag Hammarskjöld once said (and I quote): "The United Nations stands outside – necessarily outside – all confessions. But it is, nevertheless, an instrument of faith. As such, it is inspired by what unites, and not by what divides, the great religions of the world." And it is still true: spiritual and religious practices differ widely, but at heart we are dealing in universal values: to be merciful, to be tolerant, to love thy neighbour. No tradition can claim a monopoly on such teachings; they are ingrained in the human spirit, and enshrined in international human rights law. They animate the United Nations Charter and lie at the root of our search for global harmony and peace [...] Let us pray that whatever challenges confront us, we may make this indispensable instrument as effective as it can be, in the interests of the people it exists to serve. As someone who believes in the power of prayer, I am grateful for all your prayers these past 10 years.<sup>46</sup>

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attorneys, 50% percent of their practice is devoted to litigation, actively advocating pro-choice issues.

<sup>45</sup> See Y. ABDULLAH, "The Holy See at United Nations Conferences: State or Church?" in *Columbia Law Review*, 96 (1996), pp. 1835–1875. Yasmin Abdullah presents an adversarial position against the Permanent Observer's presence at the United Nations.

<sup>46</sup> K. ANNAN, "Secretary-General's Remarks at the Holy Family Church," 11 September 2006, <<http://www.un.org/apps/sg/sgstats.asp?nid=2198>> (15 December 2007).

Secretary-General Kofi Annan recognized the importance of an integrated approach to international matters applying both faith and reason, and the universal human need for peace and security.

### **2.1.2 Diplomatic Status of Holy See Permanent Observer Mission at the United Nations**

The status of the Holy See Mission as a Permanent Observer at the United Nations continued until 2004 on the basis of the 6 April 1964 invitation letter of UN Secretary-General U Thant to Pope Paul VI.<sup>47</sup> The Holy See had received continuous invitations to attend and participate with interventions in a wide-range of United Nations meetings, international conferences and sessions of the General Assembly. With the purpose of fulfilling its spiritual mission, the Holy See participated in the work of post World War II international organizations and United Nations Specialized Agencies as early as the late 1940s.<sup>48</sup> Although the Holy See's participation had been extensive, there was no formalized acknowledgment of the range and level of participation of the Holy See as a Permanent Observer. This issue was addressed in 2004.

On 1 July 2004 The UN General Assembly at its 92<sup>nd</sup> plenary meeting in New York considered and adopted draft resolution A/58/L.64 as UN General Assembly resolution A/RES/58/314 - "Participation of the Holy See in the Work of the United Nations."<sup>49</sup> The resolution states that the General Assembly

1. *Acknowledges* that the Holy See, in its capacity as an Observer State, shall be accorded the rights and privileges of participation in the sessions and work of the General Assembly and the international conferences convened under the auspices

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<sup>47</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 1.

<sup>48</sup> Cf. H. DE RIEDMATTEN, "The Part Played by the Holy See in International Organizations," in *Concilium*, 8 (1970), pp. 74-93. Cf. A. DE JONG, "Concordats and International Law," in *Concilium*, 8 (1970), pp. 104-112; F. CAVALLI, "Spiritualità di fini e di metodi della diplomazia pontificia," in *La Civiltà Cattolica*, vol. 1, quaderno 2702 (1963), pp. 131-144.

<sup>49</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314.

of the Assembly or other organs of the United Nations, as well as in United Nations conferences as set out in the annex to the present resolution;  
 2. *Requests* the Secretary-General to inform the General Assembly during the current session about the implementation of the modalities annexed to the present resolution.<sup>50</sup>

The Permanent Observer of the Holy See, Apostolic Nuncio, Archbishop Celestino Migliore, addressed the General Assembly:

In the context of strengthening the role of the United Nations and revitalizing the work of the General Assembly, the adoption of this resolution is an important step forward and reflects the lofty values and collective interests shared by the Holy See and the United Nations.

We are committed to the same objectives, which necessitate the protection of fundamental human rights, the preservation of the dignity and worth of the human person and the promotion of the common good. To achieve those goals the international community must build upon the strong edifice of law – law not of whim and caprice, but of principles stemming from the very universality of human nature, which can guide human reason into the future. With an edifice built on such principles guiding our efforts, we can be assured of success in our common quest for lasting, universal justice and peace.<sup>51</sup>

The resolution first acknowledges the wide scope of participation of the Holy See in the work of the United Nations as both a Permanent Observer and member in various UN subsidiary bodies.<sup>52</sup> It also acknowledges that the Holy See contributes financially to

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<sup>50</sup> *Ibid.*, p. 2.

<sup>51</sup> See UN GA, 58<sup>th</sup> Session, 92<sup>nd</sup> plenary meeting, document A/58/PV.92, 16 July 2004, in *Official Records of the United Nations General Assembly*, p. 2.

<sup>52</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, pp. 1–2. The resolution lists the Holy See's current participation in a diverse range of international instruments, including the Vienna Convention on Diplomatic Relations, Vienna Convention on Consular Relations, Vienna Convention on the Law of Treaties, the Convention relating to the Status of Refugees and the Protocol thereto, the Convention on the Rights of the Child and the Optional Protocols thereto, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention for the Protection of Cultural Property in the Event of Armed Conflict, the Paris Convention for the Protection of Industrial Property, the Treaty on the Non-Proliferation of Nuclear Weapons, the main disarmament treaties and the Geneva Conventions and the Additional Protocols. The Holy See is a Member in UN subsidiary bodies, Specialized Agencies and international intergovernmental organizations, including the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, the United Nations Conference on Trade and Development, the World Intellectual Property Organization, the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the International Committee of Military Medicine. The Holy See participates as an Observer at

the general administration of the United Nations, according to A/RES/58/1B of 23 December 2003.<sup>53</sup>

The UN Secretary-General sent a note on 16 August 2004 to the General Assembly in regard to UN General Assembly resolution A/RES/58/314 where he reiterated that

[...] as a State Member of at least one Specialized Agency, the Holy See enjoys the same rights and privileges of participation as Member States in all meetings and conferences convened under the auspices of the United Nations which are open to all Member States of the United Nations and States Members of Specialized Agencies ["all States"]. It should also be noted that, pursuant to the Statutes of the International tribunals for the Former Yugoslavia and for Rwanda, States Members of the United Nations and non-Member States maintaining Permanent Observer Missions at United Nations Headquarters, including the Holy See, have the right to submit nominations for, and to vote in, the elections of the permanent and *ad litem* judges of the aforementioned tribunals.<sup>54</sup>

The UN General Assembly resolution A/RES/58/314 Annex lists ten points which outline the rights and privileges of participation of the Holy See. The first point states that the Holy See has "the right to participate in the general debate of the General

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the FAO, ILO, WHO, UNESCO, UNIDO, IFAD, UNWTO, WTO, and is a full Member of the Organization for Security and Cooperation in Europe and a Guest of Honour in its Parliamentary Assembly. Moreover, the Holy See is an Observer in various other regional intergovernmental organizations, including the Council of Europe, the Organization of American States and the African Union, and regularly attends meetings of the Asian-African Legal Consultative Organization. In addition, the Economic and Social Council in 1977 recommended that the Holy See attend sessions of the regional commissions on the basis similar to those afforded to these UN Members which are not Members of the regional commissions.

<sup>53</sup> See *ibid.*, p. 2. See also UNITED NATIONS SECRETARIAT, document ST/ADM/SER.B/614 "Assessment of Contributions by Non-Member States Towards the 2004 Expenses of the United Nations for Their Participation in United Nations Activities," 24 December 2003, in *Official Records of the General Assembly*, 2004. See also UN GA, 61<sup>st</sup> Session, resolution 61/237, 22 December 2006, in *Official Records of the General Assembly*, 13 February 2007, 2007, p. 7. The "Assessment of Contributions by Non-member States Towards the 2004 Expenses of the United Nations for Their Participation in United Nations Activities" was set for the Holy See at US\$ 7,180 and was reconfirmed in UN General Assembly resolution A/RES/61/237 of 13 February 2007 for the fiscal years 2007–2009.

<sup>54</sup> UN GA, 58<sup>th</sup> Session, note by the Secretary-General A/58/871, 16 August 2005, in *Official Records of the United Nations General Assembly*, p. 1.

Assembly,”<sup>55</sup> the right to participate in the general debate after Member States and before Palestine.<sup>56</sup> The acknowledgment of this right was important, as a formal recognition of the continuous and permanent presence of the Holy See Permanent Observer in the debates of the General Assembly. The UN General Assembly debates are an extraordinary world forum for making a contribution in the defence of the dignity of the human person. As a result of this resolution, expanding and formally regulating the Holy See’s level of participation was a milestone in the history of the Holy See’s presence at the United Nations.

The second point of the Annex to the resolution 58/314 reiterates that “[...] without prejudice to the priority of Member States, the Holy See shall have the right of inscription on the list of speakers under agenda items at any plenary meeting of the General Assembly, after the last Member State inscribed on the list.”<sup>57</sup> In the case of the Holy See’s participation in the UN General Assembly, “all States” conferences or “in any election of the permanent or *ad litem* judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda,” the Holy See will have the same priority as Member States.<sup>58</sup>

The third point states that “the right to make interventions, with a precursory explanation or the recall of relevant General Assembly resolutions being made only once by the President of the General Assembly at the start of each session of the Assembly,” and the fourth point affords the Holy See “the right of reply.”<sup>59</sup> Interventions presented by the Permanent Observer at the General Assembly are critical moments in the transmission

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<sup>55</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 2.

<sup>56</sup> See UN SEC. GEN. NOTE, p. 2.

<sup>57</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 2.

<sup>58</sup> See UN SEC. GEN. NOTE, p. 3.

<sup>59</sup> See *ibid.*

of the message of peace and hope that the Holy See brings to all of the discussions and debates at the United Nations. The right of reply offers an additional opportunity to expand on important and often contentious issues or resolutions that have developed through the UN Committee debates and development processes to the floor of the General Assembly for reviews of the matters before the General Assembly before final voting by Member States proceeds. The effectiveness of the right of reply and presentation of interventions was further enhanced, for the first time, with points five and six which relate to the Holy See's new rights of communication at the United Nations. The Holy See now has [...]

(5) The right to have its communications relating to the sessions and work of the General Assembly issued and circulated directly, and without intermediary, as official documents of the Assembly; [and]

(6) The right to have its communications relating to the sessions and work of all international conferences convened under the auspices of the General Assembly issued and circulated directly, and without intermediary, as official documents of those conferences.<sup>60</sup>

These relate to the Holy See's right to circulate its communications, regarding agenda items and work of the General Assembly, directly and as official documents of the Assembly. Today, the Holy See has the right to circulate its communications as official documents at international conferences open to "all States" or not open to "all States" convened by the General Assembly.<sup>61</sup>

Points seven and eight of the Annex relate to the right to raise points of order and the sponsorship of draft resolutions and decisions. The Holy See has

(7) The right to raise points of order relating to any proceedings involving the Holy See, provided that the right to raise such a point of order shall not include the right to challenge the decision of the presiding officer; [and]

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<sup>60</sup> UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 3.

<sup>61</sup> See UN SEC. GEN. NOTE, p. 3

(8) The right to co-sponsor draft resolutions and decisions that make reference to the Holy See; such draft resolutions and decisions shall be put to a vote only upon request from a Member State.<sup>62</sup>

Point seven gives the Holy See the right to raise a point on agenda items related to the proceedings concerning the Holy See, with a ruling made by the presiding officer which is non-contestable. The Holy See does not have the right to make procedural motions to adjourn debate, the closure of debate and the suspension or adjournment of the meetings. These restrictions do not apply, however, if the Holy See is participating in an “all States” conference “or in an election of the permanent or *ad litem* judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda.”<sup>63</sup> Point eight refers to the Holy See’s right to co-sponsor (with a Member State) draft resolutions, draft decisions or amendments which make reference to the Holy See. Sole sponsorship is not permitted. These restrictions do not apply to “all States” conferences convened by the General Assembly.<sup>64</sup>

The ninth point of the Annex refers to seating where “the Holy See shall be arranged immediately after Member States and before the other observers when it participates as a non-Member State Observer, with the allocation of six seats in the General Assembly Hall.”<sup>65</sup> In Tribunal meetings regarding the Former Yugoslavia or Rwanda and UN General Assembly “all States” conferences, the Holy See will be seated alphabetically with other States.<sup>66</sup>

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<sup>62</sup> UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 3.

<sup>63</sup> See UN SEC. GEN. NOTE, pp. 3–4.

<sup>64</sup> See *ibid.*, p. 4.

<sup>65</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 3.

<sup>66</sup> See UN SEC. GEN. NOTE, p. 4.

The tenth and final point states that “the Holy See shall not have the right to vote or put forward candidates in the General Assembly.”<sup>67</sup> The Holy See is unable to submit its own candidacy for any election or appointment or to submit candidate names for election or appointments and is unable to vote in these elections in the General Assembly. However, it does have the right to vote and submit names of candidates, including its own, in “all States” conferences and the election of permanent of *ad litem* judges for the International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda.<sup>68</sup>

After the UN General Assembly passed resolution A/RES/58/314 on 1 July 2004, Archbishop Celestino Migliore expressed his appreciation to the Assembly:

Let me say a word of thanks to you, Mr. President [Honourable Julian R. Hunte], for your unflinching and much-appreciated willingness to submit draft resolution A/58/L.64 as a presidential text. My gratitude goes also to the staff of the Office of the President and of the Department for General Assembly and Conference Management for their kind support. Through you, Sir, I wish also to thank the facilitator of the draft resolution, Ambassador Marcello Spatafora, Permanent Representative of Italy, for having assisted you and for having so skillfully and efficiently facilitated the consultations on the draft resolution, which led to a successful conclusion. I would be remiss if I failed to offer a word of gratitude to the many Permanent Representatives who expressed to me their Governments' support of the draft resolution just adopted. Last but not least, my thanks go as well to all Member States for their invaluable support in the adoption of the resolution.<sup>69</sup>

The UN GA resolution 58/314 was a substantial step forward in formally acknowledging the Holy See's participation in the meeting of nations at the General Assembly and at international UN fora. By specifically stating the parameters of its participation and its rights, although some restrictions are applied, it gives the Holy See Permanent Observer Mission at the United Nations enhanced opportunities for

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<sup>67</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, p. 3.

<sup>68</sup> See UN SEC. GEN. NOTE, p. 4.

<sup>69</sup> UN GA, 58<sup>th</sup> Session, 92<sup>nd</sup> plenary meeting, document A/58/PV.92, in *Official Records of the United Nations General Assembly*, 2004, p. 2.

participation for the fulfilment of the Holy See's mission of being able to bring about as the "purification of reason," to defend the dignity of the human person, to strive for peace and development; in other words, making an important contribution to the debates among the delegates of UN Member States.

### **2.1.3 Diplomatic Status of the Holy See Permanent Observer at the United Nations Headquarters in New York**

The first consular relations between the Papal States and the United States were established by President John Adams in March 1797.<sup>70</sup> These relations moved from ambassadorial levels of diplomatic relations in 1847 to the termination of all formal relations in 1867 by the US Congress. Presidents F.D. Roosevelt, Truman, Nixon, Ford and Reagan chose to send personal representatives to the Holy See (1939–1981).<sup>71</sup> President Reagan reestablished full diplomatic relations with the Holy See by appointing Ambassador William A. Wilson on 10 January 1984.<sup>72</sup>

Until recently, the United States government had not extended to the Holy See diplomatic privileges and immunities afforded other representatives of Member States at the United Nations. This issue was addressed and resolved in late 2006 and early 2007. Congressman Chris Smith (Republican Party–NJ), Chairman of the House International Relations Subcommittee on Africa, Global Human Rights and International Operations (109<sup>th</sup> Congress) authored a bill that would extend full diplomatic privileges and immunities to the Holy See Observer Mission to the United Nations.<sup>73</sup> Congressman

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<sup>70</sup> See J.A. CORIDEN, "Diplomatic Recognition of the Holy See," in *The Jurist*, 48 (1988), p. 484.

<sup>71</sup> See *ibid.*, pp. 484–486.

<sup>72</sup> See *ibid.*, p. 490.

<sup>73</sup> See U.S. HOUSE OF REPRESENTATIVES, CONGRESSMAN CHRIS SMITH, "Congress Moves Holy See's UN Observer Mission Closer to Diplomatic Status," 12 December 2006, <[http://www.house.gov/list/press/nj04\\_smith/HR6060holysee.html](http://www.house.gov/list/press/nj04_smith/HR6060holysee.html)> (20 January 2007).

Smith, in his press release of 12 December 2006 stated the importance of the steps being taken to extend diplomatic privileges to the Holy See:

The strong relationship between the U.S. and the Holy See is based on a shared commitment to human dignity. As partners in this effort, we have worked together to advance human rights, religious freedom, justice, equality and the rule of law around the globe. Our mutually beneficial relationship will be strengthened by granting diplomatic privileges and immunities to the Holy See's Permanent Observer Mission to the UN [...] For over 40 years, the Holy See has served as a Permanent Observer at the United Nations. The Holy See is held in high regard for their diplomatic efforts and much of that respect has been earned through their work at the UN.<sup>74</sup>

The bill, part of a provision in the "Department of State Authorities Act of 2006" (H.R. 6060) was passed by both the U.S. House of Representatives and the U.S. Senate in December 2006 and sent for signature to President George W. Bush. On 11 January 2007, President Bush signed it into law, giving full diplomatic privileges and immunities to the Holy See Permanent Observer Mission to the United Nations.<sup>75</sup>

## **2.2 Pontifical Legates as Representatives of the Roman Pontiff**

The expression "Holy See" has two different meanings: in the first sense it means the office of Supreme Pontiff. In a broader sense, however, it means also the sections of the Secretariat of State: the First Section for General Affairs and the Second Section for Relations with States, and congregations, tribunals and other institutions, whose structures and competencies are defined in special law for the Roman Curia, fulfilling their duties in the name of the Roman Pontiff and by his authority for the good and the service of the particular churches.<sup>76</sup>

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<sup>74</sup> Ibid.

<sup>75</sup> See THE WHITE HOUSE, "President George Bush Signs H.R. 486, 4588, 6060 and 6345," 11 January 2007 <<http://whitehouse.gov/news/releases/2007/01/20070111-4.html>> (25 June 2007).

<sup>76</sup> See c. 361, PB 39–47. Cf. c. 7 of the *CIC/1917*.

## 2.2.1 Recent Legislation on Papal Representatives

### 2.2.1.1 The Reform of the Roman Curia – Apostolic Constitution *Pastor bonus*

The bishops attending the Second Vatican Council expressed the desire for the reform of the Roman Curia and the revision of the functions of pontifical legates. In the early months of his pontificate, Pope Paul VI identified this need in his allocution to the Roman Curia on 21 September 1963 and the need for an “*aggiornamento*.”<sup>77</sup> Vatican II Council Fathers in *Christus Dominus* called upon the Roman Pontiff to reorganize and modernize the Roman Curia, to integrate international staff and the laity into a universal and unifying administration of the Church, to review the practices and procedures.<sup>78</sup>

The Roman Curia was subsequently reorganized and reformed on 15 August 1967 by Pope Paul VI by the Apostolic Constitution *Regimini Ecclesiae universae*, taking

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<sup>77</sup> See PAUL VI, allocution to the Roman Curia, 21 September 1963, in *AAS*, 55 (1963), pp. 793–800, English translation in *CLD*, vol. 6, pp. 313–322: “Meanwhile it is to be noted today that the plan of modernizing juridical structures and deepening spiritual consciousness not only meets no resistance from the center of the Church, the Roman Curia, but finds the Curia itself in the forefront of that perennial reformation which the Church, as a human and earthly institution, constantly needs. Rome is today the starting point of the invitation to adaptation – ‘*aggiornamento*’ according to the expression used by Our venerable Predecessor – that is, to the perfecting of everything, internal and external, in the Church” (ibid., p. 318).

<sup>78</sup> See *CD*, nn. 9–10, English translation in *FLANNERY*1, pp. 508–509: “In exercising his supreme, full and immediate authority over the Universal Church the Roman Pontiff employs the various departments of the Roman Curia, which act in his name and by his authority for the good of the churches and in the service of the sacred pastors. It is the earnest desire of the Fathers of the sacred Council that these departments, which have indeed rendered excellent service to the Roman Pontiff and to the pastors of the Church, should be reorganized and modernized, should be more in keeping with different regions and rites, especially in regard to their number, their names, their competence, their procedures and methods of coordination. It is hoped also that, in view of the pastoral role proper to bishops, the functions of the legates of the Roman Pontiff should be more precisely determined. Furthermore, as these departments have been instituted for the good of the universal Church it is hoped that their members, officials and consultants, as well as the legates of the Roman Pontiff, may be chosen, as far as is possible, on a more representative basis, so that the offices or central agencies of the Church may have a truly universal spirit. It is urged also that more bishops, especially diocesan bishops, be co-opted to membership of these departments, who will be better able to inform the Supreme Pontiff on the thinking, the hopes and the needs of all the churches. Finally, the Fathers of the Council judge that it would be most advantageous if these departments were to have frequent recourse to the advice of laymen of virtue, knowledge and experience so that they also may have an appropriate role in the affairs of the Church” (ibid., p. 508).

effect on 1 March 1968.<sup>79</sup> On 22 February 1968, the *General Regulations of the Roman Curia* were published.<sup>80</sup> The next major reform of the Roman Curia came with the promulgation of the Apostolic Constitution *Pastor bonus* by Pope John Paul II on 28 June 1988. The introductory section of *Pastor bonus* addresses the importance of service and communion in the Church and the purpose of the Roman Curia in strengthening this fruitful communion.<sup>81</sup> *Pastor bonus* continues to address the dependency of Curial ministry upon the Petrine ministry, and explains the ecclesial and vicarious character of

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<sup>79</sup> PAUL VI, apostolic constitution *Regimini Ecclesiae universae* (=REU), 15 August 1967, in *AAS*, 59 (1967), pp. 885–928, English translation in *CLD*, vol. 6, pp. 324–357.

<sup>80</sup> PAUL VI, *Regolamento Generale della Curia Romana* (*General Regulations of the Roman Curia*), 22 February 1968, in *AAS*, 60 (1968), pp. 129–176, English translation in *CLD*, vol. 7, pp. 147–176. These regulations were updated by Pope John Paul II through the Secretariat of State (in *AAS*, 84 [1992]) and further modified (in *AAS*, 91 [1999], pp. 629–699), English translation in *Exegetical Comm*, vol. 5, pp. 176–256.

<sup>81</sup> See *PB*, nn. 1–2, English translation in *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, CLSA, 1999, Appendix 2, pp. 683–686: “The Good Shepherd, the Lord Christ Jesus (cf. Jn 10:11–14), conferred on the bishops, the successors of the Apostles, and in a singular way on the bishop of Rome, the successor of Peter, the mission of making disciples in all nations and of preaching the Gospel to every creature. And so the Church was established, the people of God, and the task of its shepherds or pastors was indeed to be that service “which is called very expressively in Sacred Scripture a *diaconia* or ministry” (*LG*, 24) [...] The main thrust of this service or *diaconia* is for *more and more communion or fellowship to be generated* in the whole body of the Church, and for this communion to thrive and produce good results [...]. When one thinks about this communion, which is the force, as it were, that glues the whole Church together, then the hierarchical constitution of the Church unfolds and comes into effect. It was endowed by the Lord himself with a *primal and collegial nature at the same time* when he constituted the apostles “in the form of a college or permanent assembly, at the head of which he placed Peter, chosen from amongst them.” [...] The power and authority of the bishops bears the mark of *diaconia* or *stewardship*, fitting the example of Jesus Christ himself who “came not to be served, but to serve and to give his life as a ransom for many.” Therefore the power that is found in the Church is to be understood as the power of being a servant and is to be exercised in that way; before anything else it is the authority of a shepherd [...] For the Roman Curia came into existence for this purpose, that the fruitful communion we mentioned might be strengthened and make ever more bountiful progress, rendering more effective the task of pastor of the Church which Christ entrusted to Peter and his successors, a task that has been growing and expanding from day to day” (*ibid.*).

the Roman Curia, with its primary function of ministry for the good of the Church and service to the bishops.<sup>82</sup>

*Pastor bonus* identifies the Secretariat of State as one of the dicasteries of the Roman Curia (art. 2, §1) are juridically equal to the other dicasteries, such as congregations, tribunals, councils and offices, the Apostolic Camera, the Administration of the Patrimony of the Apostolic See, and the Prefecture for the Economic Affairs of the Holy See (art. 2, §1, 2). The Secretariat of State (Secretary of State: Cardinal Tarcisio Bertone, SDB) is composed of two sections: the First Section for General Affairs (Substitute: Archbishop Fernando Filoni; Assessor: Msgr. Gabriele Giordano Caccia) and the Second Section for Relations with States (Secretary: Archbishop Dominique Mamberti; Undersecretary Msgr. Pietro Parolin) (art. 40). Pontifical legates representing the Holy See at the United Nations are within the competence of the Second Section, which is mandated to “[...] foster relations, especially those of a diplomatic nature, with States and other subjects of public international law, and to deal with matters of common interest, promoting the good of the Church and of civil society by means of concordats

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<sup>82</sup> See *PB*, nn. 7–8, pp. 691–692: “Consequently, it is evident that the function of the Roman Curia, though not belonging to the essential constitution of the Church willed by God, has nevertheless a *truly ecclesial character* because it draws its existence and competence from the pastor of the universal Church. For the Curia exists and operates only insofar as it has a relation to the Petrine ministry and is based on it. But just as the ministry of Peter as the “servant of the servants of God” is exercised in relationship with both the whole Church and the bishops of the entire Church, similarly the Roman Curia, as the servant of Peter’s successor, looks only to help the whole Church and its bishops. [...] Its nature and role consist entirely in that the more exactly and loyally the institution strives to dedicate itself to the will of the Supreme Pontiff, the more valuable and effective is the help it gives him. [...] Beyond this ministerial character, the Second Vatican Council further highlighted what we may call the vicarious character of the Roman Curia, because, as we have already said, it does not operate by its own right or on its own initiative. It receives its power from the Roman Pontiff. It is of the nature of this power that it always joins its own action to the will of the one from whom the power springs. It must display a faithful and harmonious interpretation of his will and manifest, as it were, an identity with that will, for the good of the Churches and service to the bishops. From this character the Roman Curia draws its energy and strength, and in it too finds the boundaries of its duties and its code of behavior” (ibid.).

and other agreements of this kind [...]” (art. 46, no. 1). In consultation with competent dicasteries, the Second Section is also mandated to represent the Holy See in international fora: “[...] in consultation with other competent dicasteries, this section takes care of matters concerning the presence and activity of the Holy See in international Organizations, without prejudice to art. 46. It does the same concerning Catholic international organizations” (art. 46, no. 2). Article 46 specifies that the Second Section has “[...] within the scope of its competence, to deal with what pertains to the pontifical legates” (art. 46, no. 3). Overseeing the diplomatic activity of pontifical legates is an important part of the work of the Second Section.

Members of institutes of consecrated life, societies of apostolic life and the laity take part in the diplomatic functions of the Holy See. Consultors and collaborators, appointed from among the Christian faithful other than clerics, are representative of the global Catholic community, exhibiting outstanding knowledge and prudence in specific areas of expertise.<sup>83</sup> The Holy See seeks out from the worldwide reserve of talent and skill found from among the Christian faithful, both clergy and laity, noted for their virtue, prudence and experience, knowledge and academic training, to participate in and contribute to the work and mission entrusted to the Roman Curia.<sup>84</sup>

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<sup>83</sup> See *PB*, art. 8, p. 701.

<sup>84</sup> See *ibid.*, art. 9, p. 701: “Officials are [...] selected as far as possible from the various regions of the world, so that the Curia may express the universal character of the Church. The suitability of the applicants should be evaluated by test or other appropriate means, according to the circumstances. Particular Churches, moderators of institutes of consecrated life and of societies of apostolic life will not fail to render assistance to the Apostolic See by allowing their Christian faithful or their members to be available for service at the Roman Curia” (*ibid.*).

### 2.2.1.2 Post-Vatican II Special Law for Pontifical Legates

In 1965, the Second Vatican Council requested Pope Paul VI to review the functions of pontifical legates and to bring a more representative selection of people to serve the universal Church.<sup>85</sup> The role and functions of the legates of the Roman Pontiff were reformed by special law, on 24 June 1969, by Pope Paul VI in his motu proprio *Sollicitudo omnium Ecclesiarum*,<sup>86</sup> parts of which were later integrated into the canons of the *CIC* (cc. 362–367). The introductory section of the motu proprio refers to various documents from Vatican I and II, post-conciliar documents and Scripture, presenting the context within which the new norms were being established.<sup>87</sup> In particular, there are references to the work of pontifical legates in international organizations and conferences.<sup>88</sup>

Paul VI's motu proprio *Sollicitudo omnium Ecclesiarum* is divided into 12 sections, addressing different aspects and levels of pontifical representations, entrusted with representing the Holy See to particular Churches, States and international

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<sup>85</sup> See *CD*, nn. 9–10, pp. 508–509: “It is hoped also that, in view of the pastoral role proper to bishops, the functions of the legates of the Roman Pontiff should be more precisely determined. 10. Furthermore, as these departments have been instituted for the good of the universal Church it is hoped that their members, officials and consultors, as well as the legates of the Roman Pontiff, may be chosen, as far as possible, on a more representative basis, so that the offices or central agencies of the Church may have a truly universal spirit” (ibid.).

<sup>86</sup> Prior to the publication of this 1969 motu proprio, pontifical legates were subject to the provisions of cc. 265–270 of the *CIC/17*, together with periodically published lists of habitual faculties attached to their offices. A detailed study of the integration of provisions of the *SOE* and the applicable *CIC/17* canons (for the period 1969–1981) can be found in OLIVERI, *Representatives*.

<sup>87</sup> See *SOE*, Introduction, in *ORe*, 17 July 1969, p. 2.

<sup>88</sup> See ibid.: “The deep desire of all men of goodwill that there be a peaceful co-existence among nations, and the progress of peoples be developed, is at present expressed also through the international Organizations which, by placing their knowledge and experience and their prestige at everyone's disposal do not spare efforts in this service in favour of peace and progress. Relationship between the Holy See and international Organizations are manifold and of a varied juridical nature. In some of them We have instituted permanent missions in order to testify to the interest of the Church in the general problems of civilized living and offer the aid of its co-operation” (ibid.).

organizations.<sup>89</sup> Section I defines the term “papal legates” as being “[...] ecclesiastics, often endowed with the episcopal dignity, to whom the Roman Pontiff entrusts the office of representing him in a permanent manner in various nations or regions of the world.”<sup>90</sup> This first section describes the juridical nature of the office and lists the types and titles of papal legates such as nuncios, pro-nuncios, apostolic delegates, and substitute representatives. The *motu proprio* establishes norms for pontifical missions to international organizations, conferences and congresses, making specific mention of the laity as possible heads or members of a pontifical mission.<sup>91</sup> The *motu proprio* specified that members of pontifical missions to international organizations were to be known as Delegates or Observers depending upon the Holy See’s membership or observer status in a specific international organization or conference the Holy See was attending.<sup>92</sup> Legates appointed to international organizations transmit to the Holy See communications and documents from the meetings of these organizations, act as liaison with the UN Secretary-General and receive instructions from the Holy See’s Secretary of State as to the positions to assume and responses to propose on behalf of the Holy See.<sup>93</sup>

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<sup>89</sup> Cf. F. CAVALLI, “Il *motu proprio* ‘*Sollicitudo omnium Ecclesiarum*,’ sull’ufficio dei rappresentanti pontifici,” in *La Civiltà Cattolica*, vol. 3, quaderno 2857 (1969), pp. 34–43. Cf. G. DE ROSA, “Le nunziature apostoliche,” in *La Civiltà Cattolica*, vol. 1, quaderno 3545 (1998), pp. 451–460; cf. D. LE TOURNEAU, “Les légats pontificaux dans le Code de 1983, vingt ans après la constitution apostolique *Sollicitudo omnium Ecclesiarum*,” in *L’Année canonique*, 32 (1989), pp. 229–260.

<sup>90</sup> *SOE*, no. I, 1, in *ORe*, 17 July 1969, p. 3.

<sup>91</sup> See *SOE*, no. II, 1–2, in *ORe*, 17 July 1969, p. 3.

<sup>92</sup> See *ibid.*: “Also representing the Holy See are those ecclesiastics and laymen who form, either as heads or members, part of a pontifical mission attached to international Organizations or take part in conferences and congresses. They have the title of Delegates or Observers according to whether or not the Holy See is a member of the international Organization, and whether it takes part in the conference with or without the right to vote” (*ibid.*).

<sup>93</sup> See CARDINALE, *Holy See*, pp. 272–272. At the United Nations, the Permanent Observer of the Holy See has Permanent Observer, Delegate and Observer status, depending on the level of participation of the Holy See in a specific UN body, agency, commission, etc. This section of the

*Sollicitudo omnium Ecclesiarum* identifies the nature and the principal, characteristic function of a pontifical legate as making stronger and more effective the bonds of unity between the Apostolic See and particular Churches throughout the world.<sup>94</sup> The pontifical legate functions also as a conduit for peace and unity of the whole of the human family within the country in which he serves.<sup>95</sup> The legate sent to particular Churches and States is to work in concert with diocesan bishops for the good of the mission of the Church, to foster good relations with local State authorities, to nurture relations with other ecclesial and Christian communities, and non-Christian religions.<sup>96</sup> The pontifical legate reports to the Roman Curia, or more specifically, he “performs his manifold assignment under the direction of and in accordance with the mandate of the Cardinal Secretary of State and of the Prefect of the Council for the Public Affairs of the Church.”<sup>97</sup>

Pontifical legates are to inform the Holy See about local matters and conditions, and to interpret the acts, documents and mandates of the Holy See and the Roman Curia. The pontifical legate is to consult the local bishops concerning any matters or decisions that may affect the specific territory.<sup>98</sup> In particular, the legate within a specific country deals with the process of the nomination of bishops, studies issues concerning the erection, dismemberment and suppression of dioceses and ecclesiastical provinces and

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motu proprio (*SOE*, no. II, 1–2, in *ORe*, 17 July 1969, p. 3) was integrated into c. 363, §2, replacing the word “laity” and “clerics” with “those.”

<sup>94</sup> See *SOE*, no. IV, 1, in *ORe*, 17 July 1969, p. 3.

<sup>95</sup> See *ibid.*, no. IV, 2, in *ORe*, 17 July 1969, p. 3: “In addition, he functions as interpreter of the solicitude of the Roman Pontiff for the good of the country in which he exercises his mission. In a special way he must take to heart the questions which concern peace, progress and collaboration of peoples with the intent of promoting the spiritual, moral and economic good of the whole human family” (*ibid.*).

<sup>96</sup> See *ibid.*, nn. IV, 3–4, in *ORe*, 17 July 1969, p. 3.

<sup>97</sup> *Ibid.*, no. IV, 5, in *ORe*, 17 July 1969, p. 3.

<sup>98</sup> See *ibid.*, no. V, in *ORe*, 17 July 1969, p. 3.

maintains a good working relationship with diocesan bishops, the Episcopal conference, conferences of religious superiors, pontifical religious communities and secular institutes.<sup>99</sup>

The pontifical legate is mandated to promote and cultivate Church-State relations in the country within which he serves, seeking the opinion and advice of diocesan bishops, and to inform these bishops of the development of any matters affecting the particular Churches of the territory.<sup>100</sup> Church-State relations are an integral part of the pontifical legate's functions and the need for dialogue with civil authorities is imperative.<sup>101</sup> Pope Benedict XVI spoke about this important relationship in his address to the Ambassador of Italy:

In this way, in fact, the principle is realized which was spelled out by the Second Vatican Council and explains that “the political community and the Church are autonomous and independent of each other in their own fields. Nevertheless, both are devoted to the personal vocation of man, though under different titles” (*GS*, no. 76) [...].

In pursuing this aim, the Church is neither proposing goals of power for herself nor claiming privileges or aspiring to advantageous social or financial positions. Her sole purpose is to serve men and women [...]. The Church, therefore, is not and does not intend to be a political agent. At the same time, she has a profound interest in the good of the political community, whose soul is justice, and offers it her specific contribution at a double level. [...] Christian faith purifies reason and helps it to be better: as a result, with its social doctrine, whose argument begins from what is conformed to the nature of every human being, the Church's contribution is to enable whatever is just to be effectively recognized and then also accomplished.<sup>102</sup>

The motu proprio *Sollicitudo omnium Ecclesiarum* mandates the papal legate appointed to particular Churches and at the same time to States to assume additional responsibilities in specific circumstances. If there is no Holy See Delegate or Observer at an international organization in this territory, it is the pontifical legates' responsibility to follow the agenda programs of these organizations, to keep the Holy See informed and to

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<sup>99</sup> See *ibid.*, nn. VI–IX, in *ORe*, 17 July 1969, p. 3.

<sup>100</sup> See *ibid.*, no. X, in *ORe*, 17 July 1969, pp. 3, 12.

<sup>101</sup> See *GS*, no. 76, pp. 864–866.

<sup>102</sup> BENEDICT XVI, address to the new Italian ambassador, in *ORe*, 24 October 2007, p. 5.

“[...] promote after consultations with bishops, beneficial collaboration between welfare and educational institutes established by the Church and similar institutes whether government supported or not; [and to] support and promote the activities of Catholic international organizations.”<sup>103</sup> Conversely, delegates or observers appointed to international organizations need to consult with the pontifical legate assigned to the State or particular Churches on whose territory that organization has its Offices.<sup>104</sup>

The motu proprio *Sollicitudo omnium Ecclesiarum* exempts the pontifical legate from the jurisdiction of the local Ordinary, addresses his right to perform liturgical acts, and grants certain faculties. Moreover, within “[...] the confines of his legation, the legate of the Roman Pontiff takes precedence over archbishops and bishops but not over members of the Sacred College nor patriarchs of the Oriental Churches whether they are in their own territory or are elsewhere performing sacred functions in their own rite.”<sup>105</sup> The mission of the legate does not cease during a period of the vacancy of the Apostolic See, but does cease with the completion of his mandate, by revocation, by renunciation accepted by the Roman Pontiff or by reaching the age of 75.<sup>106</sup>

The *CIC* did not abrogate the motu proprio *Sollicitudo omnium Ecclesiarum* and there has been some debate whether it remains in force as special law. There was no substantial reorganization of the special law in the canons of the *CIC* relating to pontifical legates, rather a continuation of the process of revising their role and functions in response to the request of the Second Vatican Council Fathers. The *CIC* consistently refers to the motu proprio as the source for several of the canons, and specifically c. 363,

<sup>103</sup> *SOE*, no. XI, 1, in *ORe*, 17 July 1969, p. 12. This section of the *SOE* was an innovation that was not in the *CIC/17* and was not further integrated into the *CIC*.

<sup>104</sup> See *ibid.*, no. XI, 2, in *ORe*, 17 July 1969, p. 12.

<sup>105</sup> *Ibid.*, no. XII.

<sup>106</sup> See *ibid.*, no. III, 2–3.

§2 dealing with international organizations. The majority of authors, including K. Walf,<sup>107</sup> F. Petroncelli Hubler,<sup>108</sup> and B. Udaigwe<sup>109</sup> maintain that the *motu proprio Sollicitudo omnium Ecclesiarum* is special law, working in concert with the *CIC* in expanding our understanding of the role and functions of pontifical legates in the context of Vatican II. In turn, F. Nwachukwu<sup>110</sup> and A. Urru<sup>111</sup> argue that the *CIC* has reorganized the provisions of *Sollicitudo omnium Ecclesiarum* and therefore abrogates it to a role of indirect complement or assistance. This is a minority opinion and interpretation of c. 6, when visiting the question of abrogation of previous laws at the promulgation of the *CIC*.

### **2.2.1.3 Development of Canons on Pontifical Legates in the Process of the Revision of the Code of Canon Law**

The goal of the work of the Pontifical Commission for the Revision of the Code of Canon Law in developing the canons concerning pontifical legates was to integrate the teachings of the Vatican II Council and the subsequent *motu proprio Sollicitudo omnium Ecclesiarum*. The Code Commission met 2–6 December 1974, with Cardinal Pericle Felici, Commission President; Msgr. W. Onclin, Adjunct Secretary; Rev. J. Herranz and four additional consultors who proceeded in session to study and propose new canons. The 15<sup>th</sup> session in 1974 proposed eleven canons which included updated variations of

<sup>107</sup> See WALF, “Nature of Papal Legation,” pp. 96–97.

<sup>108</sup> See F. PETRONCELLI HUBLER, “Papal Legates,” in *Exegetical Comm*, vol. 2/1, pp. 687–705.

<sup>109</sup> See B. N. UDAIGWE, *The Office of the Papal Legate According to c. 363, §1* (=UDAIGWE, *Office of Papal Legate*), Rome, Pontificia Universitas Urbaniana, 1994, p. 60.

<sup>110</sup> See F. NWACHUKWU, *Canons 364 and 365. The Holy See and the State of Israel* (=NWACHUKWU, *Holy See*), Rome, Pontificia Studiorum Universitas a S. Thoma Aq. in Urbe, 1996, p. 53.

<sup>111</sup> See A. URRU, *L’Autorità Suprema della Chiesa*, Roma, 1993, p. 72.

the canons of the *CIC/17*, cc. 265–270 and sections of the motu proprio *Sollicitudo omnium Ecclesiarum*: nn. I, 1–2; II, 2; III, 1, 3; IV, 1–5; VIII, 1–2; X, 1–2; XI, 1–3.<sup>112</sup>

The 16th session to deal with canons on the pontifical legates by the Code Commission was held 15–19 December 1975, with Bishop Rosalio Castillo Lara, Commission Secretary presiding; Msgr. Onclin, Adjunct Secretary; with Rev. J. Herranz and four consultants in attendance. The number of canons was reduced to 8 from the previous 11 and only sections nn. I, 1–2; II, 1–2; III, 1, 3; and X, 1–3 of *Sollicitudo omnium Ecclesiarum* were clearly integrated into the proposed canons. Section no. II, 1 of the motu proprio replaced the whole of the previously proposed c. 3 (1974) and included the text regarding both ecclesiastics and laypersons being appointed as heads and members of (Holy See) pontifical missions to international organizations, conferences and congresses as delegates and observers.<sup>113</sup>

The Code Commission published the *Schema canonum libri II: De Populo Dei* in 1977, and the 8 canons of the 1975 session were included within Chapter V “De Romani Pontificis Legatis” as cc. 177–184.<sup>114</sup> From the *Schema canonum libri II: De Populo Dei*

<sup>112</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus studii “De sacra Hierarchia,” session 15, “De Legatis Romani Pontificis,” in *Communicationes*, 25 (1993), pp. 93–100.

<sup>113</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus studii “De Sacra Hierarchia,” session 16, “De Legatis Romani Pontificis,” in *Communicationes*, 25 (1993), p. 153. The text of the motu proprio *Sollicitudo omnium Ecclesiarum*, no. II, 1: “Also representing the Holy See are ecclesiastics and laymen who, as heads or members, are part of a papal mission to international organizations or to conferences and congresses. These are called delegates or observers according to whether the Holy See is registered or not registered among the members of the respective international organization and whether it takes part in a conference with or without the right to vote” (in *ORE*, 17 July 1969, pp. 2–3).

<sup>114</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema canonum libri II: De Populo Dei*, Città del Vaticano, Typis polyglottis Vaticanis, 1977, pp. 78–81. The development of the canons from the *CIC/17*, *SOE*, 1975 Code Commission’s 16<sup>th</sup> session to the 1977 Draft of Book II: *De Populo Dei*: c. 177 ([*CIC/17*, c. 265] = [*SOE*, no. III, 1] = [1975, c. 1]); c. 178 ([new] = [*SOE*, no. I, 1; II, 2] = [1975, c. 2]); c. 179 ([new] = [*SOE*, no. II, 1] = [1975, c. 3]); c. 180 ([*CIC/17*, c. 267] = [*SOE*, no. I, 2] = [1975, c. 4]); c. 181 ([*CIC/17*, c. 267, §1, 1<sup>o</sup>] =

(1977), the next stage of development of the canons relating to pontifical legates was discussed at the 5<sup>th</sup> Session of the Code Commission held 12–16 February 1980, chaired by Cardinal Pericle Felici, Pontifical Code Commission President. Working at the session were Archbishop Rosalio Castillo Lara, Commission Secretary; Msgr. W. Onclin, Adjunct Secretary; Rev. J. Herranz and Msgr. N. Pavoni. Others present were Bishop G.M. van Zuylen, Reverends K. Mörsdorf, A. del Portillo, V. Bavdaz, E. Eid, W. Aymans and Professor P. Gismondi.<sup>115</sup> Various modifications were made to the *Schema canonum libri II: De Populo Dei*<sup>116</sup> by the commission members. The modified canons in the 1980 *Schema Codicis iuris canonici*<sup>117</sup> were formulated as cc. 299–305. The previous c. 179 of the *Schema Populo Dei*<sup>118</sup> underwent several Code Commission modifications and was published as c. 301 in the 1980 *Schema Codicis Iuris Canonici*.<sup>119</sup> The words

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[*SOE*, no. X, 1–2] = [1975, c. 5]; c. 182 ([*CIC/17*, cc. 267, §1, 2° and §2, *CIC/17*, c. 269, §1] = [1975, c. 6]); c. 183 ([new] = [*SOE*, no. XI, 1–3] = [1975, c. 7]); c. 184 ([*CIC/17*, c. 268] = [*SOE*, no. III, 2] = [1975, c. 8]).

<sup>115</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus studiorum “De Populo Dei,” session 5, “De Romani Pontificis Legatis,” in *Communicationes*, 12 (1980), p. 236.

<sup>116</sup> See *ibid.*, pp. 237–244.

<sup>117</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema Codicis iuris canonici iuxta animadversiones S.R.E., Cardinalium, Episcoporum, Conferentiarum, Dicasteriorum Curiae Romanae, Universitatem Facultatumque Ecclesiasticarum necnon Superiorum Institutum Vitae Consecratae Recognitum* (=1980 *Schema Codicis iuris canonici*), Libreria editrice Vaticana, 1980.

<sup>118</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus studiorum “De Populo Dei,” “De Romani Pontificis Legatis,” session 5, in *Communicationes*, 12 (1980), p. 239. Canon 179 read: “Those ecclesiastics and lay persons also who, whether as individuals or as heads of some delegation are appointed to a pontifical mission at international councils or at conferences and congresses also represent the Holy See; likewise those who are called Delegates or Observers, insofar as the Holy See is numbered among the members of the International Councils, or not, and who take part in any Conference with or without the right to vote; to these the prescriptions of the canons found in this chapter do not apply” (*ibid.*).

<sup>119</sup> *Ibid.* Canon 301 was modified to read: “Those clerics and lay persons who, whether as individuals or as heads of some delegation are appointed to a pontifical mission at international councils or at conferences and congresses also represent the Apostolic See; likewise those who are called Delegates or Observers, whether or not the Holy See is numbered among the members of the International Councils, and who take part in any Conference with or without the right to vote; to these the prescriptions of the canons found in this chapter do not apply, even as they do not apply to Extraordinary Ambassadors” (*ibid.*).

“ecclesiastics” and “Holy See” were replaced by “clerics” and “Apostolic See” respectively.<sup>120</sup> The canons were further developed into the 1982 *Codex iuris canonici: Schema novissimum iuxta placita Patrum Commissionis emendatum atque Summo Pontifici praesentatum*,<sup>121</sup> and formulated as cc. 361–367. Canon 301 of the 1980 *Schema Codicis iuris canonici* was published as the 1982 *Schema Codicis iuris canonici* c. 363, with further modifications shortening the text. The 1982 *Schema Codicis iuris canonici* text of c. 363 removed any reference to “clerics” or “laypersons,” inserting a generic “those,” without offering any details as to the reasons for this change.<sup>122</sup> Canons 362 and 363 of the 1982 *Schema Codicis iuris canonici* were promulgated in the 1983 Code of Canon Law as one canon – *CIC* c. 363, with 1982 *Schema Codicis iuris canonici* c. 363 incorporated as *CIC* c. 363, §2.

#### **2.2.1.4 Special Regulations for Pontifical Representatives**

The *Regolamento per le Rappresentanze pontificie*<sup>123</sup> was promulgated by Secretary of State Cardinal Angelo Sodano on 22 February 1994, initially taking effect 1 March 1994 on an *ad experimentum* basis for a five-year period. In 2003, an updated edition of the *Regolamento per le Rappresentanze pontificie*<sup>124</sup> was published, with no

<sup>120</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus studiorum “De Populo Dei,” session 5, “De Romani Pontificis Legatis,” in *Communicationes*, 12 (1980), p. 239. The modifications made by the Code Commission in the 1980 *Schema Codicis Iuris Canonici*, c. 301 included the suggestions brought forward by commission members to modify other canon in the chapter relating to pontifical legates.

<sup>121</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Codex Iuris Canonici: Schema novissimum iuxta placita Patrum Commissionis emendatum atque Summo Pontifici praesentatum*, Città del Vaticano, Typis polyglottis Vaticanis, 1982, cc. 361–367.

<sup>122</sup> *Ibid.*, c. 363: “Personam gerunt Apostolicae Sedis ii quoque qui in pontificiam Missionem ut Delegati aut Observatores deputantur apud Consilia internationalia aut apud Conferentias et Conventus.”

<sup>123</sup> See SECRETARIAT OF STATE, *Regolamento per le Rappresentanze pontificie*, Città del Vaticano, Secretariat of State, 1994.

<sup>124</sup> See SECRETARIAT OF STATE, *Regolamento per le Rappresentanze Pontificie (Nuova edizione) (=Regolamento)*, Città del Vaticano, Secretariat of State, 2003.

major difference between this version and the original *Regolamento* promulgated in 1994. The *Regolamento* remains in force today and consists of 10 titles containing 80 articles that deal with a whole range of matters concerning the legates' role, functions and duties, appointments, classifications, transfers, cessation of service and retirement, remuneration grades, vacation periods, categories of collaborators, etc. The *Regolamento* integrates provisions found within the 1969 motu proprio *Sollicitudo omnium Ecclesiarum* and *CIC*, cc. 362–367 into an executory decree, approved by Pope John Paul II, signed by Cardinal Angelo Sodano, Secretary of State. These administrative norms clearly specify the rights, obligations, roles, functions, range of activities and limitations of the offices of pontifical representatives. The *Regolamento* states that, together with the *CIC* and the motu proprio *Sollicitudo omnium Ecclesiarum*, “[...] the various functions of Papal Representatives are laid out in full.”<sup>125</sup> It expands upon the earlier motu proprio and *CIC* canons by giving supplementary details regarding such matters as salary grades, retirement ages, specific office titles of representatives and collaborators, the spiritual component of service, and hierarchical reporting requirements.

The Holy Father exercises his authority and maintains appropriate relations with each pontifical representative either directly or through the Secretary of State, the Deputy of General Affairs, Secretary for Relations with States or other superiors of dicasteries of the Roman Curia.<sup>126</sup> Papal representatives hold Vatican citizenship, and multiple

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<sup>125</sup> *Regolamento*, art. 9, p. 6.

<sup>126</sup> See *Regolamento*, art. 4, p. 4. In 2005, there were a total of 203 Pontifical Representations: 176 Nunciatures, 12 Apostolic Delegations and 15 Pontifical Representations to International Organizations (in *FILIPAZZI*, p. XXIII). In 1978, there were a total of 117: 88 Nunciatures or Internunciatures, 21 Apostolic Delegations and 8 Pontifical Representations to International Organizations; in 1963, there were a total of 66: 46 Nunciatures or Internunciatures, 17 Apostolic Delegations and 3 Pontifical Representations to International Organizations; in 1958, there were a total of 60: 42 Nunciatures or Internunciatures, 15 Apostolic Delegations and 3 Pontifical

citizenship is an acceptable practice.<sup>127</sup> The titles of Apostolic Nuncio and Permanent Observer are specified for pontifical legates appointed to international organizations, such as the United Nations.<sup>128</sup> After nomination or transfer by the Holy Father, the papal representatives receive instructions from the Secretary of State and the Section for Relations with States regarding their specific Mission.<sup>129</sup> The nominees then proceed to the Section for General Affairs where they obtain their Letters of Credence, necessary documents for the Mission, passports, traveling tickets, etc.<sup>130</sup> After completion of their mission, the papal representatives are required to send a report to the Secretary of State regarding the religious and political situation of the countries in which they have served.<sup>131</sup> The retirement age is set at 75 years, although a representative may request retirement at age 70 and can retain his title of Apostolic Nuncio for appointment as a member or advisor to other Roman dicasteries.<sup>132</sup>

Ecclesiastics who work as collaborators of the Holy See (known as staff collaborators) on the diplomatic staff carry out their duties as papal representatives under the direction of the Head of Mission. These collaborators, who also hold Vatican citizenship, are subdivided as Councilor of the Nunciature of the 1<sup>st</sup> or 2<sup>nd</sup> Class, Secretary of the Nunciature 1<sup>st</sup> or 2<sup>nd</sup> Class, Attaché of the Nunciature.<sup>133</sup> Missions can

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Representations to International Organizations; in 1945, there were a total of 52: 30 Nunciatures or Internunciatures, 22 Apostolic Delegations and no Pontifical Representations to International Organizations (in *FILIPAZZI*, pp. XXI–XXII).

<sup>127</sup> See *ibid.*, art. 5, p. 4.

<sup>128</sup> See *ibid.*, art. 6, p. 5.

<sup>129</sup> See *ibid.*, art. 15, p. 10.

<sup>130</sup> *Ibid.*

<sup>131</sup> See *ibid.*, art. 19, p. 11.

<sup>132</sup> See *ibid.*, arts. 20–21, pp. 11–12.

<sup>133</sup> See *ibid.*, art. 23, pp. 12–13. See also SECRETARIAT OF STATE, *Annuario Pontificio per l'anno 2007 (=AN2007)*, Città del Vaticano, Libreria editrice Vaticana, 2007, p. 1370. For example, at the Holy See Mission at the United Nations in New York, the Head of Mission is Archbishop C.

hire local collaborators who could be priests, religious or laypersons.<sup>134</sup> Members from a community of religious sisters should be engaged for the day-to-day working of the papal representation,<sup>135</sup> who could also be hired as collaborators. If such communities of sisters are not available, then laypersons could be hired and service personnel needed for the material necessities of the residence.<sup>136</sup>

Various sections of the *Regolamento* deal with practical, operational issues, such as office hours<sup>137</sup> and administrative and book-keeping issues.<sup>138</sup> Certain articles deal with the sending of reports and interventions to the Roman Curia and Secretary of State<sup>139</sup> and Archives of the Pontifical Mission<sup>140</sup>, which are to be retained for 50 years. Regulations are set to provide parameters of discretion, confidentiality and secrecy required in the work of those at Pontifical Missions.<sup>141</sup> There is also a section of articles dealing with expectations in the spiritual life and behavior of those working at Pontifical Representations.<sup>142</sup>

The *Regolamento per le Rappresentanze pontificie* integrates most elements found in special law and the *CIC* concerning legates, further expanding the opportunities

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Migliore, Apostolic Nuncio, with two staff Councilors – Monsignors Bernardito C. Auza and Leo W. Cushley, papal representatives from the diplomatic service of the Holy See.

<sup>134</sup> See *Regolamento*, arts. 30–34, pp. 15–17.

<sup>135</sup> See *ibid.*, arts. 35–39, pp. 17–18.

<sup>136</sup> See *ibid.*, arts. 35, 40–41, pp. 17, 18–19. At the Permanent Observer Mission of the Holy See in New York, for example, in 2007 the Head of Mission had locally hired collaborators (clergy and laypersons) working as Legal Attachés and two sisters from a religious community. See SALT & LIGHT TELEVISION (Toronto), DVD video program “Mission to the United Nations” (=SLT, “Holy See”), October 2007.

<sup>137</sup> See *ibid.*, art. 52, p. 22.

<sup>138</sup> See *ibid.*, arts. 64–78, pp. 28–33.

<sup>139</sup> See *ibid.*, arts. 57–58, p. 24.

<sup>140</sup> See *ibid.*, arts. 60–62, pp. 25–26.

<sup>141</sup> See *ibid.*, arts. 53–55, pp. 22–24.

<sup>142</sup> See *ibid.*, arts. 42–51, pp. 19–21.

for the laity to be involved in the work of the Mission and engaged by the Mission Head in the spiritual and diplomatic mission entrusted to them by the Roman Pontiff.

### **2.2.2 Ecclesiastical Office of Pontifical Legates**

Legates appointed to ecclesiastical offices at the Holy See Missions at the United Nations as Heads of Missions have in recent decades been ordained titular archbishops and appointed Apostolic nuncios, although not in all cases. There is a distinction between those legates representing the Holy See as members of any given Specialized Agency or Commission as its Permanent Representatives (Delegates), which includes voting rights, and those legates who are appointed as Observers or Permanent Observers to any specific agency or UN related body. There is a variation of titles given to Permanent Observers and Permanent Representatives appointed to ecclesiastical offices at the Holy See Missions at United Nations Offices and regional centres.

The differences in hierarchical appointments appear to relate to the size and volume of work of each of the United Nations offices. Archbishops are appointed to head the Holy See Missions at the UN Headquarters in New York and the larger UN Office in Geneva. Other priests who are not in episcopal orders are appointed to the smaller concentrations of UN Offices and centres in Vienna, Rome and Paris.<sup>143</sup> This does not appear to imply any preference on the part of the Holy See to set the levels of importance

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<sup>143</sup> For example, in New York (UNHQ) and Geneva (UNOV), the Holy See Permanent Observers and Permanent Representatives are titular Archbishop Celestino Migliori (UNHQ) and Archbishop Silvano Tomasi (UNOG), appointed Apostolic Nuncios (see *AN 2007*, p. 1370). In comparison, the Permanent Observer and Permanent Representative of the Holy See at the “United Nations and Its Specialized Agencies” in Vienna (UNOV) is Msgr. Michael Banach, representing the Holy See at the IAEA, CTBTO, UNIDO, UNCOPUOS and UNODC. In Rome, at FAO, IFAD and WFP, the Holy See Permanent Observer is Msgr. Renato Volante and the Permanent Observer at UNESCO in Paris is Msgr. Francesco Follo (see *AN 2007*, p. 1371). The Apostolic nuncio Archbishop Alain Paul Lebeaupin, titular bishop of Vico Equense holds two ecclesiastical offices: Apostolic nuncio and Permanent Observer at UNEP and UN-Habitat and the Apostolic nuncio to the particular Churches and State of Kenya (see *AN 2007*, p. 1370).

of one centre over another. All of the issues presented to the United Nations are important, each in its own degree and global relevance, but the volume of work and number of agencies/bodies attached to a specific centre seems to be the deciding factor as to whether a bishop or other prelate is appointed to head the Holy See Mission in that centre.

The *CIC* reflects the new post-Vatican II understanding of ecclesiastical office (c. 145, §1, 2)<sup>144</sup> which was integrated into the canons relating to pontifical legates. In the Decree on the Ministry and Life of Priests *Presbyterorum ordinis*, the Council Fathers shifted the focus of ecclesiastical office from a connection with benefices to the specific person holding the office itself.<sup>145</sup> J. Arrieta writes that, as the revision work of the Code Commission proceeded, there was a shift back to a more traditional notion of office, adopting an objective notion, also recognizing an abstract subjectivity of office.<sup>146</sup>

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<sup>144</sup> Canon 145, §§1, 2. The precursor of this canon was published in the *Primae versiones* of the 1977 *Schema canonum libri I: De normis generalibus* (=1977 *Schema de normis generalibus*) (PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, coetus de normis generalibus, norma 118) in *Communicationes*, 23 (1991), pp. 247–248). The text developed to its current *CIC* form in the 1980 *Schema Codicis iuris canonici*, c. 142, and in *Relatio*, in *Communicationes*, 14 (1982), p. 151. The text of the canon was again published in 1982 *Codex iuris canonici: Schema novissimum* as c. 145. The changes included the modification from “Officium ecclesiasticum est quodlibet munus a competenti autoritate stabiliter collatum in finem spiritualem exercendum” to “Officium ecclesiasticum est quodlibet munus ordinatione sive divina sive ecclesiastica stabiliter constitutum in finem spiritualem exercendum” (c. 145, §1), together with a change of “instituitur et ordinatur” to “constituitur” (c. 145, §2).

<sup>145</sup> See *PO*, no. 20, English translation in FLANNERY1, p. 790: “It is, however, to the office that sacred ministers fulfil that the greatest importance must be attached. For this reason the so-called system of benefices is to be abandoned or else reformed in such a way that the part that has to do with the benefice – that is, the right to the revenues attached to the endowment of the office – shall be regarded as secondary and the principal emphasis in law given to the ecclesiastical office itself. This should in future be understood as any office conferred in a permanent fashion and to be exercised for a spiritual purpose” (ibid.).

<sup>146</sup> See J.I. ARRIETA, “Ecclesiastical Offices,” (=ARRIETA, “Ecclesiastical Offices”), in *Exegetical Comm*, vol. 1, p. 895: “During the revision work on the *CIC/17*, which began with the direct acceptance of the subjective notion of *Presbyterorum ordinis*, this focus, which was of little benefit to administrative responsibility and its subsequent control, was definitively amended, thus returning to the traditional notion of office. [...] The objective notion of ecclesiastical office

Arrieta summarizes the technical elements of ecclesiastical office as part of a *munus* with a spiritual dimension, erected by a competent authority, with duties restricted by canon law, conferred through a juridical act of canonical provision.<sup>147</sup> He also discusses the characteristics and legal notion of office (c. 145) in the canonical order and its: a) nature of the public responsibility; b) stable character, established in the abstract (c. 148) and conferred to an officeholder by canonical provision (c. 147); c) configured by law, instituted and juridically configured in conformity with c. 145, §2; d) spiritual finality, taking into account the supernatural character of the Church; e) distribution of functions, with the notion of office detached from the notion of power (c. 145), as a means for entrusting pastoral responsibilities; f) belonging to the hierarchical structure, founded on the juridical personality of the body.<sup>148</sup>

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adopted by the Code, as the juridical norm established in the subsequent canons, comes to recognize the abstract subjectivity of office in the canonical order. That is to say, it recognizes the necessity of its juridical provision on the part of the legitimate authority (cf c. 148), something that does not occur with the ministries” (ibid.). Cf. J.I. ARRIETA, “Funzione pubblica e ufficio ecclesiastico,” in *Ius Ecclesiae*, 7 (1995), pp. 91–113.

<sup>147</sup> See ARRIETA, “Ecclesiastical Offices,” p. 896: “A number of technical elements of ecclesiastical office can be derived from the whole of the discipline of the Code. These include the following: a) they consist of a *munus* of spiritual dimension, in the sense of an institutionalized social ecclesiastical function; b) they are erected by a legitimate authority, that is, they are juridically created in the abstract (erected), by granting them subjectivity in the system of the Church which is the center of attribution of active and passive juridical situations; c) they are restricted and formed by canon law regarding their duties (cf. c. 145, §2); and d) they must be conferred successively or simultaneously on a subject through a juridical act of canonical provision (c. 146).” Libero Gerosa refers to the four constitutive elements of an ecclesiastical office as being the *munus* with rights and obligations, objective stability, divine or ecclesiastical disposition and spiritual purpose: 1. The charge or *munus*, that is the one or more obligatory functions in which this consists, and to which are connected obligations and rights; 2. Objective stability, that is to say that character of endurance in the ecclesial juridical structure that guarantees the pre-existence and permanence to the conferral and loss of this respectively; 3. The being of divine disposition (as for example in the case of the office of bishop) or ecclesiastical disposition (as for example in the case of the office of parish priest); 4. The spiritual purpose, that is the being able to be led back – even when implicated in the administration of temporal matters – to the mission of the Church” (L. GEROSA, *Canon Law* [=GEROSA, *Canon Law*], Amateca Series, New York, The Continuum International Publishing Group Inc., 2002, p. 233).

<sup>148</sup> See ARRIETA, *Governance Structures*, pp. 65–68. Commentators offer insightful summaries of the canonical classification or elements of ecclesiastical offices, taking into consideration a

The offices conferred by the Secretariat of State upon pontifical legates appointed to the Holy See Missions at the United Nations has several constitutive elements. These include the stability of the office, the ecclesiastical ordinance of the appointment, the specific functions attached to the office and the spiritual purpose of the Holy See's legate at the United Nations.<sup>149</sup>

The legates' offices are established by the Roman Pontiff,<sup>150</sup> the competent ecclesiastical authority (c. 148), acquired validly by canonical provision (c. 146), through free conferral by that same authority (c. 147). Accordingly, the character of the ecclesiastical office may vary, according to the method by which it was established. When the ecclesiastical office is established by *motu proprio* or another legislative document, as in the case of Delegates and Observers at the United Nations, the juridical

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variety of typology: by origin, by the nature of their function, by the scope of competence, by stability and by the manner of designation: "By way of synthesis, and in order to refer us to some of the more useful classifications, it is fitting to note the following typology of offices: a) by origin, there may be constitutional offices – of divine or ecclesiastical origin – and non-constitutional offices; b) by the nature of the function, there may be offices with proper or vicarious authority (c. 131), and offices without authority; and also active offices, consultative offices, or offices of control; curate offices for the care of souls – of complete or partial *cura animarum* – and not for the care of souls (c. 150); c) by scope of competence, there can be universal offices (central: the offices of the Roman Curia, or peripheral: the nuncios); diocesan offices (corresponding to any ecclesiastical circumscription): offices that can be general or local (that of the parish); and superdiocesan offices; d) by stability, there can be permanent or temporary offices (the offices of a synod, for example); e) by manner of designating the office holder: by free conferral, by presentation, or by election" (ARRIETA, "Ecclesiastical Offices," pp. 897–898).

<sup>149</sup> See GEROSA, *Canon Law*, p. 233. Cf. P.V.A. BRAIDA, "L'ufficio dei rappresentanti del Romano Pontefice," in *Apollinaris* 52 (1979), pp. 175–199. Cf. J.I. ARRIETA, *Governance Structures within the Catholic Church*, Montreal, Wilson & Lafleur, 2000, pp. 63–95 (=ARRIETA, *Governance Structures*).

<sup>150</sup> The office of the pontifical legate is therefore of ecclesiastical origin, with its purpose to safeguard the interests of the community of the faithful. Cf. BARBERINI, *Le Saint-Siège*, pp. 138–139.

act of establishment would have a legislative character, in contrast to the less common establishment being done by a singular administrative decree.<sup>151</sup>

The Secretariat of State, First Section for General Affairs is responsible for appointments, transfers and juridical status of diplomatic staff of the Holy See.<sup>152</sup> Pontifical legates are appointed by the Holy See through an *Apostolic Brief* made public by the Secretariat of State.

As for any ecclesiastical office, the person appointed must be in the communion with the Church and be suitable, i.e. endowed with those qualities which are required for the given office (c. 149, §1).<sup>153</sup> Candidates for enrolment at the Pontifical Ecclesiastical Academy are selected from referrals made by dioceses from around the world. Following their training and entry-level service at the Secretariat of State, candidates for appointment as papal representatives and legates are rigorously evaluated for service at diplomatic missions to particular Churches, States and international organizations. For example, following the current practice of appointing a titular bishop<sup>154</sup> as the Permanent

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<sup>151</sup> See ARRIETA, *Governance Structures*, p. 68.

<sup>152</sup> See *Regolamento*, art. 4, p. 4. The First Section for General Affairs has 144 staff and personnel, of which 96 (67%) are clerics and 48 (33%) laity (in *AN2007*, pp. 1181–1185).

<sup>153</sup> Canon 149, §1 was developed in the *Primaes versiones* of the 1977 *Schema de normis generalibus*, norma 123, in *Communicationes*, 23 (1991), p. 250. The canon found its final version in the 1980 *Schema Codicis iuris canonici*, c. 146, subsequently published in the same form in the 1982 *Schema Codicis iuris canonici*, c. 149. The modifications in the 1980 *Schema Codicis iuris canonici*, c. 146 included the change from the 1977 *Schema de normis generalibus*, norma 123: “[...] §1. Ut ad officium ecclesiasticum quis promoveatur, debet esse idoneus...” to “[...] §1. Ut ad officium ecclesiasticum quis promoveatur, debet esse in Ecclesiae communion necnon idoneus...”. In §2, the form “invalidari” used in the 1977 *Schema de normis generalibus*, norma 123 was replaced with “rescindi” in the final version. §3 was introduced for the first time into the 1980 *Schema Codicis iuris canonici* as “Provisio officii simoniace facta ipso iure irrita est” and remained unchanged in the *CIC*.

<sup>154</sup> The practice of appointing bishops to the offices of papal representation prompts some commentators to consider those offices as part of the hierarchical constitution of the Church: “L’office de la représentation diplomatique fait partie de la constitution hiérarchique de l’Église catholique et les canons qui s’y rapportent se trouvent dans la section réservée à l’autorité suprême qui la gouverne. Cela s’explique par deux raisons. En premier lieu, parce que le

Observer, Apostolic Nuncio and Head of Mission of the Holy See at the United Nations would necessitate for the candidate to meet the suitability requirements for ordination according to c. 378. Required candidate qualities would include being “1° [...] outstanding in solid faith, good morals, piety, zeal for souls, wisdom, prudence, and human virtues, and endowed with other qualities which make him suitable to fulfill the office [...]; 2° of good reputation; 3° at least thirty-five years old; 4° ordained to the presbyterate for at least five years; 5° in possession of a doctorate or at least a licentiate in sacred scripture, theology, or canon law from an institute of higher studies approved by the Apostolic See, or at least truly expert in the same disciplines (c. 378, §1).” Papal representatives, both bishops and priests are reminded of the importance of sustaining their spiritual lives and practicing modesty in their diplomatic work.<sup>155</sup> The pontifical

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représentant est un évêque qui est membre du collège des évêques et qui exerce ses pouvoirs selon les normes du code canonique; deuxièmement, il faut rappeler qu'au représentant pontifical est confié l'office de représenter le pontife romain qui exerce son pouvoir sur l'Église catholique tout entière et qui a la responsabilité de son unité” (BARBERINI, *Le Saint-Siège*, p. 139).

<sup>155</sup> See *Regolamento*, art. 42, p. 19: “The Bishops and Priests who work in papal representations will take care to promote their own spiritual lives, aware of the responsibility derived from being at the service of the Holy Father and the Holy See. For this reason they should strive to ensure that their activities are inspired by the love of God, the Church and of neighbour and they should be ready to take on the considerable sacrifices that their life involves. Like every priest, ecclesiastics in the service of the Holy See [...] are to foster simplicity of life and are to refrain from all things that have a semblance of vanity” (c. 282, §1).” The source of their bishop’s spirituality is Jesus Christ: “Through his episcopal ordination, the Bishop receives a special outpouring of the Holy Spirit which configures him in a singular way to Christ, Head and Shepherd. The same Lord, ‘good master’ (cf. Mt 19:16), ‘high priest’ (Heb 7:26), ‘good shepherd who offers his life for his sheep’ (cf. Jn 10:11) has imprinted his human and divine face, his likeness, his power and his strength in the Bishop. Jesus is the sole and the permanent source of the Bishop’s spirituality. Therefore, the Bishop, sanctified in the sacrament through the gift of the Holy Spirit, is called to respond to the grace received through the laying on of hands, sanctifying himself and conforming his personal life to Christ in the exercise of the apostolic ministry. This configuration to Christ allows the Bishop to submit his whole being to the Holy Spirit in order to integrate within himself his different roles as member of the Church and simultaneously head and shepherd of the Christian people, as brother and as father, as disciple of Christ and teacher of faith, as son of the Church and, in some sense, father of the Church, as minister of the supernatural rebirth of Christians. The Bishop should always remember that the effect of his personal holiness is never limited to the purely subjective level, but redounds to the good of the

legate appointed to the office exercises ordinary (attached to the office) executive power vicariously,<sup>156</sup> expressing the will of the Roman Pontiff and making decisions according to the instructions of the Holy See, issued through the curial offices of the Secretariat of State.<sup>157</sup> The power of the legate is directly linked to the scope of the need for them to exercise their ecclesiastical office for a spiritual purpose as pontifical legates at the Holy See Missions at the United Nations. Working within the parameters of the office of the Permanent Observer at the United Nations, the papal representative at the time of his appointment receives instructions and faculties needed for him to perform his spiritual mission.<sup>158</sup> These also include faculties pertaining to the administration as Mission Head,

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faithful entrusted to his pastoral care. The Bishop must be a man of contemplation as well as a man of action, so that his apostolate can become *contemplate aliis tradere*. Fully convinced that nothing he can do serves any purpose unless he *be with Christ*, the Bishop must be in love with the Lord. Moreover, he should always remember that the credibility of his episcopal ministry depends on the moral authority and authenticity which arise from the holiness of life underlying his exercise of juridical power” (CONGREGATION FOR BISHOPS, *Directory for the Pastoral Ministry of Bishops* Apostolorum Successores, Città del Vaticano, Libreria editrice Vaticana, 2004, no. 33, pp. 47–48).

<sup>156</sup> See *CD*, no. 8, p. 508. See also *PB*, nn. 7–8, p. 692: “Its nature and role consists entirely in that the more exactly and loyally the institution strives to dedicate itself to the will of the Supreme Pontiff, the more valuable and effective is the help it gives him. Beyond this ministerial character, the Second Vatican Council further highlighted what we may call the *vicarious character* of the Roman Curia, because, as we have already said, it does not operate by its own right or on its own initiative. It receives its power from the Roman Pontiff and exercises it within its own essential and innate dependence on the Pontiff. It is of the nature of this power that it always joins its own action to the will of the one from whom the power springs. It must display a faithful and harmonious interpretation of his will and manifest, as it were, an identity with that will, for the good of the Churches and service to the bishops. From this character the Roman Curia draws its energy and strength, and in it too finds the boundaries of its duties and its code of behaviour. The fullness of this power resides in the head, in the very person of the Vicar of Christ, who imparts it to the dicasteries of the Curia according to the competence and scope of each one” (*ibid*).

<sup>157</sup> See J.I. ARRIETA, *Governance Structures*, pp. 162–163.

<sup>158</sup> Cf., for example, the *Index facultatum* of the papal legates outside mission territories, CONGREGATION FOR BISHOPS, 1 January 1968, in *Leges Ecclesiae post Codicem iuris canonici editae*, collegit, digessit notisque ornavit Xaverius Ochoa (=LE, volume number), vol. 3, Rome, Commentarium pro Religiosis, 1966–, cols. 5284–5288, English translation in *CLD*, vol. 9, pp. 172–183; the *Index facultatum* of the papal legates in mission territories, CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, 1 January 1971, in *LE*, vol. 4, cols. 5959–5961, English translation in *CLD*, vol. 7, pp. 285–289; the *Index facultatum* given to the papal legates by the

such as management of the nunciatures, budgets, documentation of financial matters relating to the mission, the hiring of staff, their supervision and evaluation of their service.<sup>159</sup> After the initial nomination or transfer, the Secretariat of State, Second Section for Relations with States will issue instructions regarding their mission.<sup>160</sup>

The mission of the pontifical representative is pastoral and religious in its character. In 1980, Pope John Paul II spoke about the work of his future legates:

The mission which will lead you to live in the midst of so many populations different in culture, civilization, morals, language and religious traditions, must be understood as an ecclesial service, in the meaning given by the first Christian communities to the world *diakonia*. This service, often obscure and unknown, will be all the more meritorious, the more you approach it with a truly priestly spirit, which does not seek its own advantage and its own convenience, but the good and the spiritual growth of the individual local Churches, trying to understand the genius of the individual peoples better and better, with good will, in fact with enthusiasm, placed, as you will be, in those Pontifical Representations which are, always, a point of liaison between the various ecclesial communities under Peter's See, and also very often, wise intermediaries between the Holy See and the Supreme Authorities of the various nations [...]

This conception of the diplomatic service calls, of course, for priestly charity, the missionary spirit, dedication and self-sacrifice, which leaves no space for earthly mirages, temporal glories or any kind of privileges. It calls, in a word, for the apostolic spirit, such as to be able to make you say, with a special intention, but like every confrere of yours: "We are ambassadors for Christ, God making his appeal through us" (2 Cor 5:20) [...]

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CONGREGATION FOR THE ORIENTAL CHURCHES, 31 October 1974, in *LE*, vol. 6, cols. 7600–7604, English translation in *CLD*, vol. 9, pp. 184–192.

<sup>159</sup> See *Regolamento*, art. 64, pp. 28–29: "1. The Mission Head is principally responsible for the management of the administration of the Papal Representation. The personnel of the diplomatic staff will be informed of such management, and will follow the directives of their superior, collaborating with him in their realization. [...] 3. At the end of each half-year the account should be drawn up of expenses sustained in this period, filling out the appropriate forms. The bi-annual account should be sent to the office of the Secretary of State, Section for General Affairs, within a month of the end of the half-year. [...] 5. At the term of his mission, the papal representative should write an account of the house budget and give it duly signed to the Chargé d'Affaires, who in turn will have to submit it to the new Head of Mission, when he shall arrive, together with an account of the incomes and expenses sustained in the intervening time" (ibid).

<sup>160</sup> See *Regolamento*, art. 15, p. 10. The Second Section For Relations With States has 53 staff and personnel, with 40 (75%) clerics and 13 (25%) laity (in *AN2007*, pp. 1186–1187).

I say to you with the Apostle of the Gentiles: "Be imitators of God, as beloved children, and walk in love, as Christ loved us and gave himself up for us, a fragrant offering and sacrifice to God" (Eph 5:1).<sup>161</sup>

The diplomatic activity of papal representatives to international organizations aims at stimulating the temporal order with Christian values. This goal reaches beyond a mere aspect of safeguarding the interests of the community of the faithful and leads toward promoting the dignity of human person, defence of human rights and finding the solutions to humanitarian problems.<sup>162</sup>

### 2.2.3 Lay Persons as Pontifical Representatives

There appears to be no barrier to the appointment of lay persons to a certain range of offices, as the canons in the *CIC* relating to ecclesiastical offices no longer make a link between offices and the power of jurisdiction/governance as a requirement for appointment to ecclesiastical offices.<sup>163</sup> In 1964, the Council Fathers identified the apostolate of the laity as vital in the life and mission of the Church:

The apostolate of the laity is a sharing in the salvific mission of the Church. Through baptism and Confirmation all are appointed to this apostolate by the Lord himself [...] the laity can be called in different ways to more immediate cooperation in the apostolate of the hierarchy, like those men and women who helped the apostle Paul in the Gospel, laboring much in the Lord (cf. Phil. 4:3; Rom. 16:3 ff.). They have, moreover, the capacity of being appointed by the hierarchy to some ecclesiastical offices with a view to a spiritual end. All the laity, then, have the exalted duty of working for the ever greater spread of the divine plan of salvation to all men, of every epoch all over the earth. Therefore may the way be clear for them to share diligently in the salvific work of the Church according to their ability and the needs of the times. Since he wishes to continue his witness and his service through the laity also, the supreme and eternal priest, Christ Jesus, vivifies them with his spirit and ceaselessly impels them to accomplish every good and perfect work.<sup>164</sup>

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<sup>161</sup> JOHN PAUL II, address to students of the Pontifical Ecclesiastical Academy: "Diplomatic Service and Apostolic Spirit," in *ORe*, 8 April 1980, p. 9.

<sup>162</sup> See BARBERINI, *Le Saint-Siège*, p. 143.

<sup>163</sup> See GEROSA, *Canon Law*, pp. 233–234.

<sup>164</sup> *LG*, nn. 33–34, English translation in FLANNERY1, p. 355.

The Council's call to service identifies the laity's apostolate as part of a unity of mission, entrusting to the apostles and his successors the office of teaching, sanctifying and governing in Christ's name and by his power; and the laity share in the priestly, prophetic and kingly office of Christ. The participation of the laity in the Church's mission is a crucial component in this unity of mission.<sup>165</sup> The challenges of a secularized world call the laity to an intensified focus in bringing the Gospel message to the world through a life of defending the dignity of the human person and participating in the development of the secular world as followers of Christ and his teachings. The characteristic of the lay state is a life led in the world of secular affairs, being a leaven in the world.<sup>166</sup>

The Council Fathers clearly considered it to be a benefit to the Church to draw upon the experience and advice of qualified laypersons.<sup>167</sup> The *CIC* states that suitable lay persons are qualified to be appointed to ecclesiastical offices and functions according to the law.<sup>168</sup> Gerosa discusses this notion of lay faithful being qualified for appointment to ecclesiastical offices in general and expresses his views that, unless divine law or canon law expressly forbids it, lay persons can be appointed to ecclesiastical offices, according to c. 228, §1.<sup>169</sup>

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<sup>165</sup> Cf. A. DULLES, L.J. McGinley Lecture "The Mission of the Laity," Fordham University, 29 March 2006, <<http://www.usccb.org/laity/laymin/CardinalDulles.pdf>> (02 January 2008). Cf. E.J. KILMARTIN, "Lay Participation in the Apostolate of the Hierarchy," in *The Jurist*, 41 (1981), pp. 343–370; E. MCDONOUGH, "Laity and the Inner Working of the Church," in *The Jurist*, 47 (1987), pp. 228–245.

<sup>166</sup> See *AA*, no. 2, English translation in FLANNERY1, p. 677. See *LG*, nn. 31–34, English translation in FLANNERY1, pp. 353–355.

<sup>167</sup> See *CD*, no. 10, pp. 508–509: "[...] Finally, the Fathers of the Council judge that it would be most advantageous if these departments were to have more frequent recourse to the advice of laymen of virtue, knowledge and experience so that they also have an appropriate role in the affairs of the Church" (ibid).

<sup>168</sup> See c. 228, §1.

<sup>169</sup> See GEROSA, *Canon Law*, pp. 233–234.

Canon 228, §2 further states that “lay persons who excel in necessary knowledge, prudence, and integrity are qualified to assist the pastors of the Church as experts and advisors, even in councils according to the norm of law.” There are obvious limitations when the laity are excluded from consideration for appointment to offices which encompass the full care of souls, when “the exercise of priestly order is required” and the office cannot be validly conferred upon a layperson (c. 150). Although c. 274, §1 clearly states that “only clerics can obtain offices for whose exercise the power of orders or the power of ecclesiastical governance is required” and limits the scope of offices to which laypersons could be appointed, it nevertheless does not affect the appointment of laypersons to offices that do not entail the exercise of the power of orders or governance. Gerosa cites canonists that share this interpretation of lay faithful appointments, among others K. Mörsdorf, P. Krämer, G. Ghirlanda, and F. Urrutia.<sup>170</sup> In particular, K. Walf asserts that “ecclesiastical law does recognize the possibility that the Holy See could also be represented at international organizations or conferences by lay persons.”<sup>171</sup> While considering the issue of papal representation, B. Udaigwe acknowledges that “both clerics and lay persons have the juridical capacity” to be appointed to an office.<sup>172</sup> Oliveri, in his 1980 book about the nature and functions of papal legates, expresses the opinion that there was “no particular theological principle” that candidates for appointment as papal representatives should be limited to members of the clerical state, with the condition that the exercise of jurisdictional authority of the office did not require sacramental ordination.<sup>173</sup> Oliveri nevertheless stresses the importance of retaining the

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<sup>170</sup> See *ibid.*

<sup>171</sup> See WALF, “Nature of Papal Legation,” p. 96.

<sup>172</sup> See UDAIGWE, *Office of Papal Legate*, p. 60.

<sup>173</sup> See OLIVERI, *Representatives*, p. 58.

prominent position of the clerical presence in international missions of the Holy See to satisfy the international community's perceptions and understanding of the Holy See as being substantively different from other delegations or missions. He goes as far as stating that "what the Holy See requires, in fact, from its Representatives is that, above all, they should be priests,"<sup>174</sup> a position that becomes more difficult to defend in the 21<sup>st</sup> century, with the active participation of the laity in Catholic-inspired international NGO work and interventions at meetings of United Nations agencies and bodies.

Within the context of the work of the Holy See Mission at the United Nations today, it appears that the lay faithful are appointed to consultative ecclesiastical offices (c. 228) in an assisting capacity, contributing to the work of the Head of the Mission, the pontifical legate: Mission collaborators, specialists and experts participate effectively in the work of the Holy See Mission at the United Nations. There seems to be no barrier for the training and appointment of laypersons to work in the diplomatic services of the Holy See and to progress in knowledge, experience and suitability for eventual appointment as the Head of Mission of a Holy See Mission at an international organization, agency or body in the world. Laypersons have participated in various delegations to conferences where the Holy See was represented. In 1995, United States Harvard University Professor Mary-Ann Glendon was appointed the Head of the Delegation of the Holy See to the Fourth World Conference on Women, in Beijing, where she represented the Holy Father speaking out in defence of the dignity of human person and specifically in defence of the dignity and rights of women.<sup>175</sup>

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<sup>174</sup> Ibid., pp. 63–64.

<sup>175</sup> See JOHN PAUL II, message to the Delegation of the Holy See to the 4<sup>th</sup> World Conference on Women, 29 August 1995, English translation in C.J. MARUCCI (ed.), *Serving the Human Family* (=MARUCCI, *Human Family*), New York, The Path to Peace Foundation, 1997, pp. 425–427.

#### 2.2.4 Pontifical Ecclesiastical Academy and Pontifical Representation

Ordained clergy are chosen for service as pontifical legates from varying national backgrounds, with different educational achievements and levels of experience. Many, although not all, attend the Pontifical Ecclesiastical Academy in Rome, where future legates receive their educational and diplomatic training for service to the Holy See. The Academy was founded in 1701 by Abbot Peter Garangi together with Sebastiano Valfre (of the Oratory of St. Filippo of Turin) as the Academy of the Noble Ecclesiastics, with the approval of Pope Clement XI (1700–1721).<sup>176</sup> After a turbulent history, Pope Pius IX (1846–1878) resumed the activities of the Academy in 1850 with a renewed purpose as an institution preparing clergy for diplomatic and administrative service to the Holy See, Curia and Papal States. Pope Leo XIII (1878–1903), an alumnus of the Academy, and Pope Benedict XV (1914–1922), a graduate and professor of the Academy, supported and reinvigorated its stature as an important academic institution for the intellectual preparation of its students. Pope Pius XI (1922–1939) established the institution as the Pontifical Ecclesiastical Academy and Pope Pius XII (1939–1958), a former professor at the Academy, continued with his attentive support to build on the work of his predecessors.<sup>177</sup> In 1945, new regulations and academic structures were instituted which remain in effect today. An alumnus of the Academy, Pope John XXIII (1959–1963), through his support further enhanced the effectiveness and stability of the Academy. Pope Paul VI (1963–1978), a graduate and former professor at the Academy, continued

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<sup>176</sup> See P. SAVINO (ed.), *La Pontificia Accademia Ecclesiastica 1701–1951*, Città del Vaticano, Libreria editrice Vaticana, 1951. Cf. A. MARTINI, “La diplomazia della Santa Sede e la Pontificia Accademia Ecclesiastica,” in *La Civiltà Cattolica*, vol. 2 (1951), pp. 372–386.

<sup>177</sup> See *ibid.* See also <[http://www.vatican.va/roman\\_curia/pontifical\\_academies/acdeccles/documents/storia\\_it.htm](http://www.vatican.va/roman_curia/pontifical_academies/acdeccles/documents/storia_it.htm)> (15 January 2008).

with papal support of the diplomatic academy.<sup>178</sup> The papal tradition of endorsing the Pontifical Ecclesiastical Academy's preparation of clergy for the diplomatic service of the Holy See in the 21<sup>st</sup> century continued with Pope John Paul II (1978–2005), as it does with Pope Benedict XVI (2005–).

Addressing the students and faculty of the Pontifical Ecclesiastical Academy on 23 March 1981, Pope John Paul II emphasized the importance of spiritual development and prayer in their future work. The Holy Father noted fundamental characteristics that distinguish the Pontifical Ecclesiastical Academy as being a place of spiritual development, meditation, prayer, assiduous cultural preparation, centre of study, a place to acquire a *forma mentis* in which the pastoral sense reaches maturity.<sup>179</sup> Although the mandate of the Academy is currently limited to the preparation of clergy for service in the Secretary of State's ministry to particular Churches, States and public authorities,

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<sup>178</sup> See M. FLICK, "La Pontificia Accademia Ecclesiastica nel Rinnovamento Conciliare," in *La Civiltà Cattolica*, vol. 1, quaderno 2826 (1968), pp. 526–534.

<sup>179</sup> See JOHN PAUL II, address to students of the Pontifical Ecclesiastical Academy, in *ORe*, 13 April 1981, pp. 10–11: "1. It must be first and foremost a place of spiritual development and a meeting-place of prayer. If the exercise of every priestly ministry demands a deep spiritual life, I would like to say that the mission you are called to fulfill involves such peculiar and sometimes difficult situations of life and action that, in the absence of a source of intense spirituality, you would run the risk of finding yourselves without inspiration or ideals. May the time that you spend in this Institute, therefore, be a time of meditation and of depth; a time not of slackening of asceticism, but of preserving training in those virtues which will form tomorrow a solid and safe support for your mission. 2. The Pontifical Ecclesiastical Academy must furthermore be a place of assiduous cultural preparation, a centre of study. Service of the Holy See, participating in the "*sollicitudo omnium ecclesiarum*," involves serious requirements today and demands qualifications that cannot be improvised. I hope and trust that you will treasure this period, so precious for your formation, so that tomorrow you may be equal to the task entrusted to you. And I also hope that a serious commitment to study will accompany you all your lives. 3. In the third place the Pontifical Ecclesiastical Academy must be a place in which the pastoral sense reaches maturity. Today extreme sensitivity is required of the Pontifical Representative in dealing with the pastors whom the Holy Spirit has placed at the head of the various local Churches, as well as a spirit prompt to grasp and interpret pastoral situations and problems. This is a *forma mentis* that you must acquire and develop in order to become fit for service of ecclesial communion between the local Churches and Peter's See" (ibid.). Cf. G. MONTALVO, "La Pontificia Accademia Ecclesiastica e la missione diplomazia della Santa Sede nel mondo," in *Ius Ecclesiae*, 9 (1997), pp. 203–219.

including international organizations, this mandate could be expanded to include the preparation and training of international lay specialists.

The Pontifical Ecclesiastical Academy has a concentration of professors with extensive academic ability and diplomatic experience. This academic venue offers the lay specialist an opportunity to receive training and a unique period of preparation for service at the international organizational level in whichever capacity is needed by a specific pontifical mission. Structured as limited programs of study, for example in summer seminar venues, these programs could be expanded into an external study format completed in their home countries. This access to specialized preparation would give laity, from different areas of the world, an opportunity to experience the academic venue and spiritual experience through which many of the Church's pontifical legates receive their diplomatic training. Many currently functioning Catholic-inspired NGOs are located in New York and actively participate in the debates and international issues before the United Nations General Assembly, UN Specialized Agencies and affiliated bodies. Specialized preparatory training for such NGOs would expand their understanding of international issues and would enhance their abilities to respond to the many challenges faced by the world community of nations and Members States of the United Nations.

The International Catholic Organizations Information Centre (ICOIC) in New York lists as its members: 11 International Catholic Organizations (ICOs) and 31 religious congregations and national organizations who work as non-governmental organizations (NGOs) doing advocacy at the United Nations in defence of peace, social justice issues, family and women issues, and sustainable development.<sup>180</sup> International

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<sup>180</sup> See International Catholic Organizations Information Center, New York, <<http://www.icocenter.org>> (21 October 2007).

Catholic organizations began co-ordinating their efforts in the early part of the 20<sup>th</sup> century in Switzerland, with the establishment in 1927 of the Conference of International Catholic Organizations in the service of the human family.<sup>181</sup>

To mark the 40<sup>th</sup> anniversary of the encyclical *Populorum Progressio*, over 100 delegates representing “Catholic-Inspired Non-Governmental Organizations” (NGOs), including most that are members of ICOIC, met in Rome to participate in the “Second World Congress of Ecclesial Organizations that Work for Justice and Peace” (22 – 24 November 2007) and a “Forum of Catholic-Inspired Non-Governmental Organizations” (30 November – 2 December 2007) to reflect upon their joint contributions to the mission of the Church.<sup>182</sup> These organizations, in a collaborative effort with Papal Representatives, make a visible and concrete contribution to the advocacy and delivery of the message of hope in defence of the dignity of the human person and human rights in international fora. Pope Benedict XVI commented in his address to this gathering of Catholic-Inspired Non-Governmental Organizations at the Vatican on 1 December 2007:

The multilateral diplomacy of the Holy See, for the most part, strives to reaffirm the great fundamental principles of international life, since the Church’s specific contribution consists in helping “to form consciences in political life and to stimulate greater insight into the authentic requirements of justice as well as greater readiness to act accordingly” (*Deus Caritas Est*, no. 28).

On the other hand, “the direct duty to work for a just ordering of society is proper to the lay faithful” – and in the context of international life this includes Christian diplomats and members of Non-Governmental Organizations – who “are called to take part in public life in a personal capacity” and “to configure social life correctly, respecting its legitimate autonomy and cooperating with other citizens according to their respective competences and fulfilling their own responsibility” (*ibid.*, no. 29).<sup>183</sup>

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<sup>181</sup> See CARDINALE, *Holy See*, pp. 266–267.

<sup>182</sup> See FRANCISCAN INTERNATIONAL (NGO at the United Nations), “Catholic-Inspired NGOs Unite for Human Rights,” <[www.franciscaninternational.org/news/article.php?id=1405](http://www.franciscaninternational.org/news/article.php?id=1405)> (20 October 2007).

<sup>183</sup> BENEDICT XVI, address to Members of Catholic-Inspired Non-Governmental Organizations: “Counter Relativism by Presenting Truth,” in *ORE*, 12 December 2007, p. 5.

The Holy Father also reiterated that the success of the work of these organizations will depend upon their fidelity to the Church's Magisterium, in communion with their Pastors and the Successor of Peter, and prudence in dealing with the many issues before them.<sup>184</sup>

### 2.3 Conclusion

Since the inception of the first international organizations and the United Nations in the post Second World War period, legates of the Roman Pontiff have been involved in diplomatic missions to these organizations. Papal representatives work at Holy See Missions to the United Nations in New York, Geneva, Vienna and other world centres where United Nations bodies and agencies serve the international community. In cooperation with the Roman Curia and especially the Secretariat of State, these legates bring the message of peace, hope and a vital spiritual dimension to the UN venue.

As a result of Pope John XXIII's call to an "aggiornamento" and the Second Vatican Council's invitation to review the role and functions of pontifical legates based upon the teaching of the Council, Pope Paul VI promulgated his motu proprio *Sollicitudo omnium Ecclesiarum* (1969) as special law for pontifical legates. This motu proprio, together with the *CIC/17* cc. 265–270 and the Vatican II Council documents (*LG*, *GS*, *AA*, *CD*) became the foundation for *CIC* cc. 362–367 and the *Regolamento per le Rappresentanze pontificie* (1994). The motu proprio *Sollicitudo omnium Ecclesiarum*, the *CIC* canons and the *Regolamento* are the juridical norms that regulate the work of pontifical legates, also at the United Nations. The work of the Apostolic Nuncio, Permanent Observer, Observer or Delegate at the Holy See Missions to the United Nations is focused to promote the spiritual mission of the Church (c. 747, §2),

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<sup>184</sup>See *ibid.*, p. 6.

distinguishing the legates of the Roman Pontiff from UN State-mandated diplomats gathering at the United Nations.

Through the distinctiveness of the Holy See's mission, UN Member States have not only unanimously accepted and valued the contributions made by papal representatives, but in 2004, the UN General Assembly formally approved and expanded the parameters of participation of the Holy See Permanent Observer Mission at the United Nations. This expanded capacity to fulfill its spiritual mission allows for the Holy See to participate in the general debates at the General Assembly, to make interventions, replies, to have its communications issued and circulated directly as official documents of the Assembly and conferences, to raise points of order involving the Holy See, to co-sponsor draft resolutions and decisions that make reference to the Holy See, and to raise a point on agenda items.

The Vatican II Council Fathers insisted that the laity have an increased role in the administration of Church affairs at the Roman Curial and Secretary of State levels, including diplomatic missions. The special law in force and the *CIC* allow for the laity to be directly involved in the work of these missions at the United Nations. This area of involvement, although developed since the Vatican II Council, has the laity functioning, in most cases, at a secondary and consultative level of participation in the work of the Holy See Missions at the United Nations. Opportunities for more substantive participation of suitable and qualified Catholic laity in the Holy See's Missions at the UN can be developed to further assist the pontifical legates in their work.

As the world enters the first decades of the 21<sup>st</sup> century, with its unabated inclination to war and violence, the work of peace-building and the presentation of new

ideas and powerful images of hope are in great demand. In this struggle for peace, pontifical legates at the United Nations, together with their lay collaborators, offer the family of nations a roadmap to reconciliation and a healing process needed by millions of people ravaged by war, hunger and depravity.

## Chapter III

### **Permanent Observer Missions of the Holy See at the United Nations: New York, Geneva and Vienna**

#### **3.0 Introduction**

The representatives of the Holy See have closely followed the work of the United Nations on many levels during the past sixty years. Holy See Permanent Observer Missions have been established at the UN Headquarters in New York and at UN Offices in Geneva and Vienna. The Holy See has increased its participation as a Permanent Observer at the UN General Assembly level and in UN Specialized Agencies, programmes, funds and committees in five UN centres in the world: Rome, Paris, New York, Geneva, and Vienna; as well as UN organizations and programmes based in Nairobi, Madrid, London, Montreal, and Berne.

As the United Nations expanded its membership and involvement in addressing the challenges faced by the international community, the United Nations system developed into the current expansive network of offices, with the Secretary-General in the New York UN Headquarters, and Director-Generals in UN Secretariat Offices located in Geneva (UNOG), Vienna (UNOV) and Nairobi (UNON).<sup>1</sup>

The present chapter examines the development and functions of these United Nations organizations, committees, funds, programmes, agencies and Specialized

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<sup>1</sup> The UN Offices at UNOG, UNOV, UNON are headed by Director-Generals with executive titles of Under-Secretary-General and report directly to the Secretary-General. The Executive Office of the Secretariat lead by the Secretary General establishes general UN policies and direction for the Organization. The Chief Executives Board for Coordination (CEB) was established to ensure a coordinated effort in meeting common goals and representing the whole of the United Nations System. CEB-members are the Heads of UN organizations, i.e., Specialized Agencies, Funds, and Programmes. See "The United Nations System," in *UN2004*, pp. 1534–1547.

Agencies in each of these major centres, reviewing the appointment of legates of the Holy See to these bodies within which the Holy See has chosen to actively participate in fulfilling its specific spiritual mission.

### **3.1 New York: The Permanent Observer Mission of the Holy See at the United Nations Organization (New York Headquarters)**

Pope John XXIII, a former Permanent Observer at UNESCO (1952–1953), closely followed the development of the United Nations, its programmes and Specialized Agencies. He had personally experienced the ravages and destruction of two World Wars and, through his life-long involvement in the Holy See's diplomatic service, understood the importance of working not only to avert war but to intensify efforts to maintain a lasting peace in the world. The Holy Father believed that, for such peace to be achieved, the dignity of the human person must be defended by the State and its institutions and by a world authority that could animate the authority of the States in the service of the universal common good. In his encyclical letter *Pacem in terris*, Pope John XXIII wrote of the importance of the defence of human family and the common good:

National economies are gradually becoming so interdependent that a kind of world economy is being born from the simultaneous integration of the economies of individual States [...]. Each country's progress, order, security and peace are necessarily linked with the social progress, order, security and peace of every other country [...].

No era will ever succeed in destroying the unity of the human family, for it consists of men who are all equal by virtue of their natural dignity. Hence there will always be an imperative need – born of man's very nature – to promote in sufficient measure the universal common good; the good, that is, of the whole human family[...].

Today the universal common good presents us with problems which are world-wide in their dimensions; problems, therefore, which cannot be solved except by a public authority with power, organization and means co-extensive with these problems, and with a world-wide sphere of activity. Consequently the moral order itself demands the establishment of some such general form of public authority [...].

The common good of individual States is something that cannot be determined without reference to the human person, and the same is true of the common good of all States taken together. Hence the public authority of the

world community must likewise have as its special aim the recognition, respect, safeguarding and promotion of the rights of the human person [...].

The United Nations Organization has the special aim of maintaining and strengthening peace between nations, and of encouraging and assisting friendly relations between them, based on the principles of equality, mutual respect and extensive cooperation in every field of human endeavour [...].<sup>2</sup>

On 11 July 1963, United Nations General-Secretary U Thant came to Vatican City to visit Pope Paul VI. In his address to U Thant, the Holy Father expressed his support of the United Nations and its work in nurturing peace and security among nations.<sup>3</sup>

In a letter of 21 March 1964 to the UN General-Secretary U Thant, the Holy See's Secretary of State, Cardinal Amleto Giovanni Cicognani conveyed "the desire of the Holy See to establish more stable relations with the United Nations."<sup>4</sup> In response, on 6 April 1964, UN General-Secretary U Thant wrote a letter to Pope Paul VI inviting the

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<sup>2</sup> JOHN XXIII, encyclical letter *Pacem in terris*, (=PT), nn. 130, 132, 137, 139, 142, 11 April 1963, in *AAS*, 55 (1963), pp. 257–304, English translation *Encyclicals of Pope John XXIII*, Washington, National Catholic Welfare Conference (=NCWL, *Encyclicals*), 1965, pp. 268–272.

<sup>3</sup> See PAUL VI, address to H.E. U Thant, Secretary-General of the United Nations, 11 July 1963, in *AAS*, 55 (1963), pp. 652–654 (original in English): "The universality proper to the Catholic Church, with its pulsing heart here in Rome, seems in a way to be reflected from the spiritual sphere into the temporal sphere of the United Nations. The ideologies of those who belong to the United Nations are certainly multiple and diverse, and the Catholic Church regards them with due attention; but the convergence of so many peoples, so many races, so many States in a single organization, intended to avert the evils of war and to favour the good things of peace, is in fact which the Holy See considers as corresponding to its concept of humanity, and included within the area of its spiritual mission in the world. In recent years, the voice of the Popes, our Predecessors, was among the first to augur the formation of a body such as that which you, Mr. U Thant, guide the activities. In his own time, Pope Benedict XV desired it; its fundamental criteria were traced with happy foresight by Pope Pius XII in his Christmas message of 1939, and that of September, 1944; then its importance was underlined and its increasingly perfect functioning was encouraged by Pope John XXIII in his last encyclical letter, *Pacem in terris* [...]. We therefore derive consolation from your visit, and We avail ourself of the occasion to renew the expression of our esteem and of our hopes for the fundamental programme of the United Nations, especially in regard to the elimination of war, the assistance of developing peoples, and of those in need of defence and promotion, the lawful liberties of individuals and social groups, and the safeguarding of the rights and dignity of the human person. To these sentiments, then, we add our good wishes for the true prosperity of the great organization of the United Nations, and for the happy success of its activities, to which you, Sir, are so nobly dedicated. We pray Almighty God, our heavenly Father, to grant and fulfill these good wishes" (ibid.).

<sup>4</sup> See MARUCCI, *Human Family*, p. 10.

Holy See to participate in the proceedings of the United Nations as a Permanent Observer, in effect acknowledging and affirming the unique classification of the non-Member State status of Permanent Observer, and thus officially establishing the Permanent Observer Mission of the Holy See at the United Nations.<sup>5</sup> Already as a Permanent Observer of various Specialized Agencies, the Holy See enjoyed specific rights and privileges of participation.<sup>6</sup> Msgr. Alberto Giovannetti was appointed the first Permanent Observer of the Holy See at the United Nations Headquarters in New York and served there until his retirement in 1973.<sup>7</sup>

At the invitation of the General-Secretary, on 4 October 1965, Pope Paul VI came to New York and addressed the 25th Session of the General Assembly of the United Nations. The Holy Father's message was a call to continue on the new journey towards a world living in peace and security, emphasizing the need for spiritual renewal and conversion of all mankind. His message was of hope and great expectation for peace building in a world troubled by conflict and regional wars.<sup>8</sup>

With the goal of unwavering service in the promotion of the culture of peace, the Holy See participates in the work of the United Nations, its organs and committees by contributing through interventions and statements relevant to the issues being debated.

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<sup>5</sup> See UN GA, 58<sup>th</sup> Session, *resolution 58/314*, p. 1 acknowledges 6 April 1964 as the formal date of establishment of the Holy See Observer State status.

<sup>6</sup> See Chapter I, p. 32, footnotes 60–61.

<sup>7</sup> See "ONU", in FILIPAZZI, *Rappresentanze*, p. 266.

<sup>8</sup> See PAUL VI, address to the 20<sup>th</sup> Session of the United Nations General Assembly, New York, 4 October 1965, in *AAS*, 57 (1965), pp. 877–885, English translation in *UN65*, pp. 237–241: "Never before has there been such a need for an appeal to the moral conscience of man as there is today, in an era marked by such human progress. For the peril comes neither from progress nor from science; on the contrary, properly used, they could resolve many of the grave problems which beset mankind. The real peril is in man, who has at hand ever more powerful instruments, suited as much to destruction as to the highest conquests. In a word, the edifice of modern civilization must be built on spiritual principles, which alone can not only support it, but also illuminate and animate it. And it is our conviction, as you know, that these indispensable principles of higher wisdom can rest only on faith in God" (*ibid.*).

On 22 June 1973, Pope Paul VI received the members of the Sacred College of Cardinals in the Consistorial Hall and referred to the important relationship between development and peace and the work of the Holy See in international fora. “Development is the new name of peace,” stated Paul VI that will lead to world order and prosperity through the restructuring of the mechanisms that create poverty in the world.<sup>9</sup>

On 27 July 1973, Pope Paul VI appointed Msgr. Giovanni Cheli (titular Archbishop of Santa Giusta) as Permanent Observer at the United Nations in New York where he served until his appointment as Pro-Prefect (1986) and President (1989) of the Pontifical Council for the Pastoral Care of Migrants and Itinerant Peoples.<sup>10</sup> On 3 December 1986, Pope Paul II appointed Archbishop Renato Raffaele Martino (titular Archbishop of Segermes) as Permanent Observer at the UN in New York.

During his 1995 visit to the United Nations in New York, Pope John Paul II addressed the 50<sup>th</sup> General Assembly on 5 October 1995. The Holy Father spoke about the millions suffering from poverty and hunger, sickness and degradation and the UN’s

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<sup>9</sup> See PAUL VI, discourse to College of Cardinals, 22 June 1973, in *ORe*, 5 July 1973, pp. 6–8. Pope Paul VI stated: “ ‘Development is the new name of peace,’ we wrote at the end of the Encyclical *Populorum Progressio* (87): and this name is the equivalent of charity. The Church is called to work for peace and progress; in the love that springs from the Heart of Christ. [...] She seeks by every means to favour peace, the development of less fortunate peoples, those who are poorly provided for economically striving with patience and hope, and with Christ’s meekness, for the coming of better times. She acts like the leaven in the mass, causing mankind to become ever more aware of this necessary interpersonal solidarity. As we wrote in the Encyclical just mentioned “the hour for action has now sounded. At stake are the survival of so many innocent children, and for so many families overcome by misery, the access to conditions fit for human beings; at stake are the peace of the world and the future of civilization. It is time for all men and all peoples to face up to their responsibilities” (*Populorum Progressio* [80]). Upon this road the Church is at the side of all those who take unselfishly to heart the destiny of mankind [...]. We consider it is our duty as far as possible to become active promoters of peace and pacification, especially where the action of others is lacking or insufficient. Not that we wish to take the place of those more directly responsible, but because we are aware that no one has more responsibility for this before God than ourself [...]” (ibid.).

<sup>10</sup> See “Vatican Bulletin,” in *ORe*, 9 August 1973, p. 12.

crucial role in unifying the nations of the world to answer these serious questions in solidarity:

As we face these enormous challenges how can we fail to acknowledge the role of the United Nations Organization? Fifty years after its founding, the need for such an Organization is even more obvious, but we also have a better understanding on the basis of experience, that the effectiveness of this great instrument for harmonizing and coordinating international life depends on the international culture and ethic which it supports and expresses. The United Nations Organization needs to rise more and more above the cold status of an administrative institution and to become a moral centre where all the nations of the world feel at home and develop a shared awareness of being, as it were a “*family of nations*.” The idea of “family” immediately evokes something more than simple functional relations or a mere convergence of interests. The family is by nature a community based upon mutual trust, mutual support and sincere respect. In an authentic family the strong do not dominate; instead, the weaker members, because of their very weakness, are all the more welcomed and served.

Raised to the level of the “family of nations,” these sentiments ought to be, even before law itself, the very fabric of relations between peoples. The United Nations has the historic, even momentous, task of promoting this *qualitative leap* in international life [...].<sup>11</sup>

John Paul II also visited the Offices of the Holy See’s Permanent Observer Mission and briefly addressed those in attendance:

As the third millennium approaches, we are given an opportunity to reflect on the Lord’s power and presence in our lives and in our world. Nearly 2,000 years ago, Jesus Christ ushered in the kingdom of God here on earth, and in our own time he continues to draw men and women to the light of his truth. Just as he commanded his Church in her earliest days to “make disciples of all nations” (Mt. 28:19), so he calls the faithful today, Bishops, priests, religious and the laity alike, to be instruments of evangelization for the salvation of the entire human family.

It is ultimately for this reason that over 30 years ago, Pope Paul VI initiated the formal participation of the Holy See in the United Nations Organization, offering the co-operation of the Church’s spiritual and humanitarian expertise to the men and women of good will who work for the advancement of peace and justice in the international community. In this capacity, the Holy See continues to remind the nations that their focal point must always be *the integral good of the human person*.<sup>12</sup>

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<sup>11</sup> JOHN PAUL II, address to the 50<sup>th</sup> Session of the United Nations General Assembly, New York, 5 October 1995, in *ORe*, 11 October 1995, p. 10.

<sup>12</sup> *Ibid.*, “Visit to the Observer Mission,” in *ORe*, 11 October 1995, p. 7.

Archbishop Martino represented the Holy See at the United Nations as the Holy See's Permanent Observer until his appointment, on 2 October 2002, as President of the Pontifical Council for Justice and Peace.<sup>13</sup> On 10 October 2002, the Holy Father appointed Archbishop Celestino Migliore (titular Archbishop of Canosa) as Permanent Observer of the Holy See at the UN Headquarters in New York.<sup>14</sup>

In 2004, by unanimously passing UN General Assembly resolution A/RES/58/314, the General Assembly clarified the rights and privileges of the Permanent Observer of the Holy See at the United Nations<sup>15</sup> and formulated a clear understanding of the levels of participation of the Holy See in the work and mission of the United Nations.<sup>16</sup>

### **3.2 Geneva: Permanent Observer Mission of the Holy See at the Office of the United Nations and Specialized Agencies at Geneva (UNOG)**

At the Office of the United Nations in Geneva, the Permanent Observer of the Holy See participates in the work of various Specialized Agencies and programmes: as a Member of two Geneva-based UN programmes – the UN High Commissioner for Refugees (UNHCR) and the UN Conference on Trade and Development (UNCTAD); and two Specialized Agencies: the ITU (International Telecommunication Union) in name of Vatican City State and the World Intellectual Property Organization (WIPO). Moreover, the Holy See participates as a Permanent Observer at another two UN

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<sup>13</sup> See "Vatican Bulletin," in *ORe*, 15 December 1986, p. 14. See also *ibid.*, in *ORe*, 2 October 2002, p. 8.

<sup>14</sup> See *ibid.*, in *ORe*, 6 November 2002, p. 12.

<sup>15</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/314, pp. 1–3.

<sup>16</sup> A detailed review of these changes and clarification was presented earlier in this thesis, Chapter II, pp. 61–67. At the New York Headquarters, the Holy See is also an Observer on an informal basis at the Commission on Sustainable Development (UNCSD) which is "the main body responsible for coordinating and monitoring implementation of the Summit [World Summits on Sustainable Development] outcomes." See United Nations Commission on Sustainable Development, in *UN2004*, pp. 827–833.

Specialized Agencies: the International Labour Organization (ILO) and the World Health Organization (WHO); and is an Observer on an informal basis at the World Meteorological Organization (WMO), a Specialized Agency, and the UN International Strategy for Disaster Reduction (UNISDR), a UN programme. The Holy See is a Permanent Observer at the World Trade Organization, which is a UN related agency.

Already in December 1962, Pope John XXIII accepted an invitation to participate in the work of the preparatory committee for the UN Conference on the Application of Science and Technology for the Benefit of Less Developed Areas (Geneva, 4–20 February 1963).<sup>17</sup> In 1964, Msgr. Alberto Giovannetti and Msgr. Lebret were sent as Delegates of the Holy See to the first UN Conference on Trade and Development (UNCTAD) held in Geneva 23 March–16 June 1964.<sup>18</sup>

On 1 February 1967, the Secretary of State, Cardinal A.G. Cicognani sent a letter to the UN General-Secretary U Thant expressing the Holy See's intention to establish a Permanent Mission at the United Nations Office at Geneva (UNOG). Pope Paul VI appointed Rev. P. Henri de Riedmatten, OP on 1 February 1967 as the first representative and Permanent Observer of the Holy See at UNOG and to the Specialized Agencies and programmes within which the Geneva Holy See Mission participates. He remained there until his appointment as Secretary of the Pontifical Council *Cor unum* on 22 July 1971.<sup>19</sup>

Three successive Permanent Observers were appointed by Pope Paul VI and Pope John Paul II to the Geneva Holy See Mission. On 12 August 1971, Msgr. Silvio Luoni (titular Archbishop of Turrus in Mauretania) was appointed Permanent Observer in Geneva, where he remained until his transfer on 18 May 1978 to Bangkok as Apostolic

<sup>17</sup> See "Day of Peace," in *ORe*, 3 May 1973, p. 4.

<sup>18</sup> See *ibid.*

<sup>19</sup> See "Vatican Bulletin," in *ORe*, 29 July 1971, p. 3.

Pro-Nuncio in Thailand and Apostolic Delegate in Laos, Malaysia and Singapore.<sup>20</sup> On 13 July 1978, the Holy Father appointed Archbishop Jean-Edouard Rupp, titular Archbishop of Dionysiopolis, as the Permanent Observer in Geneva where he served until his retirement in 1980.<sup>21</sup> The following year, on 7 March 1981, Pope John Paul II appointed Archbishop Edoardo Rovida, titular Archbishop of Tauromenium, as the Permanent Observer in Geneva where he served until his transfer to Zurich as Apostolic Nuncio in Switzerland on 26 January 1985.<sup>22</sup>

On 3 May 1985, Pope John Paul II appointed Archbishop Justo Mullor Garcia, titular Archbishop of Emerita Augusta, as Permanent Observer at the Holy See's Mission at the UN in Geneva, where he served until his transfer on 30 November 1991 as Apostolic Nuncio in Lithuania, Estonia and Latvia.<sup>23</sup> On 14 December 1991, the Holy Father appointed Archbishop Paul Fouad Tabet, titular Archbishop of Sinna, as Permanent Observer at the UNOG and the Geneva Holy See Permanent Observer Mission where he served until his transfer on 2 January 1996, as Apostolic Nuncio in Greece.<sup>24</sup> On 8 January 1996, Pope John Paul II appointed Archbishop Giuseppe Bertello, titular Archbishop of Urbisaglia, as the Permanent Observer of the Holy See Mission at UNOG and from 9 August 1997, also at the World Trade Organization, where he served until his transfer as Apostolic Nuncio in Mexico on 27 December 2000.<sup>25</sup>

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<sup>20</sup> See "Vatican Bulletin," in *ORE*, 26 August 1971, p. 7. See also "Vatican Bulletin," in *ORE*, 25 May 1978, p. 12.

<sup>21</sup> See *ibid.*, in *ORE*, 27 July 1978, p. 2.

<sup>22</sup> See *ibid.*, in *ORE*, 16 March 1981, pp. 2, 20 and in *ORE*, 4 February 1985, p. 8.

<sup>23</sup> See *ibid.*, in *ORE*, 13 May 1985, p. 2 and in *ORE*, 9 December 1991, p. 16.

<sup>24</sup> See *ibid.*, in *ORE*, 23/30 December 1991, p. 16 and in *ORE*, 17 January 1996, p. 12.

<sup>25</sup> See *ibid.*, in *ORE*, 17 January 1996, p. 12; in *ORE*, 13/20 August 1997, p. 12; in *ORE*, 3 January 2001, p. 12.

On 17 January 2001, Pope John Paul II appointed Bishop Diarmuid Martin, titular Bishop of Glendalocha, as the Permanent Observer at the UNOG and World Trade Organization. He served until his appointment as Coadjutor Archbishop of Dublin on 3 May 2003.<sup>26</sup> On 10 June 2003, Pope John Paul II appointed Archbishop Silvano Maria Tomasi, CS, titular Archbishop of Acelum, as the Permanent Observer at UNOG, representing the Holy See at the ILO, WHO, UNCTAD, UNHCR, UNISDR, WIPO, WMO, ITU and the World Trade Organization where he continues to serve.<sup>27</sup>

### 3.2.1 Geneva: International Labour Organization (ILO)

The International Labour Organization (ILO) was established at the Versailles Peace Conference in 1919, with the ILO Constitution integrated into the Peace Treaty of Versailles as Part XIII.<sup>28</sup> The 1<sup>st</sup> General Conference in 1919 was held in Washington, DC, the 2<sup>nd</sup> at Genoa, Italy in 1920, and subsequent sessions in Geneva (1919–1939). The ILO was an independent organization associated with the League of Nations, with the original members of both being the same Member States. In 1940, due to the war in Europe, the ILO established its working headquarters in Montreal, with a special Conference held in 1941 in New York. Regular Governing Body sessions were resumed in 1943, and a General Conference was held in 1944 in Philadelphia, resulting in the Declaration of Philadelphia.<sup>29</sup> This Declaration was annexed to the ILO Constitution and redefined the organization's functions and responsibilities.<sup>30</sup> The "Agreement between

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<sup>26</sup> See *ibid.*, in *ORE*, 24 January 2001, p. 12. See also "Vatican Bulletin," in *ORE*, 7 May 2003, p. 12.

<sup>27</sup> See *ibid.*, in *ORE*, 18 June 2003, p. 12. Archbishop Tomasi was ordained in 1965 and is a member of the Congregation of the Missionaries of St. Charles, an Institute of Consecrated Life.

<sup>28</sup> See Treaty of Versailles, part XIII, "Organization of Labour," in EPPSTEIN, pp. 489–501.

<sup>29</sup> See ILO Conference, Declaration Concerning the Aims and Purposes of the International Labour Organization, Philadelphia, 10 May 1944, in *UN47*, pp. 678–679.

<sup>30</sup> See International Labour Organization, in *UN52*, pp. 819–820.

the International Labour Organization and the United Nations,” bringing the ILO into relationship with the United Nations as a Specialized Agency, was adopted by the ILO on 2 October 1946 and by the UN General Assembly on 14 December 1946.<sup>31</sup>

The 1944 Declaration of Philadelphia reiterated the principles of the ILO:

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that:

- (a) Labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.<sup>32</sup>

On 15 June 1982, Pope John Paul II personally addressed the 68<sup>th</sup> Session of the ILO in Geneva after receiving an invitation from the Director General:

My thinking aims at reflecting, in a coherent way, one fundamental idea and one basic preoccupation: *the cause of man, his dignity and the inalienable rights flowing therefrom*. Already in my first Encyclical *Redemptor hominis*, I stressed the fact that “man is the first road which the Church must travel in fulfilling its mission; it is the first road and the fundamental road of the Church, mapped out by Christ himself [...]” That is also the reason why, in celebrating the 19<sup>th</sup> anniversary of *Rerum novarum*, I felt I should devote a major document of my papacy to human labour, to man at work – *homo laborem excens*. For not only does work bear the imprint of man, but it reveals to man the true meaning of his existence – work considered as a human activity regardless of its concrete content and circumstances. Work is endowed with “this basic dimension of human existence” through which “man’s life is built up every day.” From work “it derives its specific dignity but at the same time contains the unceasing measure of human toil and suffering and also of the harm and injustice which

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<sup>31</sup> See UN GA, 1<sup>st</sup> Session, resolution 50 (I) “Agreement with Specialized Agencies,” (=resolution 50[I]), 14 December 1946, in *Official Records of the United Nations General Assembly*, 1947, p. 78; UN GA, resolution A/72, 30 September 1946, in *Official Records of the General Assembly*, 1947, pp. 1–8; Agreement Between the United Nations and the International Labour Organization, Geneva and New York, 1946, in *UN47*, pp. 664, 679–683.

<sup>32</sup> Declaration Concerning the Aims and Purposes of the International Labour Organization, 10 May 1944, ILO Conference, Philadelphia, in *UN47*, p. 678.

penetrate deeply into social life within individual nations and on the international level”[*Laborem Exercens*, no. 1].<sup>33</sup>

The ILO has a unique tripartite structure governed by the cooperative efforts of workers, employers and governments as equal partners, meeting three times per year (March, June and November) as the executive Governing Body to decide upon an agenda, ILO policy, programmes and budget for consideration by the ILO Conference. The Conference meets annually in June and the International Labour Office is the secretariate of the Organization. The ILO has 178 Members (2004), with a worldwide staff of 2500 and a 2004–2005 biennium budget of US\$529.6 million.<sup>34</sup>

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<sup>33</sup> JOHN PAUL II, address to the International Labour Organization, Geneva, 15 June 1982, in *AAS*, 74 (1982), pp. 992–1006, English translation in *Paths*, p. 43: “[...] The problems of work – problems that have repercussions in so many spheres of life and at all levels, whether individual, family, national or international – share one characteristic, which is at one and the same time a condition and a programme, and which I would like to stress before you today: *solidarity*. I feel impelled to place these considerations before you partly because of the objectives of your Organization and above all the spirit which imbues it. The spirit in which the International Labour Organization has carried out its missions since its foundation is a spirit of *universalism*, which rests on the fundamental equality of nations and the equality of men, and which is perceived both as the starting point and the point of arrival of any social policy. It is also a spirit of *humanism*, which seeks to develop all of man’s potentialities, both material and spiritual. Lastly, it is a *community spirit*, which is successfully reflected in your *tripartite structure*. At this juncture, I can only repeat the words pronounced here by Paul VI during his visit in 1969: ‘Your original and organic instrument is to bring together the three forces at work in the human dynamics of modern labour: men of government, employers and workers. And your method, that has become a model, is to harmonize these three forces, so that they do not oppose each other, but combine ‘in a courageous and fecund collaboration’ by means of constant dialogue for the study and solution of ever renewed and recurring problems’ (address to ILO, 10 June 1969, in *AAS*, 61 [1969], p. 498).

In speaking for the Apostolic See, the Church and the Christian faith, I reiterate my most deeply heartfelt congratulations to your Organization for its accomplishments. At the same time I pray that its work, as well as your efforts and all your work, will go on promoting the dignity of human labour and genuine human progress. May yours be a tireless contribution to the building up of a civilization of human labour, a civilization of solidarity and – even more than that – a civilization of love (*Paths*, pp. 43, 48).

<sup>34</sup> See *ibid.*, pp. 1484–1485. For 1951 see International Labour Organization, in *UN50*, pp. 893–894. The major contributors in 1951 to the ILO budget were the United States (25.0%), United Kingdom (13.6%), France (8.88%), India (4.43%), Canada (4.28%), Italy (3.19%), China (3.04%) (see *ibid.*, p. 894). For 1976–1977 see *ibid.*, in *UN75*, pp. 1002–1003. The major contributors in 1976 to the ILO budget were the United States (27.88%), USSR (13.58%), Japan (7.48%), Germany – Fed. Rep. (7.43%), France (6.13%), United Kingdom (5.56%), Italy (3.77%), Canada

### 3.2.2 Geneva: World Health Organization (WHO)

In February 1946, ECOSOC established a Technical Preparatory Committee to draft a Constitution of a World Health Organization (WHO). An International Health Conference was held in New York (19 June–22 July 1946), attended by 51 UN Member States, 13 observer-States and observers representing the Allied Control Authorities for Germany, Japan and Korea. The Conference adopted the Constitution<sup>35</sup> and an Arrangement Concluded by the Governments Represented at the International Health Conference was signed on 22 July 1946. On 16 October 1946, health functions of the League of Nations Health Organization were transferred to the Interim Commission and the third session approved a preliminary budget for 1948 of US\$4.8 million submitted for

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(3.3%). The Holy See contributed US\$6,925 (see *ibid.*, pp. 996–997). For 2004–2005 see *ibid.*, in *UN2004*, p. 1485. The major contributors in 2004 to the ILO budget were the United States (22%), Japan (19.21%), Germany (9.62%), France (6.36%), United Kingdom (5.45%), Italy (4.98%), Canada (2.51%).

<sup>35</sup> See WHO Constitution, 22 July 1946, New York, in *UN47*, pp. 793–800, signed by the representatives of 61 States. On 7 April 1948, after the required 26 Member States of the United Nations had accepted the text of the document, the World Health Organization Constitution came into force, *Yearbook of the United Nations 1948* (=UN48), Success Lake, NY, Department of Public Information, United Nations, 1949, p. 909. See also Arrangement Concluded by the Governments Represented at the International Health Conference, 22 July 1946, New York, in *UN47*, pp. 801–802. An Interim Commission of the World Health Organization was established with 18 States designated to serve on it: Australia, Brazil, Canada, China, Egypt, France, India, Liberia, Mexico, Netherlands, Norway, Peru, Ukrainian SSR, United Kingdom, United States of America, USSR, Venezuela and Yugoslavia. The 1<sup>st</sup> session of a World Health Assembly was to be convoked and held in New York to consider proposals for programmes, regulations, budget, headquarters location, and to enter into negotiations for relationship agreements with the United Nations. Additional matters to be considered were steps to be taken for the transfer from the United Nations to the Interim Commission of the functions and assets of the League of Nations Health Organization and to facilitate transfer of assets and liabilities of the Office International d'Hygiène Publique upon termination of the Rome Agreement of 1907. The Interim Commission was to assume the duties and functions of the UN Relief and Rehabilitation Administration and incorporate provisions of various Conventions (1926–1944); to establish effective relations with inter-governmental organizations, to prepare for revising and unifying existing sanitary conventions, to elect a Chairman and officers, to establish committees, to appoint an Executive Secretary, to consider urgent health and give technical advice to governments and organizations and to submit reports to the Health Assembly (*ibid.*).

consideration to the Secretary-General of the United Nations.<sup>36</sup> The World Health Organization came into relationship with the United Nations as a Specialized Agency in 1947.<sup>37</sup>

The WHO Constitution Preamble stated the guiding principles of the new international organization and UN Specialized Agency.<sup>38</sup> The 1948 WHO Constitution gives a list of 22 functions of the new organization, which includes: acting as the directing and co-ordinating authority on international health work; furnishing technical assistance and emergency aid upon government request; establishing and maintaining technical services; stimulating and advancing work to eradicate epidemic, endemic and other diseases; promoting co-operation with other Specialized Agencies to improve nutrition, housing, sanitation, recreation, economic, working and environmental

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<sup>36</sup> See Activities of the Interim Commission, in *UN47*, pp. 791–792.

<sup>37</sup> See UN GA, resolution 50 (I), p. 78; UN GA, resolution 124 (II) “Agreements with Specialized Agencies, WHO,” document A/348, 15 November 1947, in *Official Records of the United Nations General Assembly*, 1948, pp. 1–9, with addendum A/348/Add.2, pp. 1–2 (2 September 1947, 2 October 1947).

<sup>38</sup> See WHO Constitution, Preamble, in *UN47*, p. 793: “The States parties to this Constitution declare, in conformity with the Charter of the United Nations, that the following principles are basic to the happiness, harmonious relations and security of all peoples:

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States.

The achievement of any State in the promotion and protection of health is of value to all.

Unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger.

Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development.

The extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.

Informed opinion and active co-operation on part of the public are of the utmost importance in the improvement of the health of the people.

Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures”(ibid.).

conditions; promoting maternal and child health and welfare; fostering activities in the field of mental health; promoting health research and standards of teaching in health and medical fields; standardizing diagnostic procedures; and developing, establishing and promoting international standards regarding food, biological and pharmaceutical products.<sup>39</sup>

In 1949, the Holy See had been invited to send observers to the WHO Assembly Session and from 1951 sent its representatives to observe the proceedings. On 27 June 1949, Pope Pius XII addressed the World Health Organization Assembly. In his address, the Holy Father said that:

On reading over your program and proceedings one point particularly caught our attention: the broad and deep meaning that you give to the expression "health." In your eyes it is not simply negative, as if health, in general, consisted in the simple exclusion of bodily sickness and physical impairment, as if mental health, in particular, meant no more than the absence of alienation or abnormality. Health encompasses the positive spiritual and social well-being of humanity and, on this ground, is one of the conditions required for universal peace and common security.

It follows that the question of health goes beyond the bounds of biology and medicine; of necessity it has its own place in the moral and religious sphere.

The Church, far from considering health as a subject of the exclusively biological order, has always emphasized the importance of religious and moral forces in order to maintain health and has always numbered among the conditions requisite for the dignity and the complete well-being of human beings, their corporal and spiritual, temporal and eternal good.

The social doctrine of the Catholic Church lets no doubt remain that health of body and mind, in the case when healthy social relations also exist, can contribute effectively to establishing a most favourable atmosphere for people's inner and mutual peace. Everything that can effectively serve the cause of true peace is assured of receiving the Church's encouragement and support.<sup>40</sup>

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<sup>39</sup> See WHO Constitution, Chapter II, art. 2, in *UN47*, p. 794.

<sup>40</sup> PIUS XII, address to the World Health Assembly, 27 June 1949, in *Discorsi e Radiomessaggi di Sua Santità Pio XII*, vol. 11 (2 Marzo 1949–1 Marzo 1950), pp. 131–136, English translation in *Paths*, pp. 451–452.

The Governing Body of the WHO is the World Health Assembly,<sup>41</sup> consisting of 192 (2004) Member States and two associate members who meet annually in Geneva. The 34-member Executive Board meets in two sessions annually. WHO Regional Offices are located in Africa (Brazzaville), Eastern Mediterranean (Cairo), South East Asia (New Delhi), West Pacific (Manila), Europe (Copenhagen), Latin America and the Caribbean (Washington, DC) with a worldwide staff of 4,017 employed staff and an additional 3,973 temporarily appointed staff. From the original 1948 budget of US\$4.8 million, the 2004–2005 total WHO biennium budget reached US\$2.7 billion.<sup>42</sup>

In November 1988, Pope John Paul II sent a letter to the Director-General of the World Health Organization, Dr. Hiroshi Nakajima, for the First World Day of Dialogue and Communication about AIDS:

In instituting the World Health Organization approximately forty years ago, the international community of peoples proposed to attain one of the highest goals to which the person of our day can aspire: to assure all peoples better physical and mental well-being through economic and health-care cooperation among States, through scientific research and the fight against all forms of illness.

The programme established by the World Health Organization in view of the new millennium “Health for all – all for health,” points to the goal of this first world day of dialogue and communication about acquired immune deficiency syndrome (AIDS), which is intended to sensitize public opinion and public authorities to the struggle against an illness whose seriousness causes an understandable alarm on all levels.

I gladly associate myself with this initiative, and I wish to express my moral support, because we are all convinced that this illness affects not only the body, but rather the entire human person, as well as interpersonal relations and life in society [...].<sup>43</sup>

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<sup>41</sup> See WORLD HEALTH ORGANIZATION, Basic Documents “Rules of Procedure of the World Health Assembly,” 45<sup>th</sup> ed., Geneva, WHO Publications, 2005, pp. 122–149.

<sup>42</sup> See World Health Organization, in *UN2004*, pp. 1490–1491.

<sup>43</sup> JOHN PAUL II, Message for the First World Day of Dialogue and Communication about AIDS, 28 November, 1988, in *ORe*, 19–26 December 1988, p. 18: “[...] The social institutions responsible for safeguarding public health are always urged to undertake all possible efforts to ensure its defence: however, that may only be done with respect for each person, and the whole person, by preventing the spread of the illness and in caring for those afflicted by it. The degree of civilization of any given society can be measured in the manner in which it responds to the needs of life and the suffering of the human person, precisely because the fragility of the moral

### 3.2.3 Geneva: United Nations Conference on Trade and Development (UNCTAD)

A United Nations programme was established on 30 December 1964 by the UN General Assembly,<sup>44</sup> as an organ of the Assembly, to meet at intervals of not more than three years for the purpose of promoting international trade between States of varying stages of development, cultures and social orders and to formulate principles and policies for international trade and development.<sup>45</sup>

The working philosophy of the Conference was recently reiterated in Resolution 59/221 of the UN General Assembly (22 December 2004) concerning international trade and development:

*The General Assembly,*  
Recognizes that a universal, rule-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefitting countries at all stages of development, thereby promoting economic growth and sustainable development necessary to achieve the internationally agreed development goals [...].<sup>46</sup>

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condition demands the greatest solidarity in the defence of the sacredness of life, from its beginning to its natural end, in every moment and phase of its evolution.

The Catholic Church which has received from her Founder, Jesus Christ, a heritage of special and attentive relations with the suffering, and this in every age, is no less concerned today with this new category of the sick. They must be looked upon as our brothers and sisters, whose human condition requires a special form of solidarity and help.

In expressing my wishes that the observance of this first world day on AIDS may contribute to strengthening, on the international level, the common engagement against such an illness and in favour of those who are afflicted by it. I want to give my assurance that the Catholic Church through her institutions, will not fail to have a special concern for that part of suffering humanity, which is the object of my affection and prayer” (ibid.).

<sup>44</sup> See UN GA, 19<sup>th</sup> Session, resolution 1995 (XIX) “Establishment of the United Nations Conference on Trade and Development as an Organ of the General Assembly,” 30 December 1964, in *Yearbook of the United Nations 1964 (=UN64)*, New York, Office of Public Information, United Nations, 1965, pp. 210–215. The Holy See is listed as a UNCTAD Member.

<sup>45</sup> See *ibid.*

<sup>46</sup> UN GA, 59<sup>th</sup> Session, resolution 59/221 “International Trade and Development,” 22 December 2004, in *UN2004*, pp. 959–963.

The Holy See accepted an invitation to become a member of UNCTAD in 1963.<sup>47</sup>

One hundred and twenty States, including the representative of the Holy See, attended the first UNCTAD Conference held in Geneva (23 March–16 June 1964). The Final Act of the Conference (adopted 16 June 1964) recommended a range of principles.<sup>48</sup> Membership to UNCTAD includes States that are Members of the United Nations, the International Atomic Energy Agency or Specialized Agencies. A permanent organ of UNCTAD – the Trade and Development Board, together with its Secretariat, were established.<sup>49</sup>

Pope John Paul II wrote a letter to the Secretary-General for the UNCTAD 8<sup>th</sup> Session held in Cartagena de Indias, Columbia, from 8 to 15 February 1992, in which he stated:

An important shift has taken place in recent years in the very understanding of development, its conditions and its goals. The right to development has become a guiding principle in international relations [...].

One must also consider the obstacles that arise in bringing social concerns to bear upon international trade and in enabling the latter to provide opportunities for human progress for those who are most disadvantaged. What is needed is a profound conversion of attitudes, our contemporaries need to adopt a different way of looking at things. This is in the interest of everyone. It is also a condition for peace. Whether it is a matter of a national economy or of economic relationships between nations, experience demonstrates that a system which does

<sup>47</sup> See “General Council of WTO Approves Holy See’s Admittance as Observer,” in *ORe*, 30 July 1997, p. 8.

<sup>48</sup> See The United Nations Conference on Trade and Development, in *UN64*, pp. 195–217. The Conference recommended: “15 ‘General Principles’ and 13 ‘Special Principles’ to govern ‘international trade relations and trade policies conducive to development,’; and eight principles relating to transit trade of land-locked States. Recommendations [were made relating] to commodities; manufactured goods; financing for an expansion of trade; improvement of ‘invisible trade’ (factors such as interest and dividend payments, insurance, shipping costs and receipts from tourism); special problems; and a programme of work in the field of trade and development. Recommendations [were also made] on institutional arrangements” (in *UN64*, p. 198). UNCTAD is in relationship with the World Trade Organization (WTO) (Memorandum of Understanding, April 2003); with the International Trade Centre (jointly sponsored by UNCTAD and WTO); and the Bretton Woods Institutions (International Monetary Fund and World Bank) cooperating in areas of trade and finance.

<sup>49</sup> See *ibid.*, pp. 211–214. The Holy See is listed as a member of the 55 member Trade and Development Board, UN GA resolution 1995(XIX), Part II, 5(b), Annex B.

not seek to ensure the improvement of both people's material well-being and their spiritual development cannot survive [...].

Much still remains to be done in order to arrive at greater equity in international relations. But for the peoples of the world, this process will seem to be a new illusion unless they perceive the determination of the richer and more powerful nations to seek tirelessly the surest paths towards justice and solidarity. It is to the honour of the United Nations Conference on Trade and Development that it has always been concerned to affirm the ethical dimension of the questions it has addressed.<sup>50</sup>

Pope John Paul II emphasized the important connection between the goals of peace and economic development. To achieve these goals, a conversion of heart and a new approach to world affairs needed to be developed.

### 3.2.4 Geneva: World Trade Organization (WTO)

As the successor to the GATT (General Agreement on Tariffs and Trade),<sup>51</sup> the WTO was established by the Agreement of 76 original members on 1 January 1995, creating an international organization that “[...] shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments in the Annexes to this Agreement.”<sup>52</sup> Article III of the Agreement lists the WTO's functions:

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements [...];

<sup>50</sup> JOHN PAUL II, “Papal Letter for UNCTAD-VIII: People Have a Right to Development,” in *ORe*, 19 February 1992, p. 4.

<sup>51</sup> See THE INTERNATIONAL TRADE ORGANIZATION AND THE GENERAL AGREEMENT ON TARIFFS AND TRADE, in *UN64*, p. 570. The GATT came into existence on 1 January 1948, with 23 original contracting parties signing the Agreement. By 1964, there were 64 contracting parties and 13 countries participating in the work of GATT. In May 1963, measures were taken to begin the process of expanding the GATT's legal and institutional framework.

<sup>52</sup> See Agreement Establishing the World Trade Organization, 1 January 1995, in P. GALLAGHER, *The First Ten Years of the WTO*, Cambridge, Cambridge University Press, 2005, Appendix 2, pp. 153–166; Article II, no. 1, p. 154. *The First Ten Years of the WTO* was commissioned by the WTO as a factual account of its first decade of activity. The WTO was the successor to the General Agreement on Tariffs and Trade (GATT), created in 1948, and based upon the experience in international trade of the 1920–1930s. GATT provided the groundwork for the establishment of the WTO in 1995.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements [...];
3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes [...];
4. The WTO shall administer the Trade Policy Review Mechanism [...].
5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.<sup>53</sup>

The WTO is a Specialized Agency which has no formal agreement with the United Nations differing from UN Specialized Agencies. The UN-WTO framework for cooperation is based upon an exchange of letters, dated 29 September 1995, between the WTO Director-General Renato Ruggiero and UN Secretary-General Boutros Boutros-Ghali.<sup>54</sup> On 16 July 1997, the WTO General Council addressed the Holy See's participation in its proceedings and unanimously approved the Holy See's admittance as an Observer at the Organization's General Conference and General Council.<sup>55</sup>

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<sup>53</sup> *Ibid.*, Article III, nn. 1–5, pp. 154–155.

<sup>54</sup> See ECONOMIC AND SOCIAL COUNCIL, resolution 1995/322, 12 December 1995 and ECOSOC, 30 October 1995, E/1995/125, letter dated 24 October 1995 from Secretary-General B. Boutros-Ghali to President of ECOSOC with copies of exchanged letters of cooperation. See also World Trade Organization, in *UN95*, pp. 1444–1445. Also, in 1995, the UNCTAD/GATT International Trade Centre (ITC) was replaced by the UNCTAD/WTO ITC, in UN Economic and Social Council, 12 December 1995, resolution 1995/322; E/1995/SR. 60, Provisional Summary Record of the 60<sup>th</sup> meetings, 29 January 1996, p. 4 and “Trade Promotion and Facilitation,” International Trade Centre, in *UN95*, p. 959. Following the exchange of cooperation letters between the UN Secretary General and WTO Secretary General in 1995, the UN Economic and Social Council acknowledged this change in its decision 1995/322, 12 December 1995. The original International Trade Centre was established within the framework of the GATT in 1964 “[...] to provide trade information and trade promotion advisory services for the benefit of developing countries [...] primarily to assist these countries in their efforts to develop their export trade [...],” in *UN64*, pp. 571–572.

<sup>55</sup> “The agency’s decision expressly recognized the Holy See’s particular nature as a sovereign subject of international law, and approved its permanent presence in the above-mentioned governing bodies unrestricted by the condition of subsequently having to negotiate its participation as a member.

No one is unaware of the close connection between a just international economic order, peace, development and social justice. Thus, the Holy See has always paid great attention to the development of commercial relations between States and the activity of the international agencies responsible for following up and regulating these relations [...].

Pope John Paul II addressed the Academy of Social Sciences on 14 May 1997 and reiterated the importance of the connection between the regulation of international trade and the dignity of the human person:

It should nevertheless be recognized that within the framework of a “world” economy, the ethical and juridical regulation of the market is objectively more difficult. Indeed, to achieve it effectively the domestic political initiatives of the different countries do not suffice; what is needed is an “increased co-ordination among the more powerful countries’ and the consolidation of a *democratic global order* with agencies where “the interests of the whole human family be equally represented’ (*Centesimus annus*, n. 58). Agencies, at the regional or world level, are not lacking. I am thinking in particular of the United Nations Organization and of its various agencies providing social assistance. I am also thinking of the role played by institutions such as the International Monetary Fund and the World Trade Organization. It is urgent that, in the field of freedom, a culture of “rules” should be reinforced which is not limited to a mere commercial function but takes charge, through reliable juridical tools, of *the protection of human rights* in all parts of the world. The more “global” the market, the more it must be balanced by a “global” *culture of solidarity*, attentive to the needs of the weakest. Unfortunately, despite grand declarations of principle, this reference of values is increasingly jeopardized by the resurgence of *selfishness* among *nations or groups*, and at a deeper level, by a widespread ethical and *cultural relativism*, which is a threat to the perception of man’s very meaning.<sup>56</sup>

In 2004, the ITC made available US\$21.1 million in technical assistance and focused on its main programme areas and receiving notification of 33 additional regional trade agreements, with a total of 226 in force. That year, the WTO had a worldwide staff of 630, with a budget of SF161.7 million.<sup>57</sup>

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The Holy See, in agreeing to participate in the work of the WTO as an observer, intends to collaborate in building a just multilateral, juridical and economic system for a fuller understanding between nations and for the economic and social development particularly of the poorer countries. Its presence here completes its presence in UNCTAD and in other agencies of the United Nations system with which it will continue its intense co-operation” (“General Council of WTO Approves Holy See’s Admittance as Observer,” in *ORe*, 30 July 1997, p. 8).

<sup>56</sup> JOHN PAUL II, address to Academy of Social Sciences: “The World’s Poor Are Still Too Numerous,” in *ORe*, 14 May 1997, p. 5.

<sup>57</sup> See “Trade promotion and facilitation,” in *UN2004*, pp. 965, 1512.

### 3.2.5 Geneva: United Nations High Commissioner for Refugees (UNHCR)

During November–December 1949, the Third Committee of the UN General Assembly’s Fourth Session considered various drafts and proposals with the objective of addressing concerns for the protection and welfare of growing numbers of postwar refugees, displaced and stateless persons. Acting upon the draft resolution of the Third Committee, on 3 December 1949, the UN General Assembly established the United Nations High Commissioner for Refugees (UNHCR) and instructed the Economic and Social Council and Third Committee to prepare proposals and measures needed for the functioning of the UNHCR.<sup>58</sup> Consequently, on 14 December 1950, the UN General Assembly adopted the Statutes of the Office of the UNHCR detailing general provisions, functions, organization and finance, and calling upon governments to co-operate with the UNHCR in its work.<sup>59</sup> On 2–25 July 1951, the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons<sup>60</sup> was held in Geneva and adopted the final text of the Convention Relating to the Status of Refugees, on 25 July 1951. The Holy See signed the Convention on 21 May 1952 and submitted instruments of ratification on 15 March 1956.<sup>61</sup>

Acting upon UN General Assembly resolution 1166 (XII) of 26 November 1957, ECOSOC established the Executive Committee of the High Commissioner’s Programme on 30 April 1958. By appointing 24 members including the Holy See, it began its work

<sup>58</sup> See UN GA, 4<sup>th</sup> Session, resolution 319 (IV), 3 December 1949, in *UN49*, pp. 594–599.

<sup>59</sup> See UN GA, 5<sup>th</sup> Session, resolution 428 (V), 14 December 1950, in *UN50*, pp. 585–587.

<sup>60</sup> See UNHCR, Convention Relating to the Status of Refugees, 14 December 1950, in *Official Records of the United Nations General Assembly*, 1951, p. 48.

<sup>61</sup> See UNHCR, “Refugees and Stateless Persons,” in *Yearbook of the United Nations 1951(=UN51)*, New York, Department of Public Information, 1952, pp. 520–535.

on 1 January 1959 as a policy advisory body to the High Commissioner.<sup>62</sup> Contributions for the 1959 programme totaled US\$2.9 million by the end of 1958.<sup>63</sup>

As of 1 December 2006, the number of States Parties to the 1951 Convention and 1967 Protocol were 144, with 141 States Parties to both, and 147 to one or both instruments. On 20 December 2004, the General Assembly adopted resolution 59/170 after considering the UNHCR's annual report and reaffirmed the fundamental importance and invaluable contribution made by the Office of the High Commissioner and their staff.<sup>64</sup> The UNHCR Executive Committee for 2005–2006 consisted of seventy member States, including the Holy See.<sup>65</sup> The Holy See is an active member in the Executive Committee and its work, emphasizing the importance of the dignity of the human person and the need to go beyond the narrow legal terms that define the displaced and dispossessed.<sup>66</sup>

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<sup>62</sup> See UN GA, 12<sup>th</sup> Session, resolution 1166 (XII) "International Assistance to Refugees," 26 November 1957, in *Yearbook of the United Nations 1957* (=UN57), New York, Department of Public Information, 1958, pp. 240–241. The People's Republic of China was added as the 25<sup>th</sup> member in July 1958. See "Refugees," in *Yearbook of the United Nations 1958* (=UN58), New York, Department of Public Information, 1959, pp. 238–240.

<sup>63</sup> See *ibid.*, in UN58, p. 241.

<sup>64</sup> See UNHCR, "Refugees and displaced persons," in UN2004, pp. 1196–1197. The General Assembly resolution "[...] *Emphasizes* that international protection of refugees is a dynamic and action-oriented function that is at the core of the mandate of the Office of the High Commissioner and that includes, in cooperation with States and other partners, the promotion and facilitation of, inter alia, the admission, reception and treatment of refugees and the ensuring of durable, protection-oriented solutions, bearing in mind the particular needs of vulnerable groups [...]. *Strongly reaffirms* the fundamental importance and the purely humanitarian and non-political character of the function of the Office of the High Commissioner of providing international protection to refugees and seeking permanent solutions to refugee problems, and recalls that these solutions include voluntary repatriation and, where appropriate and feasible, local integration and resettlement in a third country, while reaffirming that voluntary repatriation, supported by necessary rehabilitation and development assistance to facilitate sustainable reintegration, remains the preferred solution [...]" (*ibid.*).

<sup>65</sup> See UNHCR, Executive Committee Membership, <<http://www.unhcr.org/excom/40111aab4.html>> (15 July 2007).

<sup>66</sup> See A. DUPUY, "Statement on Item 97 (UN-Com3)(Report of the UN High Commissioner for Refugees, Questions Relating to Refugees and Displaced Persons and Humanitarian Questions),"

### 3.2.6 Geneva: United Nations International Strategy for Disaster Reduction (UNISDR)

The UNISDR is a Programme adopted after the conclusion of the International Decade for Natural Disaster Reduction (IDNDR: 1990–2000)<sup>67</sup> and endorsed by the adoption of UN General Assembly resolution 54/219.<sup>68</sup> The Holy See is an Observer on an informal basis at the UNISDR.<sup>69</sup> In the process of establishing its priorities:

The [inter-agency] Task Force identified focal areas for its work, including ecosystems management, land use management and unplanned urban areas; advocacy, information, education and training; public awareness and commitment; raising political will and the profile of prevention; the social and health impact of disasters; capacity-building in developing countries; mainstreaming disaster reduction in sustainable development and in national planning; lessons learned for prevention from actual disasters; private and public sector partnerships; technological disasters; and the application of science and technology in disaster reduction.<sup>70</sup>

Priority areas of work included development of global strategies and policies regarding the effects of global warming, adaptation to extreme climate conditions and

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in A. DUPUY (ed), *Words That Matter, The Holy See in Multilateral Diplomacy, Anthology (1970–2000)* (=DUPUY, *Words*), New York, The Path to Peace Foundation, 2003, p. 500. Msgr. Dupuy stated: “The Holy See is well aware of the limits imposed on a comprehensive plan of action in favour of the increasing number of displaced persons by a narrow definition of what constitutes a refugee. But the maltreatment, rejection and forced repatriation of thousands of people simply because they do not fit within the letter of a definition, reveal a callous attitude towards human suffering and human rights. As the Secretary-General wrote in the excellent sixth section of his last Report on the Work of the Organization: ‘To promote human rights means little if it does not mean to defend them when they are most under attack.’ The criteria used in the official documents to define ‘refugees’ are not sufficient anymore and do not respond to the new tragic situations” (ibid.).

<sup>67</sup> See UN GA, 44<sup>th</sup> Session, resolution 44/236 “International Decade for Natural Disaster Reduction,” 22 December 1989, in *Yearbook of the United Nations 1989* (=UN89), New York, Department of Public Information, 1990, pp. 355–358.

<sup>68</sup> See UN GA, 54<sup>th</sup> Session, resolution 54/219 “International Decade for Natural Disaster Reduction: Successor Arrangements,” 22 December 1999, in *Yearbook of the United Nations 1999* (=UN99), New York, Department of Public Information, 2000, p. 861.

<sup>69</sup> See UNISDR, Summary Record and Conclusions, 2<sup>nd</sup> Meeting of the Inter-Agency Task Force for Disaster Reduction, 10–11 October 2000, Palais des Nations, Geneva, (listed Holy See Observer – Msgr. Paolo Conversi, in Annex II) at <[http://unisdr.org/eng/task%20force/tf-meetings/2nd%20TF%20mtg/TF-2\\_final\\_report.doc](http://unisdr.org/eng/task%20force/tf-meetings/2nd%20TF%20mtg/TF-2_final_report.doc)> (22 July 2007).

<sup>70</sup> UNISDR, in *Yearbook of the United Nations 2000* (=UN2000), New York, Department of Public Information, 2001, p. 882.

future impacts, urban risk and vulnerability.<sup>71</sup> The Holy See is an Observer on an informal basis at the UNISDR.<sup>72</sup>

### 3.2.7 Geneva: World Intellectual Property Organization (WIPO)

The Convention establishing the World Intellectual Property Organization was signed at Stockholm on 14 July 1967, and WIPO came into existence 26 April 1970, as an inter-governmental organization.<sup>73</sup> On 17 December 1974, WIPO came into relationship with the United Nations as a Specialized Agency.<sup>74</sup> Today, WIPO and the WIPO Convention administer 24 treaties, with 855 staff and a 2006–2007 budget of SF531 million. As a result of its registration revenues, WIPO is a self-funding Specialized Agency.<sup>75</sup> The Holy See is a contracting party to the following WIPO treaties:

Convention/Act	Entry into force	Accession	Ratification	Signature
1. Berne Convention (Literary & Artistic Works)	12.09.1935	-	-	-
Paris Acts (1971)	24.04.1975	-	20.01.1975	24.07.1971*
2. Hague Agreement (International Deposit of Industrial Designs)	29.09.1960	-	-	-
London Act (1934)	29.09.1960	21.07.1960	-	-
Hague Act (1960)	-	-	-	28.11.1960
Stockholm Act (1967)	-	-	-	05.01.1968
(The Holy See submitted an instrument of denunciation of the London Act in 2006, to take effect 4 August 2007 and ceasing to be a member of the Hague Union).				
3. Locarno Agreement (Classification of Industrial Designs)	-	-	-	08.10.1968
4. Paris Convention (Industrial Property)	29.09.1960	-	-	-

<sup>71</sup> See United Nations International Strategy for Disaster Reduction, in *UN2004*, p. 945.

<sup>72</sup> See UNISDR, Summary Record and Conclusions, Second Meeting of the Inter-Agency Task Force for Disaster Reduction, Palais des Nations, Geneva, 10–11 October 2000, <[http://unisdr.org/eng/task%20force/tf-meetings/2nd%20TF%20mtg/TF-2\\_final\\_report.doc](http://unisdr.org/eng/task%20force/tf-meetings/2nd%20TF%20mtg/TF-2_final_report.doc)> (22 July 2007). It listed Holy See Observer – Msgr. Paolo Conversi, in Annex II.

<sup>73</sup> See United Nations Treaty Series, vol. 828, no. 11846, 1974, pp. 3, 5. The WIPO Convention was amended 28 September 1979.

<sup>74</sup> See UN GA, 29<sup>th</sup> Session, resolution 3346 (XXIX) “Agreement Between the United Nations and the World Intellectual Property Organization” and “Annex,” 17 December 1974, in *Official Records of the United Nations General Assembly*, 1975, pp. 71–73.

<sup>75</sup> See World Intellectual Property Organization, in *UN2004*, pp. 1506–1507.

Stockholm Act (1967)	24.04.1975	-	20.01.1975	14.07.1967*
5. Patent Cooperation Treaty (PCT)	19.06.1970	-	-	-
6. Geneva Convention (Unauthorized phonogram duplication)	18.07.1977	-	04.04.1977	29.10.1971*
7. Rome Convention (Performers, phonograph of producers, broadcasts)	-	-	-	26.10.1961
8. Strasbourg Agreement (Int. Patent Classification)	-	-	-	24.03.1971
9. WIPO Convention	24.04.1975	-	20.01.1975	14.07.1967*

(\* = signed by Holy See and in force)<sup>76</sup>

The Holy See is also a member of the WIPO General Assembly, the WIPO Conference and the Paris Union Assembly through which it participates in the work of WIPO.<sup>77</sup>

### 3.2.8 Geneva: International Telecommunication Union (ITU)

The history of the ITU dates back to 1865 with the signing of the Convention of the International Telegraph Union in Paris, on 17 May 1865.<sup>78</sup> In 1947, an ITU Plenipotentiary Conference (ITU's highest policy-making body) was held in Atlantic City, NJ and a new ITU Convention was signed on 2 October 1947 by 78 States, taking effect 1 January 1949.<sup>79</sup> The International Telecommunication Union came into relationship with the United Nations as a Specialized Agency.<sup>80</sup> The purpose of the ITU includes:

1. a) to maintain and extend international cooperation among all its Member States for the improvement and rational use of telecommunications of all kinds;
- b) to promote and to offer technical assistance to developing countries in the field of telecommunications, and also to promote the mobilization of the material,

<sup>76</sup> WIPO Database, Geneva, May, 2007, <[http://www.wipo.int/treaties/en/ShowResults.jsp?search\\_what=C&country\\_id=182C](http://www.wipo.int/treaties/en/ShowResults.jsp?search_what=C&country_id=182C)> (20 August 2007).

<sup>77</sup> See WIPO, Memorandum of the Secretariat, Geneva, A/42/INF/1 Rev., 22 September 2006, pp. 1–7.

<sup>78</sup> See International Telecommunication Union, in *UN48*, pp. 924–926.

<sup>79</sup> See International Telecommunication Union, *Collection of the Basic Texts of the ITU Adopted by the Plenipotentiary Conference (=ITUC)*, Geneva, ITU, 2003, pp. 57–125 for the text of ITU Convention; and *ibid.*, pp. 3–53 for the text of ITU Constitution. See also International Telecommunication Union, in *UN49*, pp. 1077–1078.

<sup>80</sup> See UN GA, 1<sup>st</sup> Session, resolution 50 (I), p. 78; UN GA, 2<sup>nd</sup> Session, resolution 124 (II) “Agreements with Specialized Agencies, ITU,” document A/370, 15 November 1947, in *Official Records of the General Assembly*, 1948, pp. 1–7 and document A/370/Add.1, pp. 1–6 (9 September 1947, 11 October 1947) (*ibid.*).

human and financial resources needed for its implementation, as well as access to information; c) to promote the development of technical facilities [...]; d) to promote the extension of the benefits of the new telecommunication technologies to all the world's inhabitants; e) to promote the use of telecommunication services with the objective of facilitating peaceful relations [...].<sup>81</sup>

The Vatican City State became a member of the ITU on 1 June 1929<sup>82</sup> and continues to have a Permanent Representative of the Holy See participating in its work within the framework of the ITU structures and the ITU Council's annual session. The ITU has a membership of 189 States (2004); with a worldwide staff of 742 and a 2004–2005 budget of SF328.8 million.<sup>83</sup>

### 3.2.9 Geneva: World Meteorological Organization (WMO)

The history of the predecessors of the WMO date back to 1853.<sup>84</sup> From 22 September to 11 October 1947, the WMO held its 12th Conference in Washington, DC

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<sup>81</sup> See Constitution of the International Telecommunication Union (ITU), in *ITUC*, pp. 3–5. “2. To this end, the Union shall in particular: a) effect allocation of bands of the radio-frequency spectrum, the allotment of radio frequencies and the registration of radio-frequency assignments, and for space services, of any associated orbital position in the geostationary-satellite orbit [...]; b) coordinate efforts to eliminate harmful interference between radio stations of different countries [...]; c) facilitate the worldwide standardization of telecommunications, with a satisfactory quality of service; d) foster international cooperation and solidarity in the delivery of technical assistance to the developing countries and the creation, development and improvement of telecommunication equipment and networks in developing countries by every means at its disposal, including through its participation in the relevant programmes of the United Nations and the use of its own resources, as appropriate; e) coordinate efforts to harmonize the development of telecommunications facilities; f) foster collaboration among Member States and Sector Members with a view to the establishment of rates at levels as low as possible consistent with efficient services [...]; g) promote the adoption of measures for ensuring the safety of life through the cooperation of telecommunication services; h) undertake studies, make regulations, adopt resolutions, formulate recommendations and opinions, and collect and publish information concerning telecommunication matters; i) promote, with international financial and development organizations, the establishment of preferential and favourable lines of credit to be used for the development of social projects aimed, *inter alia*, at extending telecommunication services to the most isolated areas in countries; j) promote participation of concerned entities in the activities of the Union and cooperation with regional and other organizations for the fulfillment of the purposes of the Union” (*ibid.*).

<sup>82</sup> See ITU, Global Directory, <[http://www.itu.int/cgi-bin/htsh/mm/scripts/mm.list?\\_search=ITUstates](http://www.itu.int/cgi-bin/htsh/mm/scripts/mm.list?_search=ITUstates)> (20 August 2007).

<sup>83</sup> See International Telecommunication Union, in *UN2004*, pp. 1501–1502.

<sup>84</sup> See World Meteorological Organization, in *UN48*, pp. 980–982.

and adopted a new Convention.<sup>85</sup> On 19 March 1951, the WMO was formally established.<sup>86</sup> The World Meteorological Organization was brought into relationship with the United Nations as a Specialized Agency 20 December 1951.<sup>87</sup> The WMO Convention specifies the organization's purpose:

- (a) to facilitate worldwide cooperation in the establishment of networks of stations for the making of meteorological observations as well as hydrological and other geophysical observations related to meteorology, and to promote the establishment and maintenance of centres charged with the provision of meteorological and related services;
- (b) to promote the establishment and maintenance of systems for the rapid exchange of meteorological and related information;
- (c) to promote standardization of meteorological and related observations and to ensure the uniform publication of observations and statistics;
- (d) to further the application of meteorology to aviation, shipping, water problems, agriculture and other human activities;
- (e) to promote activities in operational hydrology and to further close cooperation between Meteorological and Hydrological Services;
- (f) to encourage research and training in meteorology and, as appropriate, in related fields and to assist in coordinating the international aspects of such research and training.<sup>88</sup>

In 2004, the WMO offered US\$20.5 million for technical assistance, with a worldwide staff of 244 and a biennium budget of SF127.1 million (2004–2005).<sup>89</sup> The Holy See representative at the WMO is an Observer on an informal basis and participates in the work of the WMO Congress as a representative of a non-Member State.<sup>90</sup>

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<sup>85</sup> See Convention of the World Meteorological Organization, *Basic Documents* (=WMO Basic Documents), Geneva, WMO, 2003, pp. 7–27.

<sup>86</sup> See World Meteorological Organization, in *UN50*, p. 993.

<sup>87</sup> See UN GA, 6<sup>th</sup> Session, resolution 531 (VI) "Relations with the World Meteorological Organization," 20 December 1951, in *Official Records of the United Nations General Assembly*, 1952; Economic and Social Council, 13<sup>th</sup> Session, resolution 403 (XIII) "Relations with the World Meteorological Organization," 22 August 1951, in *Official Records of the United Nations General Assembly*, 1952, pp. 63–70.

<sup>88</sup> Convention of the World Meteorological Organization, Part II, Article 2, in *WMO Basic Documents*, pp. 9–10.

<sup>89</sup> See World Meteorological Organization, in *UN2004*, pp. 1503–1504.

<sup>90</sup> See World Meteorological Organization, *Abridged Final Report with Resolutions, 14<sup>th</sup> WMO Congress*, 5–24 May 2003, Secretariat of WMO, Geneva, p. 217.

### 3.3 Vienna: Permanent Observer Mission of the Holy See at the Office of the United Nations and Specialized Agencies at Vienna (UNOV)

The Office of the United Nations and Its Specialized Agencies at Vienna (UNOV) was established as a representative office of the Secretary-General on 1 January 1980, with “[...] liaison, representation and diplomatic depository functions.”<sup>91</sup> The Holy See participates in the work of several organizations in Vienna: the International Atomic Energy Agency (IAEA), established in 1957; the Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO), established in 1996; the United Nations Industrial Development Organization (UNIDO), established in 1966 as an executive agency of UN Development Programme (UNDP) and changed into a UN Specialized Agency in 1985; the United Nations Office on Drugs and Crime (UNODC), established in 1991 as the United Nations International Drug Control Programme – UNDCP and then renamed to the UNODC in October 2002; and the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS), established in 1959.

Pope John XXIII appointed three Permanent Delegates to the IAEA between 1959–1963: Msgr. Cesare Zacchi (appointed on 10 April 1959),<sup>92</sup> Msgr. Ottavio De Liva (appointed 8 February 1960)<sup>93</sup> and Msgr. Girolamo Prigione (appointed 8 February 1963).

Pope Paul VI’s appointments between 1969–1975 were: Msgr. Henri Lemaître (appointed on 15 January 1969), Msgr. Giovanni Moretti (appointed 11 August 1969;

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<sup>91</sup> See “Other Administrative and Budgetary Matters,” in *Yearbook of the United Nations, 1980* (=UN80), New York, Department of Public Information, 1981, p. 1238.

<sup>92</sup> See IAEA, in FILIPAZZI, *Rappresentanze*, p. 263.

<sup>93</sup> See *ibid.*

from 29 January 1971 he was also Permanent Representative at UNIDO).<sup>94</sup> This was continued for the subsequent appointments: Msgr. Oriano Quilici (11 November 1971),<sup>95</sup> Msgr. Donato Squicciarini (6 December 1975)<sup>96</sup> and Msgr. Mario Peressin (24 November 1978) who served as both Permanent Delegates at the IAEA and Permanent Observers at UNIDO.<sup>97</sup>

After the establishment of the UNOV offices, the Holy See's representatives were appointed to responsibilities at the UNOV, IAEA and UNIDO: on 3 June 1983, Msgr. Giovanni Ceirano as Permanent Representative of the Holy See at the IAEA and Permanent Observer at UNIDO,<sup>98</sup> on 22 January 1990, Archbishop Donato Squicciarini appointed by Pope John Paul II as the Apostolic Nuncio in Austria and the Holy See's Permanent Representative at the IAEA, Permanent Observer at UNIDO and the UNOV.<sup>99</sup> On 15 April 1994, Pope John Paul II appointed Msgr. Mario Zenari as the Holy See's Permanent Representative at the IAEA, Permanent Observer at UNIDO and the UNOV,<sup>100</sup> on 14 July 1999 Msgr. Dominique Rézeau as the Holy See's Permanent Representative at the IAEA and CTBTO, Permanent Observer at UNIDO and the UNOV,<sup>101</sup> Msgr. Leo Boccardi (Nunciature Counsellor to the Secretariat of State) appointed on 24 March 2001 as the Holy See's Permanent Representative at the IAEA

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<sup>94</sup> See UNIDO, in FILIPAZZI, *Rappresentanze*, p. 269; See "Vatican Bulletin," in *ORE*, 12 September 1971, p. 11.

<sup>95</sup> See IAEA, in FILIPAZZI, *Rappresentanze*, p. 263; See "Vatican Bulletin," in *ORE*, 23 September 1971, p. 11 (Moretti) and *ibid.*, in *ORE*, 27 November 1975, p. 3 (Quilici).

<sup>96</sup> See "Vatican Bulletin," in *ORE*, 18 December 1975, p. 12 and in *ORE*, 7 September 1978, p. 8.

<sup>97</sup> See *ibid.*, in *ORE*, 7 December 1978, p. 2 and in *ORE*, 25 April 1983, p. 2.

<sup>98</sup> See *ibid.*, in *ORE*, 13 June 1983, p. 2. See also "Vatican Bulletin," in *ORE*, 8 January 1990, p. 2 and "Vatican Bulletin," in *ORE*, 22 January 1990, p. 12.

<sup>99</sup> See *ibid.*, in *ORE*, 29 January 1990, p. 12.

<sup>100</sup> See *ibid.*, in *ORE*, 20 April 1994, p. 16 and in *ORE*, 21 July 1999, p. 8.

<sup>101</sup> See *ibid.*, in *ORE*, 21 July 1999, p. 8.

and CTBTO, Permanent Observer at UNIDO and the UNOV,<sup>102</sup> and Msgr. Michael Bannach (Nunciature Counsellor to the Secretariat of State) appointed by Pope Benedict XVI as the Holy See's Permanent Representative at the IAEA and CTBTO, Permanent Observer at UNIDO and the UNOV (22 January 2007).<sup>103</sup>

### 3.3.1 Vienna: International Atomic Energy Agency (IAEA)

After the development and military use of nuclear weapons in 1945, there were several unsuccessful attempts between 1945–1953 at creating international structures that could impose controls over the use and proliferation of nuclear power and weapons, with the goal of eliminating the existence of nuclear weapons altogether.<sup>104</sup> On 8 December 1953, US President Dwight D. Eisenhower addressed the United Nations General Assembly with his speech “Atoms for Peace” and proposed the establishment of an atomic energy agency.<sup>105</sup>

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<sup>102</sup> See *ibid.*, in *ORe*, 28 March 2001, p. 12 and in *ORe*, 24 January 2007, p. 12.

<sup>103</sup> See *ibid.*, in *ORe*, 24 January 2007, p. 12.

<sup>104</sup> See D. FISCHER, *History of the International Atomic Energy Agency: The First Forty Years* (=FISCHER, *History of the International Atomic Energy Agency*), Vienna, IAEA Publications Division, 1997, pp. 15–28.

<sup>105</sup> See UN GA, 8<sup>th</sup> Session, address of Dwight D. Eisenhower, President of the United States of America “Atoms For Peace” 8 December 1953, in *Official Records of the United Nations General Assembly*, 1954. The President said: “Today, the United States stockpile of atomic weapons, which of course, increases daily, exceeds by many times the total equivalent of the total of all bombs and shells that came from every plane and every gun in every theatre of war in all the years of the Second World War. A single air group whether afloat or land based, can now deliver to any reachable target a destructive cargo exceeding in power all the bombs that fell on Britain in all the Second World War.

It is the book of history, and not with isolated pages, that the United States will ever wish to be identified. My country wants to be constructive, not destructive. It wants agreements, not wars, among nations. It wants itself to live in freedom and in the confidence that the peoples of every nation enjoy equally the right of choosing their own way of life.

So my country's purpose is to help us to move out of the dark chamber of horrors into the light, to find a way by which the minds of men, the hopes of men, the souls of men everywhere, can move forward towards peace and happiness and well-being.

[...] The United States knows that if the fearful trend of atomic military build-up can be reversed, this greatest of destructive forces can be developed into a great boon, for the benefit of all mankind. The United States knows that peaceful power from atomic energy is no dream of the

The UN General Assembly responded to President Eisenhower's call and adopted resolution 810 (IX) on 4 December 1954 to hold an international conference on the peaceful uses of atomic energy<sup>106</sup> with the intention of creating a new atomic energy agency. On 1 February 1955, the Secretary-General invited 84 UN Member States and members of Specialized Agencies to participate in the proceedings, which included the Holy See.<sup>107</sup> The Holy See participated in the IAEA Conference and its proceedings from the early stages of its development.<sup>108</sup> On 23 October 1956, after several years of

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future. The capability, already proved, is here today. Who can doubt that, if the entire body of the world's scientists and engineers had adequate amounts of fissionable material with which to test and develop their ideas, this capability would rapidly be transformed into universal, efficient and economic usage?

To hasten the day when fear of the atom will begin to disappear from the minds of the people and the governments of the East and West, there are certain steps that can be taken now.

I therefore make the following proposal.

The governments principally involved, to the extent permitted by elementary prudence, should begin now and continue to make joint contributions from their stockpiles of normal uranium and fissionable materials to an international atomic energy agency [...].

The more important responsibility of this atomic energy would be to devise methods whereby this fissionable material would be allocated to serve the peaceful pursuits of mankind. Experts would be mobilized to apply atomic energy to the needs of agriculture, medicine and other peaceful activities. A special purpose would be to provide abundant electrical energy in the power-starved areas of the world.

Thus the contributing Powers [i.e. USA, UK, USSR, etc.] would be dedicating some of their strength to serve the needs rather than the fears of mankind [...].

Against the dark background of the atomic bomb, the United States does not wish merely to present strength, but also the desire and the hope for peace. The coming months will be fraught with fateful decisions. In this Assembly, in the capitals and military headquarters of the world, in the hearts of men everywhere, be they governed or governors, may they be the decisions which will lead this world out of fear and into peace" (ibid.).

<sup>106</sup> See UN GA, 9<sup>th</sup> Session, resolution 810 (IX), 4 December 1954, in *Yearbook of the United Nations 1954* (=UN54), New York, Department of Public Information, 1955, pp. 9–10.

<sup>107</sup> See The International Conference on the Peaceful Uses of Atomic Energy, in *Yearbook of the United Nations 1955* (=UN55), New York, Department of Public Information, 1956, p. 13.

<sup>108</sup> See "Peace and Justice," in *ORe*, 3 May 1973, p. 4: "[...] As a member of the United Nations Family, the Holy See was invited to participate in the Conference [UN Conference on the Peaceful Uses of Atomic Energy]. Secretary-General Dag Hammarskjöld realized that the acceptance of this invitation could be interpreted as a departure from the apolitical attitude of the Holy See. Through Ralph Bunche, he contacted Cardinal Spellman and explained that as Secretary-General of the UN he would very highly appreciate the participation of the Holy See with its spiritual power to demonstrate the purely pacific aims of the Conference. Pope Pius XII consented; delegates of the Holy See were the Italian professor Medi, pupil and friend of the

intensive negotiations (1954–1956), the Statute of the International Atomic Energy Agency<sup>109</sup> was approved by the Conference on the Statute held on the premises of the United Nations Headquarters in New York, with 82 States participating.<sup>110</sup> The Holy See became a member of the IAEA when it deposited its ratification of the IAEA Statute on 20 August 1957.<sup>111</sup> On 14 November 1957, the International Atomic Energy Agency came into relationship with the United Nations as an Agency, functioning as an autonomous international organization and reporting directly to the General Assembly.<sup>112</sup>

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famous physicist Enrico Fermi, and the Swiss Dominican father Henri de Riedmatten. Upon a reiterated invitation of the UN, the Holy See also participated at the Conference in New York which approved the Statute [...]” (ibid.).

<sup>109</sup> See Statute of the International Atomic Energy Agency, 29 July 1957, in FISCHER, *History of the International Atomic Energy Agency*, pp. 471–492. The Statute was open for signatures to States Members of the United Nations or any of the Specialized Agencies, and signatories became parties to the Statutes by deposit of instruments of ratification (IAEA Statute, Article XXI). After the deposit of ratifications by eighteen States (as specified in Article XXI) was reached, the IAEA Statute came into force 29 July 1957. The IAEA Statute has been amended three times, on 31 January 1963, 1 June 1973 and 28 December 1989.

<sup>110</sup> See ibid., p. 47. The 12-nation group involved in the Statute negotiation process were the USA, UK, France, Canada, Australia, South Africa, Belgium and Portugal (8-nation group from early 1955 to February 1956) together with the USSR, Czechoslovakia, Brazil and India (12-nation group from 27 February 1956–September 1956), in FISCHER, *History of the International Atomic Energy Agency*, pp. 30, 35].

<sup>111</sup> In addition, the Holy See accepted the Agreement on the Privileges and Immunities of the IAEA on 21 January 1986, in IAEA, Information Circular, 26 July 1967, Agreement on the Privileges and Immunities of the IAEA, INFCIRC/9/Rev.2, and ratified the Safeguards Agreements and additional protocols, in IAEA, *2005 Annual Report*, Vienna, 2006, Safeguards Agreement (in force since 1 August 1972) (see IAEA, *2005 Annual Report*, Vienna, 2006, pp. 83–84 and additional protocols (in force since 24 September 1998) (see ibid., pp. 67–71).

<sup>112</sup> See UN GA, 12<sup>th</sup> Session, resolution 1145 (XII) “Agreement Governing the Relationship Between the United Nations and the International Atomic Energy Agency,” 14 November 1957, in *Official Records of the United Nations General Assembly*, New York, 1958, pp. 56–58 and Statute of the International Atomic Energy Agency, 29 July 1957, in FISCHER, pp. 471–473. The 35 Member Board of Governors (which meets five times per year) and the General Conference of all Member States (which meets annually) are the policy-making bodies of the IAEA. The Statute states the objectives and functions of the IAEA: “Article II (Objectives) The Agency shall seek to accelerate and enlarge the contributions of atomic energy to peace, health and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose. Article III (Functions) A. The Agency is authorized: 1. To encourage and assist research on, and development and practical application of, atomic energy for peaceful uses throughout the world [...]; 2. To make provision, in accordance with this Statute, for materials, services,

The Holy See has actively participated in the proceedings of the IAEA, carefully following developments in the field and contributing its views on the relevant issues through statements and interventions. At the 24th General Conference of the IAEA, the Holy See's Permanent Observer, Msgr. Mario Peressin, spoke to the IAEA members:

Unfortunately, the current political situation does not give reassurance in the realm of progress towards nuclear disarmament. Unfortunately, the plea for a systematic and mutual reduction in armaments in the name of humanity made by the Pope [John Paul II] in 1 January of this year (cf. Homily for World Day of Peace), a plea echoed by religious leaders and religious groups all over the globe, has not alerted those responsible to a degree sufficient to reassure a world that has justified reservations about the current situation.

In that atmosphere, our responsibility here is a grave one. The peaceful use of nuclear energy, if it is to be rightfully employed, must clearly separate from, and be seen as separate from, the use of nuclear materials for destruction. The work and the commitment of everyone here must be as scientists and statesmen dedicated to a science "in the service of man's life." To that end, I would like to bring to your attention a twofold consideration, one a vision and the other a means.

The vision I speak of is in fact a guiding principle for our actions and decisions. It calls, in some cases, for a conversion of outlook and of mentality. It is to find the grounds and develop the attitudes which reflect *hope, hope for mankind, hope for the earth, hope for the future* [...].<sup>113</sup>

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equipment, and facilities to meet the needs of research.[...]; 3. To foster the exchange of scientific and technical information on peaceful uses of atomic energy; 4. To encourage the exchange and training of scientists and experts in the field of peaceful uses of atomic energy; 5. To establish and administer safeguards designed to ensure that special fissionable material and other materials [...] are not used in such a way as to further any military purpose [...]; 6. To establish or adopt, in consultation [...] standards of safety for protection of health and minimization of danger to life and property [...]; 7. To acquire or establish any facilities, plant and equipment useful in carrying out its authorized functions [...]; B. In carrying out its functions, the Agency shall: 1. Conduct its activities in accordance with the purposes and principles of the United Nations to promote peace and international co-operation, and in conformity with policies of the United Nations furthering the establishment of safeguarded worldwide disarmament and in conformity with any international agreements entered into pursuant to such policies; 2. Establish control over the use of special fissionable materials received by the Agency [...]; 3. Allocate resources in such a manner as to secure efficient utilization and the greatest possible general benefit in all areas of the world, bearing in mind the special needs of the underdeveloped areas of the world; 4. Submit reports on its activities annually to the General Assembly of the United Nations and, when appropriate, to the Security Council [...]; 5. Submit reports to the ECOSOC and other organs of the UN on matters within the competence of these organs" (ibid.).

<sup>113</sup> M. PERESSIN, Holy See's intervention at Vienna Conference of the IAEA: "Need for and Peaceful Use of Atomic Energy," in *ORe*, 13 October 1980, pp. 6–7. The Permanent Observer continued: "[...] Pope John Paul II has spoken of hope, saying: "Hope is not a wish. It is not a vague sentiment. It is a category born of our experience of history and nourished by our common desires for the future. As such, this hope accepts history as the place of its own operation and

In 2005, the IAEA membership stood at 139, with 65 intergovernmental and non-governmental organizations worldwide having formal agreements with the Agency, a professional and support staff of 2,312, a budget of US\$322 million (plus US\$39 million in extra budgetary funds), 11 multilateral conventions on nuclear safety, security and liability adopted under the Agency's auspices, 140 active Coordinated Research Projects, 232 safeguards agreements in force in 156 States, and 17 national safeguards support programmes.<sup>114</sup>

### **3.3.2 Vienna: Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Commission (CTBTO)**

On 10 September 1996, the United Nations General Assembly adopted the Comprehensive Nuclear-Test-Ban Treaty (CTBT), opening the document for signatures on 24 September 1996.<sup>115</sup> Since the first nuclear explosion on 16 July 1945, there have

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declares quite openly and quite realistically that the future is a history to be made, to be made by us with the help of Almighty God. It is a future to be built by united efforts to secure the common good through mutual cooperation and collaboration" (Message to the 11<sup>th</sup> Session of the United Nations, 22 August 1980). The kind of hope the Pope speaks of is not naive. It does not ignore the fact that there are tremendous problems and difficulties that must be faced. But it does say that we must share as peoples and nations on this small planet a common outlook and attitude that looks to the defence of humanity, that seeks to build necessary structures, that is willing to work together for the common good of all, while giving up the selfish short-term interest of a few.

To that positive vision of hope for the common good must be linked the *political will* to bring this about. Political will is the central means to achieve this. In many international forums, and for some years through the work and research of this Agency, we have come to know what are the problems we face and what solutions are available. The key to unlocking the door towards progress is the political will that only those responsible in their respective nations can bring about. If we here seek to provide for a better future for all people on this earth, then we can do it only to the extent that we realistically commit ourselves to setting in motion the structures that respond to the political will of leaders and nations" (ibid.).

<sup>114</sup> See IAEA, *2005 Annual Report*, Vienna, IAEA Publications, 2006, p. vi (four States ratified the IAEA Statute in 2006, increasing IAEA membership to 143: Belize, Malawi, Montenegro and Mozambique) <<http://www.iaea.org>> (15 July 2007).

<sup>115</sup> See UN GA, 50<sup>th</sup> Session, resolution 50/245 "Comprehensive Nuclear-Test-Ban Treaty" [=CTBT], 10 September 1996, in *Official Records of the United Nations General Assembly*, New York, 1997. See also UN Publications <[http://www.ctbto.org/treaty/treaty\\_text.pdf](http://www.ctbto.org/treaty/treaty_text.pdf)> (20 September 2007) and "Status of Signature and Ratification of the Treaty, 31 December 2005," in *CTBTO 2005 Annual Report*, Vienna, 2006, pp. 50–53. As of 31 December 2005, 176 States had

been several treaties signed in attempts to limit the detonation of nuclear devices: Partial Test Ban Treaty (PTBT), 1963,<sup>116</sup> Non-proliferation Treaty (NPT), 1968,<sup>117</sup> and the current CTBT, 1996. The CTBT comes into force when 44 States, which make use of nuclear power or research reactors (specified in Article XIV and listed in Annex 2 of the Treaty), sign and ratify the Treaty.<sup>118</sup> The Treaty consists of 17 articles and two annexes.

Article 1 states the basic obligations of States signatories to the Treaty:

1. Each State Party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control.
2. Each State Party undertakes, furthermore, to refrain from causing, encouraging, or in anyway participating in the carrying out of any nuclear weapon test explosion or any other nuclear explosion.<sup>119</sup>

The Preparatory Commission for the CTBTO was established at a Meeting of States Signatories convoked by the Secretary-General in New York on 19 November 1996.<sup>120</sup> The Preparatory Commission exists until the CTBT comes into force and States become Members of the Commission upon ratification of the Treaty. The CTBTO Preparatory Commission consists of a plenary body of all States (Preparatory

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signed and 126 had ratified the Treaty. Eighteen States have not signed the Treaty. Of the 44 that are required for the CTBT to come into force, ten States have either not signed or not ratified the CTBT. The following States have neither signed nor ratified the CTBT: India, Pakistan and Democratic People's Republic of Korea. The following States have not ratified the CTBT: China, Colombia, Egypt, Indonesia, Iran, Israel and the United States of America.

<sup>116</sup> See UN GA, 18<sup>th</sup> Session, resolution 1910 (XVIII) "Partial Test Ban Treaty," 27 November 1963, in *UN63*, pp. 139–140. The Treaty banning nuclear weapons testing in the atmosphere, under water and in outer space was signed 5 August 1963, in Moscow, by the United States, United Kingdom and the USSR, and was open for signature. It came into force 10 October 1963.

<sup>117</sup> See UN GA, 22<sup>nd</sup> Session, resolution 2373(XXIII) "Non-proliferation Treaty (NPT)," 12 June 1968, in *Yearbook of the United Nations 1968*, New York, Office of Public Information, 1969, pp. 16–19 (=UN68). NPT came into force 5 March 1970.

<sup>118</sup> See Comprehensive Nuclear-Test-Ban Treaty, Article XIV and Annex 2 to the Treaty, in CTBT, pp. 84–85, 92–93.

<sup>119</sup> *Ibid.*, p. 5

<sup>120</sup> See CTBT MEETING OF STATES SIGNATORIES, resolution CTBT/MSS/RES/1, "Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization," 19 November 1996, in *Yearbook of the United Nations 1996* (=UN96), New York, Department of Public Information, 1997, p. 452.

Commission) and a Provisional Technical Secretariat (PTS), and is financed by the States Signatories of the Treaty. The central focus of the Preparatory Commission is not only the signature and ratification of the Treaty to allow for its entry into force, but also the establishment of a global compliance verification monitoring system, the International Monitoring System (IMS) and International Data Centre (IDC).<sup>121</sup> On 15 June 2000, the Preparatory Commission for the CTBTO came into relationship with the United Nations by signing the Agreement to Regulate the Relationship Between the United Nations and the Preparatory Commission for the CTBTO.<sup>122</sup> The Treaty status as of 1 January 2007: Signatures – 177, ratifications – 138, Annex 2 ratifications – 34.<sup>123</sup>

The Holy See signed the CTBT on 24 September 1996. By ratifying the Treaty on 18 July 2001, the Holy See became a Member of the Preparatory Commission and participates in the decision-making process of the Commission.<sup>124</sup> The representative of the Holy See made a Declaration upon ratification:

The Holy See, in ratifying the Comprehensive Nuclear Test Ban Treaty (CTBT), adopted by the United Nations General Assembly on 10 September 1996 and signed by the Holy See on 24 September of the same year, wishes to repeat what was said when it added its signature: “The Holy See is convinced that in the sphere of nuclear weapons, the banning of tests and of the further

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<sup>121</sup> See CTBTO PREPARATORY COMMISSION, International Monitoring System (IMS), in *Annual Report 2005*, Vienna, CTBTO Publications, 2006, pp. 1–6, International Data Centre (IDC), in *ibid.*, pp. 1–8: As of 31 December 2005, the number of certified global monitoring stations was 156 (32 primary seismic, 47 auxiliary seismic, eight hydroacoustic, 32 infrasound and 37 radionuclide particulate stations-laboratories.) The total certified and uncertified stations totaled 219, an additional 37 under construction, and 25 under contractual negotiation. In 2005, the IMS had 134 waveform monitoring stations working through the IDC with global satellite links monitoring compliance.

<sup>122</sup> See UN GA, 54<sup>th</sup> Session, resolution 54/280 “Agreement to Regulate the Relationship Between the United Nations and the Preparatory Commission for the CTBTO,” 15 June 2000, in *UN2000*, pp. 501–504.

<sup>123</sup> See *CTBTO Spectrum Newsletter*, January 2007, Issue 9, Vienna, Public Information CTBTO, 2007, p. 28.

<sup>124</sup> See Comprehensive Nuclear-Test-Ban Treaty, New York, 10 September 1996, in *Multilateral Treaties Deposited With the Secretary-General, Status as at 31 December 2004*, vol. 2, New York, UN Publications, 2005, pp. 413–414.

development of these weapons, disarmament and non-proliferation are closely linked and must be achieved as quickly as possible under effective international controls.”

In conformity with the nature and particular condition of Vatican City State, the Holy See, by this ratification, seeks to advance the genuine promotion of a culture of peace based upon the primacy of law and of respect for human life. At the beginning of the third millennium, the implementation of a system of comprehensive and complete disarmament, capable of fostering a climate of trust, cooperation and respect between all States, represents an indispensable aspect of the concrete realization of a culture of life and peace.

In lending moral support to the CTBT through this solemn act of ratification, the Holy See encourages the whole International Community, which is aware of the various challenges standing in the way of nuclear disarmament, to intensify its efforts to ensure the implementation of the said Treaty.<sup>125</sup>

The process of nuclear disarmament and curtailment of nuclear weapons development are very urgent and important issues that need to be continuously addressed in international fora. The expanding movement of nuclear weapons proliferation is a serious challenge to the international community as a whole and the representatives of the Holy See are able to make a valuable contribution in the discussions from its unique perspective and spiritual mission in the world.

### **3.3.3 Vienna: United Nations Industrial Development Organization (UNIDO)**

On 17 November 1966, the United Nations Industrial Development Organization (UNIDO) was established as an organ of the UN General Assembly, functioning as an autonomous organization within the United Nations.<sup>126</sup> The UN General Assembly resolution stated that:

1. The purpose of the Organization shall be to promote industrial development, in accordance with Article 1, paragraph 3, and Articles 55 and 56 of the Charter of the United Nations, and by encouraging the mobilization of national and international resources to assist in, promote and accelerate the industrialization of the developing countries, with particular emphasis on the manufacturing sector.<sup>127</sup>

<sup>125</sup> Ibid., p. 415.

<sup>126</sup> See UN GA, 21<sup>st</sup> Session, resolution 2152 (XXI) “United Nations Industrial Development Organization,” 17 November 1966, in *Yearbook of the United Nations 1966* (=UN66), New York, Office of Public Information, 1967, pp. 302–306.

<sup>127</sup> UNIDO, in UN66, p. 303.

At the 1979 Vienna United Nations Conference on the Establishment of UNIDO as a Specialized Agency, the UNIDO Constitution was adopted on 8 April 1979.<sup>128</sup> On 17 December 1985, UNIDO was brought into relationship with the United Nations as a Specialized Agency in Vienna.<sup>129</sup>

The principal policy-making organs of UNIDO are the General Conference, Industrial Development Board, and the Programme and Budget Committee, with a Secretariat.<sup>130</sup> There are 171 Members of the General Conference which meet every two years as the supreme policy-making organ, appointing a Director-General and electing representatives to the Industrial Development Board and the Programme and Budget Committee.<sup>131</sup> Worldwide staff total 647 at UNIDO offices and draw upon the services of 2,854 international and national experts, with a 2004–2005 budget of Euro 356 million.<sup>132</sup> The Holy See has had a Permanent Mission at UNIDO since the appointment of its first Permanent Delegate, Msgr. Giovanni Moretti on 29 January 1971. Successive Holy See Permanent Delegates and Observers appointed to the Holy See Vienna Mission have participated in the work of UNIDO.<sup>133</sup> Msgr. Oriano Quilici spoke at the Sixth UNIDO Session (23 May–3 June 1972) and expressed the Holy See's support for UNIDO:

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<sup>128</sup> See UNIDO, *Annual Report 2005*, Vienna, UNIDO Publications, 2006, p. iii. The Constitution states UNIDO objectives: "Article 1 Objectives. The primary objective of the Organization shall be the promotion and acceleration of industrial development in the developing countries with a view to assisting in the establishment of a new international economic order. The Organization shall also promote industrial development and co-operation on global, regional and national, as well as on sectoral levels" (UNIDO, *Constitution*, Vienna, UNIDO Publications, 2006, p. 2).

<sup>129</sup> See UN GA, 40<sup>th</sup> Session, resolution 40/180 "Agreement Between the United Nations and the United Nations Industrial Development Organization," 17 December 1985, in *Official Records of the United Nations General Assembly*, New York, 1986, pp. 140–143.

<sup>130</sup> See Articles 7–11, in *ibid.*, pp. 8–12.

<sup>131</sup> See UNIDO, *Annual Report 2005*, p. iii.

<sup>132</sup> See *ibid.*, p. viii.

<sup>133</sup> See Art. 4, in UNIDO, *Constitution*, p. 6: "Observer status in the Organization shall be open, upon request, to those enjoying such status in the General Assembly of the United Nations [...]."

In fact, in the opinion of the Holy See, the general objective of UNIDO is a great one, since, as Pope Paul VI explicitly stated in his encyclical letter *Populorum progressio*, “the introduction of industry is a necessity for economic growth and human progress; it is also a sign of development and contributes to it” (n. 25); therefore concludes His Holiness “[...] one must recognize in all justice the irreplaceable contribution made by the organization of labour and by progress of industry to what development has accomplished” (n. 26).

Certainly, by the nature of its mission, the Holy See primarily gives its moral support to international organizations in so far as they, together with economic growth, are promoting the social, intellectual and moral progress of nations and thus are contributing to the consolidation of brotherhood and the peace of mankind.<sup>134</sup>

### 3.3.4 Vienna: United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS)

On 12 December 1959, the United Nations General Assembly adopted resolution 1472 (XIV) establishing the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) to address the challenges and needs of the international community with the beginning of the space exploration age.<sup>135</sup> The Committee, composed of 67 Members (2006), meets annually to address current issues and questions and, with its subcommittees, to prepare recommendations for the General Assembly.<sup>136</sup> The UN Office for Outer Space Affairs (UNOOSA) is the Secretariat for the UNCOPUOS and for its Legal Subcommittee which is the forum for the development of international principles and laws governing outer space.<sup>137</sup> UNOOSA maintains the Register of Objects Launched into Outer Space and implements the UN Program on Space Applications

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Observers shall be permitted to participate in the work of the Organization in accordance with the relevant rules of procedure and the provisions of this Constitution.”

<sup>134</sup> O. QUILICI, intervention by Holy See’s Permanent Representative at 6<sup>th</sup> Session of the UNIDO International Development Board: “A Duty of Human Solidarity,” 23 May–3 June 1972, in *ORe*, 22 June 1972, p. 2.

<sup>135</sup> See UN GA, 14<sup>th</sup> Session, resolution 1472 (XIV) “United Nations Committee on the Peaceful Uses of Outer Space,” 12 December 1959, in *Official Records of the United Nations General Assembly*, 1960.

<sup>136</sup> See UNCOPUOS, *2006 Report of the Committee on the Peaceful Uses of Outer Space to the General Assembly*, New York, UN Publications, 2006, pp. 2–4.

<sup>137</sup> See UNCOPUOS, “International Space Law,” <<http://www.unoosa.org/oosa/en/SpaceLaw/index.html>> (23 October 2007).

(PSA), striving “[...] to improve the use of space science and technology for the economic and social development of all nations, in particular developing countries.”<sup>138</sup>

The Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space<sup>139</sup> outlined international principles and guidelines governing the activities of States in the exploration of outer space. There are five general multilateral treaties that have integrated these principles and five UN General Assembly resolutions that have been adopted concerning outer space matters.<sup>140</sup> The Holy See representative is an Observer on an informal basis. Upon the request of the Holy See, a decision was recently made at UNCOPUOS Committee meetings to invite the Holy See to be an observer and to address the annual Sessions of the UNCOPUOS.<sup>141</sup>

### 3.3.5 Vienna: United Nations Office on Drugs and Crime (UNODC)

On 16 December 1991, the UN General Assembly adopted resolution 46/104 creating a unified programme – the United Nations Drug Control Program (UNDCP), based in Vienna, by integrating the structures and functions of the Division of Narcotic Drugs of the Secretariat, the Secretariat of the International Narcotics Control Board and the UN Fund for Drug Abuse Control.<sup>142</sup> On that same day, the UN General Assembly also adopted resolution 46/103<sup>143</sup> calling for international action to combat drug abuse

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<sup>138</sup> See *ibid.*, UNOOSA, <<http://www.unoosa.org/oosa/index.html>> (23 October 2007).

<sup>139</sup> See UN GA, 18<sup>th</sup> Session., resolution 1962 (XVIII) “Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space,” 13 December 1963, in *United Nations Treaties and Principles on Outer Space: Text of Treaties and Principles*, New York, UN Publications, 2005, pp. 39–40.

<sup>140</sup> See *ibid.*

<sup>141</sup> Decision by 550th meeting of the Committee to invite the Holy See as an observer and to address the 49th Session of the Committee, 7–16 June 2006. See UNCOPUOS, *2006 Report of the UNCOPUOS to the General Assembly*, p. 3

<sup>142</sup> See UN GA, 46<sup>th</sup> Session, resolution 46/104 “United Nations Drug Control Program (UNDCP),” 16 December 1991, in *Yearbook of the United Nations 1991*, New York, Department of Public Information, 1992, pp. 723–724 (=UN91).

<sup>143</sup> See *ibid.*, 46<sup>th</sup> Session, resolution 46/103, pp. 724–726.

and illicit trafficking. On 1 October 2002, the UNDCP was renamed the United Nations Office on Drugs and Crime. The Secretary-General provided an updated bulletin regarding the UNODC,<sup>144</sup> detailing its functions and organization.<sup>145</sup>

ECOSOC established the UN Commission on Narcotic Drugs<sup>146</sup> and the UN Commission on Crime Prevention and Criminal Justice. As subsidiary functional bodies of ECOSOC, they meet separately in annual Sessions, with inter-sessional meetings, approving the budget of the Fund of UNODC, addressing organizational matters and formulating policy and recommendations for direction of UNODC programmes.<sup>147</sup>

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<sup>144</sup> See K. ANNAN, *UN Secretariat, Secretary-General's Bulletin*, ST/SGB/2004/6, 15 March 2004, p. 1, Footnote 1: "Prior to 1 October 2002 the Office was called 'Office for Drug Control and Crime Prevention,' which was established by the Secretary-General in accordance with his reform programme described in part two, Section V, of document A/51/950, dated 14 July 1997."

<sup>145</sup> See *ibid.*, p. 2. The bulletin reads: "2.1 The United Nations Office on Drugs and Crime is established to implement the Organization's drug programme and crime programme in an integrated manner, addressing the interrelated issues of drug control, crime prevention and international terrorism in the context of sustainable development and human security [...]; 2.2 Through the Drug Programme, the UNODC: (a) Serves as the central drug control entity with exclusive responsibility for coordinating and providing leadership for all UN drug control activities and serves as the repository of technical expertise in international drug control [...]; (b) Acts on behalf of the Secretary-General in fulfilling his or her responsibilities under the terms of international treaties and resolutions of the United Nations organs relating to international drug control; (c) Provides substantive services to the General Assembly, ECOSOC and committees and conferences dealing with drug control matters. 2.3 Through its Crime Programme, the UNODC: (a) Is responsible for carrying out activities in the field of international crime prevention and control; strengthening regional and international cooperation in preventing and combating transnational crime, in particular organized and economic crime, money-laundering, illicit trafficking in women and children, financial crimes and terrorism in all its forms; and promoting effective and fair administration of justice [...]; (b) Serves as the repository of technical expertise in the field of crime and terrorism prevention and criminal justice for the Secretariat of the United Nations, including the regional commissions and other UN organs and acts, on behalf of the Secretary-General [...]; (c) Provides substantive services to the General Assembly, ECOSOC and committees and conferences dealing with crime and terrorism prevention matters" (*ibid.*).

<sup>146</sup> See UN Commission on Narcotic Drugs – established on 16 February 1946 by ECOSOC resolution 9 (I). Later, the General Assembly expanded the Commission as a governing body of UNDCP, on 20 December 1991 (UN General Assembly resolution 46/185) and of the successor UNODC.

<sup>147</sup> See UN COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, Report on the 15<sup>th</sup> Session (27 May 2005 and 24–28 April 2006), Economic and Social Council (=UN CP Report, 2006), in *Official Records of the United Nations*, 2006, Supplement no. 10.

The United Nations Convention on Corruption came into force 14 December 2005, the first legally binding anti-corruption instrument requiring those Member States which have signed and ratified the Convention to passing laws making corruption a criminal offence. To date, 140 States have signed and 105 have ratified the Convention on Corruption.<sup>148</sup>

The Holy See's representative is an Observer (of a non-Member State) at the UNODC in Vienna and participates in its work at the UN Commissions on Narcotic Drugs and the UN Commission on Crime Prevention and Criminal Justice.<sup>149</sup>

### **3.4 Additional Holy See Representation at United Nations Bodies**

The Holy See has Permanent Observers participating in UN programmes and Specialized Agencies at five additional international centres such as Nairobi, Madrid, London, Montreal, and Berne.

The UN Secretariat established an Office of the United Nations at Nairobi (UNON) which is the location of the headquarters of the United Nations Human Settlements Programme (UN-Habitat) and the United Nations Environment Programme (UNEP). On 1 August 1997, Pope John Paul II appointed the Apostolic Nuncio in Kenya<sup>150</sup> – Archbishop Giovanni Tonucci (titular Archbishop of Torcello) as the Holy See's Permanent Observer at UNEP and UN-Habitat, who served there until his appointment as Nuncio in Sweden, Denmark, Finland, Iceland, and Norway, on 16 October 2004.<sup>151</sup> On 14 January 2005, Pope John Paul II appointed Archbishop Alain

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<sup>148</sup> UNODC, Media Advisory, 08 January 2008, <<http://www.unodc.org/unodc/en>> (26 October 2007).

<sup>149</sup> See *UN CP Report, 2006*, Annex I, Attendance, pp. 116–120.

<sup>150</sup> See "Vatican Bulletin," in *ORe*, 13 March 1996, p. 12.

<sup>151</sup> See *ibid.*, in *ORe*, 27 October 2004, p. 12.

Lebeaupin (titular Archbishop of Vico Equense) as the Permanent Observer at UNEP and UN-Habitat where he currently serves.<sup>152</sup>

In Madrid, the United Nations World Tourism Organization, a UN Specialized Agency,<sup>153</sup> established its Secretariat offices in 1976 after moving from Geneva. On 29 October 1979, Pope John Paul II appointed Rev. Giovanni Arrighi, OP as Permanent Observer, who served there until his death in September 1986.<sup>154</sup> On 14 October 1986, Msgr. Pietro Fanto was appointed as Permanent Observer until his resignation in 1993.<sup>155</sup> On 13 November 1993, Pope John Paul II appointed Msgr. Piero Monni as Permanent Observer, where he served until his resignation on 31 January 2005.<sup>156</sup> That same day, on 31 January 2005, Msgr. Giovanni Francesco Brugnaro was appointed Permanent Observer at the UNWTO in Madrid where he currently continues to serve.<sup>157</sup>

The Holy See is an Observer on an informal basis at the International Maritime Organization (IMO), a UN Specialized Agency<sup>158</sup> with headquarters in London, UK; and the International Civil Aviation Organization (ICAO), also a UN Specialized Agency,<sup>159</sup> with headquarters in Montreal, Canada.<sup>160</sup> The Holy See, in the name of the

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<sup>152</sup> See *ibid.*, in *ORe*, 26 January 2005, p. 12.

<sup>153</sup> See UN GA, 58<sup>th</sup> Session, resolution 58/232 “Agreement between the United Nations and the World Tourism Organization,” 23 December 2003, in *Official Records of the United Nations General Assembly*, 2004, pp. 1–8.

<sup>154</sup> See UNWTO, in FILIPAZZI, *Rappresentanze*, p. 272.

<sup>155</sup> See *ibid.*

<sup>156</sup> See “Vatican Bulletin,” in *ORe*, 17 November 1993, p. 12 and *ORe*, 16 February 2005, p. 12.

<sup>157</sup> See *ibid.*, in *ORe*, 16 February 2005, p. 12.

<sup>158</sup> See UN GA, 3<sup>rd</sup> Session, resolution 204 (III) “Agreement Between the United Nations and the Inter-governmental Maritime Consultative Organization,” 18 November 1948, in *Official Records of the United Nations General Assembly*, 1949.

<sup>159</sup> See UN GA, 1<sup>st</sup> Session, resolution 50 (I), p. 78; UN GA, Second Session, resolution A/106, 30 September 1946, in *Official Records of the General Assembly*, 1947, pp. 1–9; UN GA, Supplementary Agreement, resolution A/615, 12 August 1948, in *Official Records of the General Assembly*, 1949, pp. 1–7.

Vatican City State became a Member of the Universal Postal Union (UPU) on 1 June 1929. The UPU, with headquarters in Berne, Switzerland, was established in 1874, and today is a Specialized Agency of the United Nations.<sup>161</sup>

### 3.5 Conclusion

The Holy See is a Permanent Observer of many UN organizations, programmes, funds and commissions, including the UN General Assembly, FAO, ICAO, IFAD, ILO, IMO, UNISDR, UNCHS/Habitat, UNCOPUOS, UNCSD, UNODC, UNEP, UNESCO, UNIDO, UNWTO, WFP, WHO, WMO, and the WTO. The Holy See is a Member of the CTBTO, IAEA, ICAO, ITU, UNCTAD, UNHCR, UPU and WIPO. As a Permanent Observer and Member of a wide range of United Nations bodies, the Holy See has brought its many centuries of diplomatic experience and knowledge, together with the spiritual message of hope and encouragement to the “United Nations Family” table. At this table sit over 190 nations – all responsible for the international security and freedom of all the peoples of the world. The Holy See has been an active participant in the work and development of many Specialized Agencies of the United Nations, and legates of the Roman Pontiff make a unique contribution in the understanding of international issues and events as a result of their extensive international diplomatic experience through the work being done by the Holy See’s Secretariat of State. The historical record of the development and growth of the United Nations and the Holy See’s involvement in itself brings great hope for the future.

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<sup>160</sup> See HOLY SEE PRESS OFFICE, “Bilateral and Multilateral Relations of the Holy See,” <[http://www.vatican.va/news\\_services/press/documentazione/documents/corpo-diplomatico/corpo-diplomatico\\_internazionali\\_elenco\\_en.html](http://www.vatican.va/news_services/press/documentazione/documents/corpo-diplomatico/corpo-diplomatico_internazionali_elenco_en.html)> (20 December 2007).

<sup>161</sup> See UN GA, resolution 50 (I), p. 78; UN GA, Second Session, resolution 124 (II) “Agreements with Specialized Agencies, UPU,” 15 November 1947, in *Official Records of the General Assembly*, 1948, pp. 1–5.

## **Chapter IV**

### **The Holy See Missions at the United Nations in the Service of Humanity**

#### **4.0 Introduction**

The chapter examines the sources of c. 747, §2 relating to the mission of the Church that apply to the work of the Permanent Observer of the Holy See Mission at the United Nations, namely the various papal pronouncements and other Church documents from which this canon was drawn in its formulation for inclusion in the *CIC*. Through an examination of the diplomatic role of the Permanent Observer and his “seeking the truth” mission, a view of the “secular” world within which the legate functions will be presented. Global challenges faced by Member States of the United Nations have been addressed with a predominantly “reactive” approach, responding to conflict situations very often after the outbreak of hostilities. This collective attitude of many of the UN Member States is currently undergoing a fundamental shift to what is described as a “preventative” diplomatic model. The United Nations is an international organization of States that is in transition, seeking to reform its institutions and relationships. The Permanent Observer of the Holy See Mission at the United Nations is a witness and an observer-participant in these very crucial debates, both addressing institutional and field issues of global importance. The Permanent Observer’s voice and message are heard at the table of the community of nations on a daily basis.

#### **4.1 Mission of the Permanent Observer in the Context of c. 747, §2**

Permanent Observers and their mission staff at the United Nations are guided in their work by the parameters of c. 747, §2, which states: “It belongs to the Church always and everywhere to announce moral principles, even about social order, and to render

judgment concerning any human affairs insofar as the fundamental rights of the human person or the salvation of souls requires it.” This section of the canon was taken from the 1980 *Schema* of the *Lex Ecclesiae Fundamentalis*, c. 57 §2, which indicated the pastoral constitution *Gaudium et spes*, no. 76 as its source.<sup>1</sup> The principle expressed in the conciliar document that “sets forth the Church’s right to teach social doctrine [and to make] moral proclamations in the social order must therefore be seen as an integral component of proclaiming the gospel.”<sup>2</sup> Pontifical legates work within the parameters of their religious mission in teaching moral principles and making moral judgments, within the context of the Church’s social teaching, while maintaining an important focus on issues concerning the social order and defence of the dignity of the human person in a global context.

The Code Commission first included c. 747, §2 in the 1982 *Codex iuris canonici: Schema novissimum*<sup>3</sup> and subsequently in the *CIC*, listing papal encyclicals, conciliar and synodal documents as its sources. These documents include Pope Pius XI’s encyclical

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<sup>1</sup> See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema Lex Ecclesiae Fundamentalis seu Ecclesiae Catholicae Universae Lex Canonica Fundamentalis*, Rome, Libreria editrice Vaticana, 1980, p. 22. Canon 57, §2 of the *Lex Ecclesiae Fundamentalis* read that: “Always and everywhere the Church has the responsibility to announce moral principles even concerning the social order; as well as to pass judgment on certain human affairs to the extent that the basic rights of the human person or the salvation of souls warrant it.” Canon 57, §2 does not appear in the 1971 and 1973 *Schemas* of *Lex Ecclesiae Fundamentalis*, and is incorporated from GS, no. 76 into the 1980 *Schema Lex Ecclesiae Fundamentalis*. Cf. T. GREEN et al., “A General Analysis of the Proposed Schema of the *Lex Fundamentalis*,” in *The Jurist*, 31 (1971), pp. 342–362; P.Y. OTSUKA, *La funzione di insegnamento per quanto riguarda ‘i principi morali’ sull’ordine sociale e ‘realtà umane’* (=OTSUKA, *La funzione*), Rome, Pontificia Universitas Urbaniana, 1992, pp. 89–117.

<sup>2</sup> T.T. GRANT, “Social Justice in the 1983 Code of Canon Law: An Examination of Selected Canons,” in *The Jurist*, 49 (1989), p. 125. Cf. J.P. BOYLE, “Church Teaching Authority in the 1983 Code,” in *The Jurist*, 45 (1985), pp. 143–146; J. DORE, “L’institution du Magistère,” in *Recherches de Science Religieuse*, 71 (1983), pp. 13–36; M.C. CONNOLLY, “De Munere Docendi: Some Observations,” in *CLSA Proceedings*, 44 (1982), pp. 219–232; J. MOIGNT, “L’avenir du Magistère,” in *Recherches de Science Religieuse*, 71 (1983), pp. 299–308.

<sup>3</sup> Cf. E. TEJERO, commentary on c. 747, in *Exegetical Comm.*, vol. III/1, pp. 11–16; J.A. CORIDEN, commentary on c. 747, in *CLSA Comm2*, pp. 911–912.

*Firmissimam constantiam* (28 March 1937); Pope John XXIII's encyclicals *Mater et Magistra* (15 May 1961) and *Pacem in terris* (11 April 1963); Vatican II documents *Christus Dominus* (28 October 1965), no. 12; *Dignitatis humanae* (7 December 1965), no. 15, *Gaudium et spes* (7 December 1965), nn. 76 and 89; Pope Paul VI's encyclical *Humanae Vitae* (25 July 1968), no. 4; and post-synodal exhortation *Convenientes ex universo* (30 November 1971).

The encyclical letter *Firmissimam constantiam*,<sup>4</sup> although written by Pope Pius XI to the Mexican Episcopate in support of the local Church, addresses important social questions with a wider application to other nations and global social justice issues. Pope Pius XI reminds people that social action in defence of human dignity and fundamental rights is a universal Christian obligation, interconnected with important elements of a truly Christian faith and life. He encourages the Christian faithful to intercede on behalf of the defenseless and those in need, summoning world-wide solidarity and unity in the universal Church and mankind as a whole.<sup>5</sup>

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<sup>4</sup> See POPE PIUS XI, encyclical letter *Firmissimam constantiam* (=FC), 28 March 1937, in *AAS*, 29 (1937), pp. 189–199, English translation *Encyclical Letter of Pope Pius XI on the Religious Situation in Mexico*, Washington, National Catholic Welfare Conference, 1937, pp. 3–23.

<sup>5</sup> See FC, nn. 26–28, pp. 16–18: “[...] the Church, being a society of men, cannot exist or develop if it does not enjoy liberty of action, and that its members have the right to find in civil society the possibility of living according to the dictates of their consciences. Consequently, it is quite natural that when the most elementary religious and civil liberties are attacked, Catholic citizens do not resign themselves passively to renouncing those liberties. Notwithstanding, the revindication of these rights and liberties can be, according to the circumstances, more or less opportune, more or less energetic. You have more than once recalled to your Faithful that the Church protects peace and order, even at the cost of grave sacrifices, and that it condemns every unjust insurrection or violence against constituted powers. On the other hand, among you it has also been said that, whenever these powers arise against justice and truth even to destroying the very foundations of authority, it is not to be seen how those citizens are to be condemned who united to defend themselves and the nation, by licit and appropriate means, against those who make use of public power to bring it to ruin. If the practical solution depends on concrete circumstances, We must, however, on Our part recall to you some general principles, always to be kept in mind, and they are: 1) That these revindications have reason [the ratio] of means, or of relative end, not of ultimate and absolute end; 2) That, in reason [ratio] of means, they must be licit actions and not

In his encyclical letter *Mater et Magistra*,<sup>6</sup> Pope John XXIII reviewed the work and teachings of his predecessors on the developing world social order – Pope Leo XIII’s encyclical *Rerum novarum*,<sup>7</sup> Pope Pius XI’s *Quadragesimo anno*<sup>8</sup> and Pope Pius XII’s allocutions. Recognizing that the world is undergoing a rapid and radical transformation, both in the internal structures of the States and international relations,<sup>9</sup> Pope John XXIII wrote *Mater et Magistra* as a roadmap for the Church and the world covering a widerange of global issues. Pope John XXIII acknowledged both Pope Leo XIII’s and Pope Pius XII’s teaching of moral principles on three fundamental values of social and economic life: the use of material goods, work and the family.<sup>10</sup> He addressed the “social question” to include relations between nations, responsibilities to the less developed countries of the world, and the obligation of the wealthy nations to address these needs.<sup>11</sup>

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intrinsically evil; 3) That, if they are to be means proportionate to the end, they must be used only in the measure in which they serve to obtain or render possible, in whole or in part, the end, and in such manner that they do not cause to the community greater damages than those they seek to repair; 4) That the use of such means and the exercise of civic and political rights in their fullness, embracing also problems of order purely material and technical, or any violent defense, does not enter in any manner in the task of the clergy or of Catholic Action as such, although to both appertains the preparation of Catholics to make just use of their rights, and to defend them with all legitimate means according as the common good requires; 5) The clergy and Catholic Action, being, by their mission of peace and love, consecrated to uniting all men *in vinculo pacis* (Eph. 4:3), must contribute to the prosperity of the nation, especially encouraging the union of those social initiatives which are not opposed to dogma or to the laws of Christian morals.”

<sup>6</sup> See JOHN XXIII, encyclical letter *Mater et Magistra* (=MM), 15 May 1961, in *AAS*, 53 (1961), pp. 401–464, English translation *Mater et Magistra* by W.J. GIBBONS (=GIBBONS), New York, Paulist Press, 1961.

<sup>7</sup> See LEO XIII, encyclical letter *Rerum novarum*, 15 May 1891, in *Acta Leonis XIII*, vol. 11, Rome, 1892, pp. 97–144, English translation in E. GILSON (ed.), *The Church Speaks to the Modern World: The Social Teaching of Leo XIII*, New York, Image Books, 1961, pp. 205–244.

<sup>8</sup> See PIUS XI, encyclical letter *Quadragesimo anno*, 15 May 1931, in *AAS*, 23 (1931), pp. 177–228, English translation *Forty Years After Reconstructing the Social Order (Quadragesimo anno)*, Washington, National Catholic Welfare Conference, 9<sup>th</sup> printing, 1936, pp. 3–48.

<sup>9</sup> See MM, no. 46, English translation in GIBBONS, p. 21.

<sup>10</sup> See *ibid.*, no. 42, p. 19.

<sup>11</sup> See *ibid.*, no. 157, p. 53: “Perhaps the most pressing question of our day concerns the relationship between economically advanced commonwealths and those that are in process of development. The former enjoy the conveniences of life; the latter experience dire poverty. Yet, today men are so intimately associated in all parts of the world that they feel, as it were, as if they

The importance of scientific, technical and financial co-operation is presented within the context of international aid and assistance to those nations who are suffering from the underdeveloped state of their economies. Pope John XXIII highly commended the affluent countries of the world for their generosity and the beneficial work being done by international organizations and world banking institutes.<sup>12</sup> He identified, however, a possible problem that could arise at this early stage of the development of international aid. Technically advanced, wealthier nations can become unable to offer disinterested aid and proceed to exercise political and social control over recipient nations.<sup>13</sup> The Pope explained that

There is no doubt that when a nation makes progress in science, technology, economic life, and the prosperity of its citizens, a great contribution is made to civilization. But all should realize that these things are not the highest goods, but only instruments for pursuing such goods.<sup>14</sup>

The rapid degradation of these ethical values in the post-war era was disappointing.<sup>15</sup>

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are members of one and the same household. Therefore, the nations that enjoy a sufficiency and abundance of everything may not overlook the plight of other nations who citizens experience such domestic problems that they are all but overcome by poverty and hunger, and are not able to enjoy basic human rights. This is all the more so, inasmuch as countries each day seem to become more dependent on each other. Consequently, it is not easy for them to keep the peace advantageously if excessive imbalances exist in their economic and social conditions.”

<sup>12</sup> See *ibid.*, nn. 157–165, pp. 53–55.

<sup>13</sup> See *ibid.*, nn. 171–174, p. 56: “Moreover, economically developed countries should take particular care lest, in giving aid to poorer countries, they endeavour to turn the prevailing political situation to their own advantage, and seek to dominate them. Should perchance such attempts be made, this clearly would be but another form of colonialism, which, although disguised in name, merely reflects their earlier but outdated dominion, now abandoned by many countries. When international relations are thus obstructed, the orderly progress of all peoples is endangered. Genuine necessity, as well as justice, require that whenever countries give attention to the fostering of skills or commerce, they should aid the less developed nations without thought of domination, so that these latter eventually will be in a position to progress economically and socially on their own initiative. If this is done, it will help much toward shaping a community of all nations, wherein each one, aware of its rights and duties, will have regard for the prosperity of all.”

<sup>14</sup> *Ibid.*, no. 175, p. 57.

<sup>15</sup> See *ibid.*, nn. 176–177, p. 57: “Accordingly, we note with sorrow that in some nations economic life indeed progresses, but that not a few men are there to be found, who have no concern at all for the just ordering of goods. No doubt, these men either completely ignore

Pope John XXIII emphasized the need to respect the laws of life and to acknowledge that “human life is sacred – all men must recognize that fact. From its very inception reveals the creating hand of God. Those who violate His Laws not only offend the divine majesty and degrade themselves and humanity, they also sap the vitality of the political community of which they are members.”<sup>16</sup> He stated clearly that the social teaching of the Catholic Church “rests on one basic principle: individual human beings are the foundation, the cause and the end of every social institution.”<sup>17</sup> He also stressed the importance of co-operation among nations in solving their problems, even though they may be domestic in nature. The root cause of misunderstandings and mistrust between world leaders and nations was perceived by Pope John XXIII as the lack of a universally acknowledged moral order.<sup>18</sup> He also pointed to the fact that the diversity of

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spiritual values, or put these out of their minds, or else deny they exist. Nevertheless, while they pursue progress in science, technology, and economic life, they make so much of external benefits that for the most part they regard these as the highest goods of life. Accordingly, there are not lacking grave dangers in the help provided by more affluent nations for development of the poorer ones. For among the citizens of these latter nations, there is operative a general awareness of the higher values on which moral teaching rests – an awareness derived from ancient traditional custom which provides them with motivation. Thus, those who seek to undermine in some measure the right instincts of these peoples, assuredly do something immoral. Rather, those attitudes, besides being held in honor, should be perfected and refined, since upon them true civilization depends.”

<sup>16</sup> Ibid., no. 194, p. 61.

<sup>17</sup> Ibid., nn. 219–220, p. 69: “The cardinal point of this teaching is that individual men are necessarily the foundation, cause and end of all social institutions. We are referring to human beings, insofar as they are social by nature, and raised to an order of existence that transcends and subdues nature. Beginning with this very basic principle whereby the dignity of the human person is affirmed and defended, Holy Church – especially during the last century and with the assistance of learned priests and laymen, specialists in the field – has arrived at clear social teachings whereby the mutual relationships of men are ordered. Taking general norms into account, these principles are in accord with the nature of things and the changed conditions of man’s social life, or with the special genius of our day. Moreover, these norms can be approved by all.”

<sup>18</sup> See *ibid.*, nn. 205–206, p. 64: “The cause of this state of affairs seems to be that men, more especially leaders of States, have differing philosophies of life. Some even dare to assert that there exists no law of truth and right which transcends external affairs and man himself, which of necessity pertains to everyone, and finally, which is equitable for all men. Hence, men can agree fully and surely about nothing, since one and the same law of justice is not accepted by all.

faith-based societies and the spiritual dimensions of human existence are in most cases ignored in formal international relations among States. Pope John XXIII identified this as a major block that exists in the further development of fruitful international relationships between nations. He stated that in order that

[...] mutual faith may develop among rulers and nations and may abide more deeply in their minds, the laws of truth and justice first must be acknowledged and preserved on all sides. However, the guiding principles of morality and virtue can be based only on God; apart from Him, they necessarily collapse. For man is composed not merely of body, but of soul as well, and is endowed with reason and freedom. Now such a composite being absolutely requires a moral law rooted in religion, which, far better than any external force or advantage, can contribute to the resolution of problems affecting the lives of individual citizens or groups of citizens, or with a bearing upon single States or all States together. Yet, there are today those who assert that, in view of the flourishing state of science and technology, men can achieve the highest civilization even apart from God and by their own unaided powers. Nevertheless, it is because of this very progress in science and technology which affect all peoples, and which can be overcome only if they duly recognize the authority of God, author and ruler of man and of all nature.<sup>19</sup>

Pope John XXIII recognized the reality of a world seeking resolution of its international problems through the prism of increased consumerism and a focus on material resource development, rather than seeking out and addressing first the need to defend the dignity of the human being. Pontifical legates encountered many challenges from an ever-present secular resistance to the acknowledgment of God as the “source of justice, truth and love.” In *Mater et Magistra*, John XXIII responded to this denial of the truth and imparted a paternal warning to those who would seek to build a world without God.<sup>20</sup>

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Although the word justice and the related term demands of justice are on everyone’s lips, such verbalizations do not have the same meaning for all. Indeed, the opposite frequently is the case. Hence, when leaders invoke justice or the demands of justice, not only do they disagree as to the meaning of the words, but frequently find in them an occasion of serious contention. And so they conclude that there is no way of achieving their rights or advantages, unless they resort to force, the root of very serious evils.”

<sup>19</sup> Ibid., nn. 207–209, p. 65.

<sup>20</sup> See *ibid.*, nn. 215–217, p. 68: “Wherefore, whatever the progress in technology and economic life, there can be neither justice nor peace in the world, so long as men fail to realize how great is their dignity; for they have been created by God and are His children. We speak of God, who

Pope John XXIII wrote his encyclical *Pacem in terris* at a time when international tension between nations and peoples was at a point of crisis, and super-power States were conducting an increasing arms race, with threats of global war. In his encyclical letter he addressed a wide range of issues, including a connection between the common good and political authority, universal common good and personal rights, the principle of subsidiarity, and the development of the United Nations as a global force for peace.<sup>21</sup> Acknowledging the vital work being accomplished by the United Nations, Pope John XXIII was hopeful that, through the future development of this institution, the rights and freedoms of the people of the world would be safeguarded and defended. His legates were already working at different levels within the United Nations as Observers and Delegates, thereby participating in developing international structures for nations seeking to find common ground to pursue the global common good.<sup>22</sup>

There are three sources for c. 747, §2 found in Vatican II documents: *Christus Dominus*, no. 12; *Dignitatis humanae*, no. 15; and *Gaudium et spes*, nn. 76 and 89. Papal legates at the United Nations Missions are guided by the words of the Council Fathers

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must be regarded as the first and final cause of all things He has created. Separated from God, man becomes monstrous to himself and others. Consequently, mutual relationships between men absolutely require a right ordering of the human conscience in relation to God, the source of all truth, justice, and love. It is well known and recognized by everyone that in a number of countries, some of ancient Christian culture, many of our very dear brothers and sons have been savagely persecuted for a number of years. Now this situation, since it reveals the great dignity of the persecuted, and the refined cruelty of their persecutors, leads many to reflect on the matter, though it has not yet healed the wounds of the persecuted. However, no folly seems more characteristic of our time than the desire to establish a firm and meaningful temporal order, but without God, its necessary foundation. Likewise, some wish to proclaim the greatness of man, but with the source dried up from which such greatness flows and received nourishment: that is, by impeding and, if it were possible, stopping the yearning of souls for God. But the turn of events in our times, whereby the hopes of many are shattered and not a few have come to grief, unquestionably confirm the words of Scripture: 'Unless the Lord build the house, they labour in vain who build it'."

<sup>21</sup> See *PT*, no. 137, English translation in NCWL, *Encyclicals*, p. 270.

<sup>22</sup> See *ibid.*, nn. 142, 145, pp. 271–272.

when they present their interventions and messages of peace and hope to the various international meetings and UN sessions.

Heads of Holy See Missions at New York and Geneva are ordained bishops, are endowed with the *munus* of teaching proper to episcopal orders. *Christus Dominus* guides bishops to a deeper understanding of their teaching office, reiterating their principal duty in proclaiming the Gospel of Christ, and performing their duties in defence of the dignity of the human person, with an inherent obligation to guide humankind and nations onto the road to peace, unity, stability, and liberty while defending the poor and excluded.<sup>23</sup> Reflecting upon the new realities of the 1960's, the Council deemed it necessary to summon the faithful to the defense of religious freedom. In the Declaration on Religious Liberty *Dignitatis humanae*, the Council Fathers appealed to world leaders to defend constitutionally the religious liberty of its peoples, as a human right and as a means of ensuring peace and stability.<sup>24</sup>

Vatican II Council Fathers chose to clarify the relationship between the political community and the Church in the Pastoral Constitution on the Church in the Modern World *Gaudium et spes* (nn. 76, 89). The Fathers found it of "supreme importance" that

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<sup>23</sup> See *CD*, no. 12, pp. 509–510.

<sup>24</sup> See SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae* (=DH), 7 December 1965, in *AAS* 58 (1966), pp. 929–946, English translation in FLANNERY1, pp. 703–714, no. 15, pp. 713–714: "It is certain therefore that men of the present day want to profess their religion freely in private and in public. Indeed it is a fact that religious freedom has already been declared a civil right in most constitutions and has been given solemn recognition in international documents. But there are forms of government under which, despite constitutional recognition of the freedom of religious worship, the public authorities themselves strive to deter the citizens from professing their religion and make life particularly difficult and dangerous for religious bodies. This sacred Council gladly welcomes the first of these two facts as a happy sign of the times. In sorrow however it denounces the second as something deplorable. The Council exhorts Catholics and directs an appeal to all men to consider with great care how necessary religious liberty is, especially in the present condition of the human family."

the relationship between the political community and the Church be explained within the context of the *ad extra* mission of the Church in the world:

The Church, by reason of her role and competence, is not identified with any political community nor bound by ties to any political system. It is at once the sign and the safeguard of the transcendental dimension of the human person.

The political community and the Church are autonomous and independent of each other in their own fields. Nevertheless, both are devoted to the personal vocation of man, though under different titles [...] the Church, for its part, being founded in the love of the Redeemer, contributes towards the spread of justice and charity among nations and within the borders of the nations themselves. By preaching the truths of the Gospel and clarifying all sectors of human activity through its teaching and the witness of its members, the Church respects and encourages the political freedom and responsibility of the citizen.<sup>25</sup>

This section of *Gaudium et spes* further develops the theme of the difference in mission between the Church and political communities, explaining that the Church is prepared even to “give up the exercise of certain legitimate rights whenever it becomes clear that their use will compromise the sincerity of its witness [...]”<sup>26</sup> With the commitment to work tirelessly for the common good and benefit of all mankind, the Council Fathers reiterate that “[...] at all times and in all places the Church should have true freedom to preach the faith, to proclaim its teaching about society, to carry out its task among men without hindrance, and to pass moral judgments even in matters relating to politics, whenever the fundamental rights of man or the salvation of souls requires it.”<sup>27</sup>

*Gaudium et spes* sets, therefore, important groundwork for understanding the work of the pontifical legate when reading c. 747, §2 within the context of the restrictions the Council Fathers identified in the Church’s relationship with political communities and

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<sup>25</sup> *GS*, no. 76, p. 865.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

the exercise of the Church's teaching authority:<sup>28</sup> "The political community and the Church are autonomous and independent of each other in their own fields" [and] "the Church, by reason of her role and competence, is not identified with any political community nor bound by ties to any political system."<sup>29</sup> The Church affirms its right to exercise its teaching authority through her bishops,<sup>30</sup> in particular to teach moral principles and to make moral judgments, but not to enter the realm of proposing political solutions.

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<sup>28</sup> Cf. JOHN PAUL II, encyclical letter *Veritatis splendor*, 6 August 1993, in *AAS*, 85 (1993), pp. 1133–1228, English translation in MILLER, J. M. (ed.), *The Encyclicals of John Paul II* (=MILLER), Huntington, IN, Our Sunday Visitor Publishing, 2001, pp. 583–661; Cf. D. COMPOSTA, "Il munus docendi nel nuovo Codice di diritto canonico," in *Palestra del Clero*, 63 (1984), pp. 91–105; G. DAMIZIA, "La funzione di insegnare nella Chiesa," in *Apollinaris*, 56 (1983), pp. 601–631 and "Rapporto tra 'munus docendi' e 'munus sanctificandi,'" in *Monitor ecclesiasticus*, 109 (1984), pp. 100–121.

<sup>29</sup> *GS*, no. 76, p. 865.

<sup>30</sup> *GS*, no. 21, pp. 339–340: "In the person of the bishops, then, to whom the priests render assistance, the Lord Jesus Christ, supreme high priest, is present in the midst of the faithful. Though seated at the right hand of God the Father, he is not absent from the assembly of his pontiffs, on the contrary indeed, it is above all through their signal service that he preaches the Word of God to all peoples and administers without ceasing to the faithful the sacraments of faith; that through their paternal care (cf. 1 Cor. 4:15) he incorporates, by a supernatural rebirth, new members into his body; that finally, through their wisdom and prudence he directs and guides the people of the New Testament on their journey towards eternal beatitude. Chosen to shepherd the Lord's flock, these pastors are servants of Christ and stewards of the mysteries of God (cf. 1 Cor.4:1), to whom is entrusted the duty of affirming the Gospel of the grace of God (cf. Rom. 15:16; Acts 20:24), and of gloriously promulgating the Spirit and proclaiming justification (cf. 2 Cor. 3:8–9). In order to fulfil such exalted functions, the apostles were endowed by Christ with a special outpouring of the Holy Spirit coming upon them (cf. Acts 1:8; 2:4; Jn. 20:22–23), and, by the imposition of hands, (cf. 1 Tim. 4:14; 2 Tim. 1:6–7) they passed on to their auxiliaries the gift of the Spirit, which is transmitted down to our day through episcopal consecration. The holy synod teaches, moreover, that the fullness of the sacrament of Orders is conferred by episcopal consecration, that fullness, namely, which both in the liturgical tradition of the Church and in the language of the Fathers of the Church is called the high priesthood, the acme of the sacred ministry. Now, episcopal consecration confers, together with the office of sanctifying, the duty also of teaching and ruling, which, however, of their very nature can be exercised only in hierarchical communion with the head and members of the college. In fact, from tradition, which is expressed especially in the liturgical rites and in the customs of both the Eastern and Western Church, it is abundantly clear that by the imposition of hands and through the words of the consecration, the grace of the Holy Spirit is given, and a sacred character is impressed, take the place of Christ himself, teacher, shepherd and priest, and act as his representatives (*in eius persona*) (ibid.).

*Gaudium et spes*, no. 89 is also a source for c. 747, §2 relating to the duties of pontifical legates at the United Nations in being conduits for peace, working to encourage increased levels of international unity in the pursuit of peace. The legate's role of peace builder is crucial in establishing an effective presence of the Church in the international community. The Council called upon the Church and its representatives to bring to the world the graces and knowledge available to it through the fulfilment of its mission:

The Church, in preaching the Gospel to all men and dispensing the treasures of grace in accordance with its divine mission, makes a contribution to the strengthening of peace over the whole world and helps to consolidate the foundations of brotherly communion among men and peoples. This it does by imparting the knowledge of the divine and the natural law. Accordingly, the Church ought to be present in the community of peoples, to foster and stimulate cooperation among men; motivated by the sole desire of serving all men, it contributes both by means of its official channels and through the full and sincere collaboration of all Christians.<sup>31</sup>

As an additional source for c. 747, §2, the Code Commission cited Pope Paul VI's encyclical *Humanae vitae*, no. 4,<sup>32</sup> where he addressed the "competency of the Magisterium" and responded to questions posed at that time regarding the teaching authority of the Church. Pope Paul VI clearly emphasized that "this kind of question required from the teaching authority of the Church a new and deeper reflection on the principles of the moral teaching on marriage – a teaching which is based on the natural law as illuminated and enriched by divine Revelation."<sup>33</sup> Pope Paul VI reiterated the Church's teaching that the See of Peter and his apostles are the authentic guardians and

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<sup>31</sup> *Ibid.*, no. 89, p. 876.

<sup>32</sup> See PAUL VI, encyclical letter *Humanae vitae* (=HV), 25 July 1968, in *AAS*, 60 (1968), pp. 481–503, English translation in FLANNERY2, pp. 422–441.

<sup>33</sup> HV, no. 4, p. 423. Cf. B. BENI DOS SANTOS, "Lei natural i Magisterio," in *Revista Eclesiástica Brasileira*, 31 (1971), pp. 273–283; D. COMPOSTA, "Diritto naturale e Magisterio," in *Euntes Docete*, 29 (1976), pp. 365–377; A. OSUNA, "El Magisterio eclesiástico y la ley natural," in *Communio*, 3 (1970), pp. 375–416; L. VELA SANCHEZ, "De Magisterio eclesiástico en derecho canónico," in *Concilium*, 117 (1976), pp. 117–127.

interpreters of the moral law, the natural law and the law of the Gospel.<sup>34</sup> The legate's role in making accessible to the international community of nations an understanding of developing world events and needs as seen through the prism of Church teaching can offer an invaluable contribution to the pursuit of global peace and progress in resolving the issues of the day.

Another source for c. 747, §2 listed in the *CIC* is the post-synodal exhortation, *Convenientes ex universo*,<sup>35</sup> in response to questions concerning justice and world society, the Gospel message and the mission of the Church, and the practice of justice. The Synodal Fathers reviewed Church teaching regarding the need to defend the dignity and fundamental rights of the human person and believed that “[...] it does not belong to the Church, insofar as she is a religious and hierarchical community, to offer concrete solutions in the social, economic and political spheres for justice in the world. Her mission involves defending and promoting the dignity and fundamental rights of the human person.”<sup>36</sup>

The bishops continued in their statement to address issues concerning the role of the Church and the Synod itself in proposing analysis of the current world situation in the context of Church social teaching. They called upon the United Nations to exercise its

<sup>34</sup> See *HV*, no. 4, pp. 423–424: “[...] It is in fact indisputable, as Our Predecessors have many times declared, that Jesus Christ, when he communicated his divine power to Peter and the other apostles and sent them to teach all nations his commandments, constituted them as the authentic guardians and interpreters of the whole moral law, not only, that is, of the law of the gospel but also of the natural law, the reason being that the natural law declares the will of God, and its faithful observance is necessary for men's eternal salvation.” Cf. L.Z. LEGASPI, “The Teaching Office of the Church in the New Code,” in *Philippiniana Sacra*, 18 (1983), pp. 517–546; A. MONTAN, “Il libro III: La funzione di insegnare della Chiesa,” in *La Scuola Cattolica*, 112 (1984), pp. 252–277; L.J. CROWLEY, “The Teaching Power and Mission of the Church,” in *Studia canonica*, 9 (1975), pp. 215–234.

<sup>35</sup> See SYNOD OF BISHOPS, post-synodal exhortation *Convenientes ex universo* (=CU), 30 November 1971, in *AAS*, 67 (1971), pp. 923–942, English translation in FLANNERY2, pp. 719–734.

<sup>36</sup> *Ibid.*, no. II, p. 726.

authority in the defense of the dignity of the human person and explained their position regarding international organizations, offering several propositions:

Since the Synod is of a universal character, it is dealing with those questions of justice which directly concern the entire human family [...] We therefore urge Catholics to consider well the following propositions:

Let recognition be given to the fact that international order is rooted in the inalienable rights and dignity of the human being. Let the United Nations Declaration of Human Rights be ratified by all Governments who have not yet adhered to it, and let it be fully observed by all.

Let the United Nations – which because of its unique purpose should promote participation by all nations – and international organizations be supported insofar as they are the beginning of a system capable of restraining the armaments race, discouraging trade in weapons, securing disarmament and settling conflicts by peaceful methods of legal action, arbitration and international police action. It is absolutely necessary that international conflicts should not be settled by war, but that other methods better befitting human nature should be found. Let a strategy of non-violence be fostered also, and let conscientious objection be recognized and regulated by law in each nation [...]

Although we recognize that international agencies can be perfected and strengthened, as can any human instrument, we stress also the importance of the Specialized Agencies of the United Nations, in particular those directly concerned with the immediate and more acute questions of world poverty in the field of agrarian reform and agricultural development, health, education, employment, housing and rapidly increasing urbanization.<sup>37</sup>

Canon 747, §2 clearly reiterates the understanding of the Church's right to teach moral principles and to make moral judgments, to bring the social teaching of the Church to national and international fora.<sup>38</sup> The application of this teaching function of the Church to the work of pontifical legates in international fora is a relatively recent claim, with sources for the canon being cited as dating back to Pope Pius XI and the late 1930s. The canon is a focus point for any consideration of the position of the pontifical legate at the United Nations, where his role and function extensively involves the application of moral principles to the analysis of

<sup>37</sup> Ibid., no. III, pp. 731–733.

<sup>38</sup> Cf. OTSUKA, *La funzione*, pp. 121–211; J. PASSICOS, “La ‘mission d’enseignement’,” in *Recherches de science religieuse*, 71 (1983), pp. 213–219; L. SCHICK, “La fonction d’enseignement de l’Église dans le Code de droit canonique,” in *Nouvelle Revue Théologique*, 108 (1986), pp. 374–387; D. COMPOSTA, “Magisterio ecclesiastico e diritto: Studio teologico-giuridico sulla potestà di magistero,” in *Divinitas*, 19 (1975), pp. 159–189.

world events and international developments, making moral judgments with the defence of the dignity of the human person as his foundational goal.

#### **4.2 Contemporary Directions of the Activity of Permanent Observers at the United Nations**

Pope Benedict XVI wrote about the mission of the Church and the relationship between politics and faith in his encyclical letter *Deus caritas est*,<sup>39</sup> emphasizing the vital role of the Church as the purifying force for reason. The Roman Pontiff identified the place of the Church's social teaching in relation to the political life within nation-states:

Justice is both the aim and the intrinsic criterion of all politics. Politics is more than a mere mechanism for defining the rules of public life: its origin and its goal are found in justice, which by its very nature has to do with ethics [...]. Here politics and faith meet. Faith by its specific nature is an encounter with the living God – an encounter opening up new horizons extending beyond the sphere of reason. But it is a purifying force for reason itself [...]. This is where Catholic social doctrine has its place: it has no intention of giving the Church power over the State. Even less is it an attempt to impose on those who do not share the faith ways of thinking and modes of conduct proper to faith. Its aim is simply to help purify reason and to contribute, here and now, to the acknowledgment and attainment of what is just [...].

It recognizes that it is not the Church's responsibility to make this teaching prevail in political life. Rather, the Church wishes to help form consciences in political life and to stimulate greater insight into the authentic requirements of justice as well as greater readiness to act accordingly [...] building a just social and civil order [...]. As a political task, this cannot be the Church's immediate responsibility. Yet, since it is also a most important human responsibility, the Church is duty-bound to offer, through the purification of reason and through ethical formation, her own specific contribution towards understanding the requirements of justice and achieving them politically.

The Church cannot and must not take upon herself the political battle to bring about the most just society possible. She cannot and must not replace the State. Yet at the same time she cannot and must not remain on the sidelines in the fight for justice. She has to play her part through rational argument and she has to reawaken the spiritual energy without which justice, which always demands sacrifice, cannot prevail and prosper. A just society must be the achievements of politics, not of the Church. Yet the promotion of justice through efforts to bring

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<sup>39</sup> See BENEDICT XVI, encyclical letter *Deus caritas est* (=DCE), in *AAS*, 98 (2006), pp. 217–252, English translation *God is Love*, Vatican City, Libreria editrice Vaticana, 2006. Cf. JOHN PAUL II, encyclical letter *Redemptoris missio*, 7 December 1990, in *AAS*, 83 (1991), pp. 249–340, English translation in MILLER, pp. 435–496.

about openness and will to the demands of the common good is something which concerns the Church deeply.<sup>40</sup>

Pope Benedict XVI reiterates that the Church is neither called to involve itself in the political battles of the day, nor is it asked to present political solutions to issues before the international community. Through the prism of the purification of reason, pontifical legates fulfil their mission at the United Nations by interpreting and responding to the signs of the times. They seek out essential elements of political issues affecting the human dignity of the impoverished and persecuted, presenting interventions in defence of the right to life, freedom, peace and development. They offer this crucial reflection of their mission of purification of reason, by transcending the purely political perspectives of the world, presenting interventions to stimulate a deeper understanding of justice, and nurturing reconciliation and cooperation for peace among peoples.

Already Pope John XXIII, in his encyclical letter *Ad Petri Cathedram*<sup>41</sup> warned of the dangers of false teachings, and of being drawn into false promises made by those who wish to deny people the “supreme spiritual goods – the Christian commandments, Christian hope, and Christian faith.”<sup>42</sup> These misleading doctrines and philosophical constructs ultimately direct nations away from defending “true liberty and the authentic dignity of the human person [...] and attempt to destroy the basis of Christianity and

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<sup>40</sup> Ibid., no. 28, pp. 28–29.

<sup>41</sup> See JOHN XXIII, encyclical letter *Ad Petri Cathedram* (=APC), in *AAS*, 51 (1959), pp. 497–531, English translation in *The Pope Speaks*, 5 (1959), pp. 359–383. Pope John Paul II spoke to US bishops during their ad limina visit: “In concentrating on Christ, the Church is able to exalt human nature and human dignity, for Jesus Christ is the ultimate confirmation of all human dignity. The Church is also able to concentrate on humanity and on the well-being of each human being because of the fact that in the Incarnation Jesus Christ united all humanity to himself. In Christ, God the Father has placed the blueprint of humanity. At the same time in concentrating on Christ, the Church emphasizes the centrality of God in the world, for in Christ – through the hypostatic union – God has taken possession of man to the greatest possible degree” (John Paul II, address to a group of bishops from the United States on their ad limina visit, 2 September 1988, in *ORe*, 12 September 1988, nn. 2, 4, pp. 6–7).

<sup>42</sup> *APC*, pp. 379–380.

civilization.”<sup>43</sup> The prism through which many nation-states perceive the world is skewed by an artificially induced pursuit of relativism, motivated by self-interest and advantage, with a resulting self-centered approach to the affairs of the international community.

The expansion of participation of the Holy See’s involvement in international organizations, such as the United Nations, is motivated by the compelling need within the international community for a clear position in defence of the truth and the dignity of the human person.<sup>44</sup> The “seeking of truth is the destiny for which we were made” was the call of Secretary of State, Cardinal Tarcisio Bertone, to the 28<sup>th</sup> Meeting for Friendship among Peoples in Rimini (2007).<sup>45</sup> Cardinal Bertone pointed to “an atmosphere of relativism and skepticism which pervades our civilization, we have even reached the point of proclaiming radical distrust in the possibility of knowing the truth.”<sup>46</sup> Pope Benedict XVI, while speaking to students at the Lateran University reiterated that “if the

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<sup>43</sup> Ibid., p. 380.

<sup>44</sup> See BENEDICT XVI, address to Holy See’s diplomats “Working to Build Human Dignity, Common Good,” 18 March 2006, in *ORe*, 5 April 2006, p. 5: “[...] The increased participation of the Holy See in international activities is a precious incentive to ensure that it can continue to give a voice to the conscience of all who make up the international community. It is a sensitive and difficult service, founded on the apparently inert but ultimately prevalent force of the truth, through which the Holy See intends to collaborate in building an international society that is more attentive to the dignity and true needs of the human person. In this perspective, its presence in International Organizations makes a basic contribution to guaranteeing respect for human rights and for the common good, and thus for authentic freedom and justice [...]. Relations *between* States and *within* States are correct to the extent that they respect the truth. When, instead, truth is violated, peace is threatened, law is endangered, then, as a logical consequence, forms of injustice are unleashed. These form boundaries that divide countries far more deeply than the frontiers outlined on maps and are often not only external but also internal. Moreover, these injustices acquire many aspects: for example, indifference or confusion, which leads to damaging the structure of that life-giving cell of society: the family; or overbearing or arrogant behavior, which may become arbitrary and silence those who have no voice or who lack the strength to make themselves heard, as in the case of the most serious injustice today: the suppression of unborn human life [...].”

<sup>45</sup> See T. BERTONE, homily at Eucharistic celebration at the 28<sup>th</sup> Meeting For Friendship Among Peoples in Rimini, Italy, “The Truth is the Destiny for Which We Were Made” (=BERTONE, homily), 19 August 2007, in *ORe*, 29 August 2007, p. 5.

<sup>46</sup> See *ibid.*

question of the truth and the concrete possibility for every person to be able to reach it is neglected, life ends up being reduced to a plethora of hypotheses, deprived of assurances and points of reference.”<sup>47</sup>

The spiritual dimension of the work of Member States is not evident from the transcripts of the many thousands of meetings and sessions held at the United Nations.<sup>48</sup>

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<sup>47</sup> BENEDICT XVI, address to students at the Pontifical Lateran University, 21 October 2006, in *ORe*, 1 November 2006, p. 3. Cardinal Bertone noted that “[...] and this is not all: perspective, life deprived of all certainties becomes opaque, loses its meaning and is ultimately exposed to every possible form of violence and abuse, as the daily news unfortunately obliges us to note” (BERTONE, homily, in *ORe*, 29 August 2007, p. 5).

<sup>48</sup> The Permanent Observer, and his diplomatic and local collaborators work together in participating, first of all, in the work of the Committees. The General Assembly has four types of committees: Main Committees, Procedural Committees, Standing Committees and Subsidiary/ad hoc bodies. The six Main Committees are: First Committee (Disarmament and International Security Committee), Second Committee (Economic and Financial Committee), Third Committee (Social, Humanitarian and Cultural Committee), Fourth Committee (Special Political and Decolonization Committee), Fifth Committee (Administrative and Budgetary Committee), Sixth Committee (Legal Committee). The Procedural Committees are the General Committee and Credentials Committee. The two Standing Committees are the Advisory Committee on Administrative and Budgetary Questions, and the Committee on Contributions (See *UN2002*, pp. 1518–1520). The Permanent Observer, and his diplomatic and local collaborators work together in participating in the work of these committees. The work being done by participants at the Committee level is foundational for the further formulation of UN Resolutions that may or may not reach the floor of the UN General Assembly for final deliberations or approval. The Committee members intensively debate and negotiate a wide range of issues brought forward them, based upon the competencies of each Committee. The work being done by participants at the committee level is foundational for the further formulation of UN resolutions that may or may not reach the floor of the UN General Assembly for final deliberations or approval. The Committee members intensively debate and negotiate a wide range of issues brought forward them, based upon the competencies of each committee. The Permanent Observer and his staff participate extensively in this process, making an important contribution at this crucial level of diplomatic activity, where the formulation of international law begins. Archbishop Migliore, Head of Mission and Permanent Observer at the Holy See Mission in New York recently commented: “As an Observer, the Holy See is admitted to the negotiations on resolutions, conventions, treaties. Why is this activity so important to us? Because conventions and treaties, once adopted, form the international law. Besides, international treaties now tend to regulate not only the reciprocal obligations between States, but they deal more and more with rights of the individuals (rights of the child, women’s rights, right to life, religious rights). Moreover, resolutions, declarations, and plans of action, though they belong to the so-called ‘soft law’ with a merely advisory value, are extremely important. Nowadays when national parliaments legislate they do so by keeping an eye on the international soft law. Scholars, non-governmental organizations and national courts do the same. Even the US Supreme Court in the recent past has been motivated in some of its determinations by citing from texts of UN resolutions. In view of the impact of international law and its influence on domestic policies, we are convinced that we,

This does not negate the presence of this transcendent dimension. When examining foundational elements of the debates according to the national cultural and religious background of the participants, this spiritual dimension, or the absence of it, appears in the work of the various delegations. To this venue they bring their national experiences of life and the values to which their nation-states subscribe. Often, rather than promoting a “healthy secularity,”<sup>49</sup> State-sponsored secular humanist<sup>50</sup> values pervade the international arena in a dysfunctional form of secularism and relativism, which has the potential of turning the practice of democracy into a “[...] dictatorship of relativism,

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too, can promote our views on relevant social, civil, cultural and developmental issues through our contribution to the negotiation within the UN” (D. SYLVA, interview with Archbishop C. Migliore “The Vatican Envoy Talks About Holy See’s Role at the UN” [=SYLVA, interview], in *Inside the Vatican*, 2 [2008], p. 13).

<sup>49</sup> See BENEDICT XVI, address to Catholic lay jurists “Promoting ‘Healthy Secularity,’ Not Secularism,” 9 December 2006, in *ORe*, 20–27 December 2006, p. 5: “Indeed, secularity is commonly perceived today as the exclusion of religion from social contexts and as the boundary of the individual conscience. Secularity would be expressed in the total separation between the State and the Church, since the latter is in no way entitled to intervene in areas that concern the life and conduct of citizens; secularity would even entail the exclusion of religious symbols from public places designated for the proper functions of the political community: offices, schools, courts, hospitals, prisons, etc. On the basis of these different ways of conceiving secularity, people speak of secular thought, secular morals, secular knowledge and secular politics. Indeed, on the basis of such concepts, an a-religious vision of life, thought and morals exist: a vision in which there is no room for God, for a Mystery that transcends pure reason, for a moral law of absolute worth, in force in every time and every situation. Only if we realize this can we assess the consequences of the problems inherent in a term such as ‘secularity,’ which seems almost to have become the qualifying emblem of post-modernity and especially of modern democracy. It is therefore the task of all believers, particularly believers in Christ, to help formulate a concept of secularity which, on the one hand, acknowledges the place that is due to God and his moral law, to Christ and to his Church in human life, both individual and social; and on the other, affirms and respects the ‘rightful autonomy of earthly affairs,’ if by this phrase, as the Second Vatican Council reaffirms, is meant man’s gradual discovery, exploitation and ordering of the laws and values of matter and society’ (*GS*, no. 36). Such autonomy is ‘perfectly in order: it is at once the claim of modern man and the desire of the Creator. By the very nature of creation, material being is endowed with its own stability, truth and excellence, its own order and laws. These man must respect as he recognizes the methods proper to every science and technique (*GS*, no. 36). If instead, the words ‘rightful autonomy of earthly affairs’ means that ‘material being does not depend on God and that man can use it as it had no relation to its Creator,’ then the fallacy of such a claim will be obvious to anyone who believes in God and his transcendent presence in the world he created” (ibid.).

<sup>50</sup> See P. KURTZ, *Humanist Manifesto 2000*, Council for Secular Humanism, at <<http://www.secularhumanism.org/index.php?section=main&page=manifesto>> (24 April 2008).

proposing anthropological models incompatible with the nature and dignity of the human person.”<sup>51</sup> Artificially instituted by the political and economic elites of these Member States, they clash amongst each other, specifically due to the wide-range and varied understanding, or absence of understanding, of the common good, of good and evil, of faith and religion. In his 2008 address to the diplomatic corps, Pope Benedict XVI commented on global events and the need for a God-centered approach to global challenges:

From this rapid overview it appears clearly that the security and stability of the world are still fragile. The factors of concern are varied, yet they all bear witness to the fact that human freedom is not absolute but is a good that is shared, one for which all must assume responsibility. It follows that law and order are guarantees of freedom. Yet law can be an effective force for peace only if its foundations remain solidly anchored in natural law, given by the Creator. This is another reason why God can never be excluded from the horizon of man or of history. God’s Name is a name of justice; it represents an urgent appeal for peace.<sup>52</sup>

There is an intensifying movement within western secular societies to isolate those who integrate their Christian religious beliefs and faith into everyday social, political and academic spheres of life. This movement obscures and deforms the true nature of the human person. The artificial requirements of submission to secular humanist principles are elevated to a prerequisite for citizens of democratic societies to actively participate in and productively contribute to the development of the social and political orders. The enforcement of such compliance creates a dangerous distortion in the fabric of society. This process disintegrates the freedom of its citizens to practice their faith freely. The groundwork is being laid for a future social order not based upon principles of the natural law, equity and justice, but that of a dictatorship of relativism and diminished

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<sup>51</sup> BENEDICT XVI, address to the diplomatic corps accredited to the Holy See, 8 January 2007, in *ORe*, 17 January 2007, p. 7.

<sup>52</sup> *Ibid.*, address to the diplomatic corps accredited to the Holy See, 7 January 2008, in *ORe*, 9 January 2008, p. 5.

democratic institutions. It is a process contributing to the unraveling of modern democracy.

During his 2008 apostolic visit to the United States Pope Benedict XVI addressed the UN General Assembly and spoke of the importance of the religious dimension of human life and the need to integrate the spiritual elements into the formulation of responses and solutions to developing international issues and challenges. Individual States have a responsibility to be attentive to the legitimate needs of its peoples, guaranteeing political, social and religious freedom, placing the highest priority upon the need for safeguarding the dignity of the human person. The exclusion of the faith of peoples and nations in the developing structures of social order can negate the foundational considerations for basic human rights. The Holy Father explained that

[...] As history proceeds, new situations arise, and the attempt is made to link them to new rights. Discernment, that is, the capacity to distinguish good from evil, becomes even more essential in the context of demands that concern the very lives and conduct of persons, communities and peoples. In tackling the theme of rights, since important situations and profound realities are involved, discernment is both an indispensable and a fruitful virtue.

Discernment, then, shows that entrusting exclusively to individual States, with their laws and institutions, the final responsibility to meet the aspirations of persons, communities and entire peoples, can sometimes have consequences that exclude the possibility of a social order respectful of the dignity and rights of the person.

On the other hand, a vision of life firmly anchored in the religious dimension can help achieve this, since recognition of the transcendent value of every man and woman favours conversion of heart, which then leads to a commitment to resist violence, terrorism and war, and to promote justice and peace. This also provides the proper context for the interreligious dialogue that the United Nations is called to support, just as it supports dialogue in other areas of human activity. Dialogue should be recognized as the means by which the various components of society can articulate their point of view and build consensus around the truth concerning particular values or goals. It pertains to the nature of religions, freely practiced, that they can autonomously conduct a dialogue of thought and life.

[...] The activity of the United Nations in recent years has ensured that public debate gives space to viewpoints inspired by a religious vision in all its dimensions, including ritual, worship, education, dissemination of information and the freedom to profess and choose religion. It is inconceivable, then, that believers should have to suppress a part of themselves – their faith – in order to be active citizens. It should never be necessary to deny God in order to enjoy one's rights. The rights associated with religion are all the more in need of

protection if they are considered to clash with a prevailing secular ideology or with majority religious positions of an exclusive nature. The full guarantee of religious liberty cannot be limited to the free exercise of worship, but has to give due consideration to the public dimension of religion, and hence to the possibility of believers playing their part in building the social order.<sup>53</sup>

Relativism breeds a form of secular humanist fundamentalism that adopts the conviction that there is no universal truth or foundation of values to use as reference points for any given position, either of the individual or nation-state.<sup>54</sup> Within the context of relativism, coupled with the adopted Principle of Utility<sup>55</sup> and the Greatest Happiness Principle,<sup>56</sup> all opinions are valid and presumed defensible. In this regard, Jacques Maritain addresses the need to consider the common good within a broader philosophical context:

[...] the common good is not only a system of advantages and utilities but also a rectitude of life, an end, good in itself or, as the Ancients expressed it, a *bonum honestum*. For, on the one hand, to assure the existence of the multitude is

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<sup>53</sup>BENEDICT XVI, address to the UN GA “UN: Sign of Unity, Instrument of Service to the Human Family,” New York, 18 April 2008, in *ORe*, 23 April 2008, p. 13.

<sup>54</sup> See BENEDICT XVI, address to members of Catholic-inspired non-governmental organizations “Counter Relativism by Presenting Truth” (=Benedict XVI, “Counter Relativism”), 1 December 2007, in *ORe*, 12 December 2007, pp. 5–6. “[...] international discussions often seem marked by a relativistic logic which would consider as the sole guarantee of peaceful coexistence between peoples a refusal to admit the truth about man and his dignity, to say nothing of the possibility of an ethics based on recognition of the natural moral law. This has led, in effect, to the imposition of a notion of law and politics which ultimately makes consensus between States – a consensus conditioned at times by short-term interests or manipulated by ideological pressure – the only real basis of international norms. The bitter fruits of this relativistic logic are sadly evident: we think, for example, of the attempt to consider as human rights the consequences of certain self-centered lifestyles; a lack of concern for the economic and social needs of the poorer nations; contempt for humanitarian law, and a selective defence of human rights” (ibid.).

<sup>55</sup> “By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government” (J. BENTHAM, *The Principles of Morals and Legislation*, Amherst, NY, Prometheus Books, 1988, p. 2).

<sup>56</sup> “The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure” (J.S. MILL, “‘Utilitarianism’ in *On Liberty and Other Essays*, Oxford, UK, Oxford University Press, 1991, p. 137).

something morally good in itself; on the other hand, the existence, thus assured, must be the just and morally good existence of the community. Only on condition that it is according to justice and moral goodness is the common good what it is, namely, the good of a people and a city, rather than a mob of gangsters and murderers. For this reason, perfidy, the scorn of treaties and the sworn oath, political assassination and unjust wars, even though they be *useful* to a government and procure some fleeting advantages for the peoples who make use of them, tend by their nature as political acts – acts involving in some degree the common action – to the destruction of the common good.

The common good is something ethically good. Included in it, as an essential element, is the maximum possible development, here and now, of the persons making up the united multitude to the end of forming a people, organized not by force alone, but by justice. Historical conditions and the still inferior development of humanity make difficult the full achievement of the end of social life. But the end to which it tends is to procure the common good of the multitude in such a way that the concrete person gains the greatest possible measure, compatible with the good of the whole, of real independence from the servitudes of nature. The economic guarantees of labor and capital, political rights, the moral virtues and the culture of the mind, all contribute to the realization of this independence.<sup>57</sup>

Consequently, Maritain believed that “democratic secular faith,” established on a secular order founded upon pure reason, separated from religion and the Gospel, was destined for failure.<sup>58</sup>

In the North American context, a valuable contribution to the discussion on the understanding of common good based on truth came recently from Archbishop of Denver, Colorado, Charles Chaput at the 2007 John Cardinal Krol Conference

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<sup>57</sup> J. MARITAIN, *The Person and the Common Good*, Notre Dame, IN, University of Notre Dame Press, 2002, pp. 53–54. See also J. MARITAIN, *Art and Scholasticism*, Whitefish, MT, Kessinger Publishing, 2003, no. 66: “[...] the *bonum honestum* - good as right, the quality of an act good for the sake of good – has a spiritual beauty: ‘A thing is said to be good in itself (*honestum*) according as it has some quality of excellence worthy of honor because of its spiritual beauty’.”

<sup>58</sup> See J. MARITAIN, *Man and the State*, Washington, Catholic University of America Press, 1998, pp. 108–109. “In modern times an attempt was made to base the life of civilization and the earthly community on the foundation of mere reason – reason separated from religion and from the Gospel. This attempt fostered immense hopes in the last two centuries, and rapidly failed. Pure reason showed itself more incapable than faith of ensuring the spiritual unity of mankind, and the dream of a ‘scientific’ creed, uniting men in peace and in common convictions about the aims and basic principles of human life and society, vanished in our contemporary catastrophes. In proportion as the tragic events of the last decades [pre-1950] have given the lie to the bourgeois rationalism of the XVIIIth and XIXth centuries, we have been confronted with the fact that religion and metaphysics are an essential part of human culture, primary and indispensable incentives in the very life of society” (ibid.).

“Promoting and Protecting the Common Good,” held in Philadelphia, PA. Archbishop Chaput spoke about the power of ideas, and the need for Christian initiatives in addressing important current social and economic issues and proposed viable and true answers to the crucial spiritual crisis of our time.<sup>59</sup> An authentic understanding of the common good, viewed through the prism of truth, is a fundamental requirement for a proper discernment of the common good.<sup>60</sup> Archbishop Chaput also referred to the crisis faced by Western society, “the loss of hope and purpose that comes from a loss of an interior life and a living faith. It’s a loss that we can only make bearable by creating a culture of material comfort that feeds – and feeds off of – personal selfishness.”<sup>61</sup> The expansion and deepening of a culture of death pervades many areas of our society, State structures and international bodies, threatening human life and the dignity of the human person.<sup>62</sup> This emptiness of spirit and lack of hope often manifests itself in failed attempts

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<sup>59</sup> See C.J. CHAPUT, lecture at the John Cardinal Krol Conference in Philadelphia, PA, 21 April 2007 “Religion and the Common Good,” <<http://www.firstthings.com/onthesquare/?p=711>> (15 January 2008).

<sup>60</sup> Ibid. Archbishop Chaput continues: “The ‘common good’ is more than a political slogan. It’s more than what most people think they want right now. It’s not a matter of popular consensus or majority opinion. It can’t be reduced to economic justice or social equality or better laws or civil rights, although all these things are vitally important to a healthy society. The common good is what best serves human happiness in the light of what is real and true. That’s the heart of the matter: What is real and true? If God exists, then the more man flees from God, the less true and real man becomes. If God exists, then a society that refuses to acknowledge or publicly talk about God is suffering from a peculiar kind of insanity. What can the ‘common good’ mean in the context of Nietzsche’s Superman or Marx or Freud or Darwin? These men became the architects of our age. But they were also just the latest expressions of a much deeper and more familiar temptation to human pride. We want to be gods, but we’re not. When we try to be, we diminish ourselves. That’s our dilemma. That’s the punishment we create for ourselves [...]. Humility is the beginning of sanity. We can’t love anyone else until we can see past ourselves. And man can’t even be man without God. The humility to recognize who we are as creatures, who God is as our Father, what God asks from each of us, and the reality of God’s love for other human persons as well as ourselves – this is the necessary foundation that religion brings to every discussion free will, justice and truth, and to every conversation about the ‘common good’ ” (ibid.).

<sup>61</sup> Ibid.

<sup>62</sup> JOHN PAUL II, encyclical letter *Evangelium vitae*, 25 March 1995, in *AAS*, 87 (1995), pp. 401–522, English translation in MILLER, pp. 681–762.

at addressing important international matters, such as the inequality and lack of economic models inherent in current trends of globalization<sup>63</sup> and in the collective responses of the international community when confronted with urgent issues affecting the dignity of the human person.

The papal legates' contribution in the nurturing of an unconditional commitment to the common good and peacebuilding are part of the spiritual mission of the Holy See at the United Nations and within the everyday work of its Committees and affiliated agencies. Through the work of the legates at the United Nations, this witness to Christ brings hope and perspective to an often overwhelming agenda of challenges and crises faced by Member States at the Committee and General Assembly levels of deliberations.

#### **4.3 The Permanent Observer and Current Issues Before the UN**

The contribution of the Holy See in UN negotiations and debates extends across a wide range of important issues. The global community is faced with matters concerning conflict resolution, defence of human rights, and in particular, of the rights of women and children. Other important issues involve food and water shortages, poverty, health care, application of medical technology and science, education, needs of the disabled, just to mention a few. In its recent work, the Holy See has intensely contributed to the work being done by the United Nations in the field of cloning and the rights of the disabled.

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<sup>63</sup> See D. MARTIN, address at Villanova University, "Toward a Global Common Good," 25 September 2006, <<http://www.zenit.org>> (18 January 2008). "One of the major problems with the current economic situation is the existence of glaring inequalities and of a lack of models – and perhaps political will – to resolve the question. There have always been winners and losers in any economic model: In today's global economy there are extraordinary winners and disastrous losers [...]. Respecting the global common good, however, cannot be limited to enforcing certain negotiated economic, financial and commercial norms and standards. Liberalization of trade and finances, for example, is not an end in itself. Liberalization will only lead to growth when certain other conditions are met. But neither is growth in itself the ultimate value. Growth with equity and inclusion is better than growth which generates great inequalities and exclusion. Growth with stability is better than a growth accompanied by volatility and precariousness" (ibid.).

Archbishop Migliore pointed to these particular subject matters when commenting on the Holy See's profile and work at the UN:

Generally, I think that the Holy See's greatest contribution to UN negotiations over the last years has been an increasingly positive profile, whereby we have seen the respect and influence of the Holy See grow. Many delegations, even those who may have a different opinion on specific issues, are interested in consulting with and engaging the Holy See in dialogue and debate in our common goal to improve life for all peoples. This is an important general contribution. Specifically, however, I would say that there are two issues in which the Holy See has made its greatest contribution, cloning and disabilities.

From 2002 to 2005, we debated and negotiated a text on human cloning. One delegate called that exercise 'the debate of the twenty-first century.' This was validated by the high level of delegations' delegates and by the very high attendance, as well as by the competence and passion exercised on this matter. The Holy See delegation took a very proactive stance on the issue, with a view to encouraging science to progress and continue to develop ever-newer and more effective prevention and treatment initiatives for 'so-called incurable diseases,' while at the same time challenging the scientific and world community to do so ethically.

Secondly, last year [2007] the UN brought to a conclusion the Convention on the Rights of Persons with Disabilities. Again, from the very beginning, the Holy See was committed and engaged, as an active partner in the negotiations, working in a constructive manner in order to produce a document that would indeed be a legal instrument that would protect the more than 600 million people living with disabilities in the world. The Holy See supported and proposed language that addressed providing education, supported the very important role of the home and the family, and reaffirmed the right to life, which is the most fundamental of all human rights. We sought to ensure language in the text that would ensure treatment of all people with disabilities on an equal basis with others, language which reflected in words and action the fact that each person possesses an inherent human dignity, a status that must be protected and enhanced in every corner of the world.<sup>64</sup>

There are many areas of participation where the Holy See is involved in making an active contribution in the development of international law and the formulation of plans of action. Important areas which can be identified as rapidly developing issues calling for the attention of the world community are the issues of conflict resolution in view of the emergence of a culture of preventative diplomacy, the urgent question of global warming and the developing crises in bioethical research. The Holy See continues

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<sup>64</sup> SYLVA, *Interview*, pp. 13–14.

the critical global battle in defence of the right to life of the unborn child and the defence of women's reproductive rights at all levels of debate at the United Nations.

#### **4.3.1 Holy See Mission at the United Nations in Defence of Peace**

The promotion and fostering of peace among nations is of paramount importance as an integral part of the mission of the Church. Consequently, c. 364, 5° imposes on the pontifical legate the obligation to promote peace, progress and unity of the efforts of the human family within the territory in which he serves.<sup>65</sup> The mission of peace of the pontifical legate is foundational to the work of the Permanent Observer at the United Nations.

The deeper self-understanding of nation-states as a global community and family of nations has developed in more practical terms during the 20<sup>th</sup> century and is very much a “work in progress” at the United Nations and other international organizations. Responding to the needs of the contemporary society, the Second Vatican Council underlined the importance of a clearer understanding of the nature of peace:

Peace is more than the absence of war: it cannot be reduced to the maintenance of a balance of power between opposing forces nor does it arise out of a despotic dominion, but it is appropriately called ‘the effect of righteousness’ (Is 32:15). It is the fruit of that right ordering of things with which the divine founder has invested human society and which must be actualized by man thirsting after an ever more perfect reign of justice. But while the common good of mankind ultimately derives from the eternal law, it depends in the concrete upon circumstances which change as time goes on; consequently, peace will never be achieved once and for all, but must be built up continually. Since, moreover, human nature is weak and wounded by sin, the achievement of peace requires a constant effort to control the passions and unceasing vigilance by lawful authority.

But this is not enough. Peace cannot be obtained on earth unless the welfare of man is safeguarded and people freely and trustingly share with one another the riches of their minds and their talents. A firm determination to respect

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<sup>65</sup> Cf. *SOE*, no. IV, 2: “ In addition, he functions as interpreter of the solicitude of the Roman Pontiff for the good of the country in which he exercises his mission. In a special way he must take to heart the questions which concern peace, progress and collaboration of peoples with the intent of promoting the spiritual, moral and economic good of the whole human family” (ibid.).

the dignity of other men and other peoples along with the deliberate practice of fraternal love are absolutely necessary for the achievement of peace. Accordingly, peace is also the fruit of love for love goes beyond what justice can ensure.<sup>66</sup>

The international community of nations admits that defence of the common good involves the proactive defence of the right to peace for every person and nation. Consequently, on 12 November 1984, the United Nations adopted the “Declaration on the Right of Peoples to Peace,”<sup>67</sup> outlining the principles of this “sacred” right, which is a cornerstone of constructive international relations.

In their reflection on the question of safeguarding the world peace, the Fathers of the Second Vatican Council pointed to the aspect of mutual obligations of human beings in providing the social conditions for peace. In this regard, the Council addressed the role

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<sup>66</sup> *GS*, no. 78, pp. 866–867.

<sup>67</sup> UN GA, 39<sup>th</sup> Session, resolution 39/11, Annex, 12 November 1984, in *Official Records of the United Nations General Assembly*, 1984:

“*The General Assembly*,

*Reaffirming* that the principal aim of the United Nations is the maintenance of international peace and security,

*Bearing in mind* the fundamental principles of international law set forth in the Charter of the United Nations,

*Expressing* the will and the aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe,

*Convinced* that life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations,

*Aware* that in the nuclear age the establishment of a lasting peace on Earth represents the primary condition for the preservation of human civilization and the survival of mankind,

*Recognizing* that the maintenance of a peaceful life for peoples is the sacred duty of each State,

1. *Solemnly proclaims* that the peoples of our planet have a sacred right to peace;

2. *Solemnly declares* that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State;

3. *Emphasizes* that ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;

4. *Appeals* to all States and international organizations to do their utmost to assist in implementing the right of peoples to peace through the adoption of appropriate measures at both the national and international level” (ibid.).

of the common good<sup>68</sup> and spoke in defence of the fundamental principles of the United Nations in ensuring global peace and security. The Council appealed to individuals to concern themselves with the common good of the whole of their communities as a “sacred duty,” and to avoid living a life exclusively centered upon self-interest.<sup>69</sup> They warned about the dangers of the concentration of economic power in the hands of the few, restricting access to the decision-making process<sup>70</sup> and the necessity to respond to the needs of our fellow humankind through charitable giving of the goods inherited in prosperous communities and nations.<sup>71</sup> These goals can only be achieved when nations and the world are at peace.

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<sup>68</sup> See *GS*, no. 26, p. 815: “Because of the closer bonds of human interdependence and their spread over the whole world, we are today witnessing a widening of the role of the common good, which is the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily. The whole human race is consequently involved with regard to the rights and obligations which result. Every group must take into account the needs and legitimate aspirations of every other group, and still more of the human family as a whole” (*ibid.*).

<sup>69</sup> See *ibid.*, no. 30, pp. 817–818: “The pace of change is so far-reaching and rapid nowadays that no one can allow himself to close his eyes to the course of events or indifferently ignore them and wallow in the luxury of a merely individualistic morality. The best way to fulfil one’s obligations of justice and love is to contribute to the common good according to one’s means and the needs of others, even to the point of fostering and helping public and private organizations devoted to bettering the conditions of life [...]. Let everyone consider it his sacred duty to count social obligations among man’s chief duties today and observe them as such” (*ibid.*).

<sup>70</sup> See *ibid.*, no. 65, pp. 853–854: “Economic development must remain under man’s direction; it is not to be left to the judgment of a few individuals or groups possessing too much economic power, nor of the political community alone, nor of a few strong nations. It is only right that, in matters of general interest, as many people as possible, and, in international relations, all nations, should participate actively in decision making. [...]. Nor should development be left to the almost mechanical evolution of economic activity nor to the decision of public authority. Hence we must denounce as false doctrines which stand in the way of all reform on the pretext of a false notion of freedom, as well as those which subordinate the basic rights of individuals and of groups to the collective organization of production. All citizens should remember that they have the right and the duty to contribute according to their ability to the genuine progress of their own community and this must be recognized by the civil authority” (*ibid.*).

<sup>71</sup> See *ibid.*, no. 69, pp. 857–858: “God destined the earth and all it contains for all men and all peoples so that all created things would be shared fairly by all mankind under the guidance of justice tempered by charity [...] In his use of things man should regard the external goods he legitimately owns not merely as exclusive to himself but common to others also, in the sense that they can benefit others as well as himself. Therefore every man has the right to possess a

The curbing of the savagery of war, the consequences of total war and the arms race were issues the Council addressed as crucial in taking steps to ensure peace.<sup>72</sup> The Council Fathers declared their commitment to promoting the complete outlawing of war by international agreement, while expressing their concerns about the adverse conditions of war and possible global destruction.<sup>73</sup>

In the pursuit of dispute and conflict prevention, the centrality of peacebuilding and the promotion of development are essential.<sup>74</sup> The response to the violence of armed conflict must be measured with Christian love in the defence of human rights.<sup>75</sup> Pope John Paul II spoke to this issue in his 2005 World Day of Peace message:

Peace is a good to be promoted with good: It is a good for individuals, for families, for nations and for all humanity; yet it is one which needs to be maintained and fostered by decisions and actions inspired by good. We can

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sufficient amount of the earth's goods for himself and his family. This has been the opinion of the Fathers and Doctors of the Church, who taught that men are bound to come to the aid of the poor and to do so not merely out of their superfluous goods. When a person is in extreme necessity he has the right to supply himself with what he needs out of the riches of others. Faced with a world today where so many people are suffering from want, the Council asks individuals and governments to remember the saying of the Fathers: 'Feed the man dying of hunger, because if you do not feed him you are killing him,' and it urges them accordingly to their ability to share and dispose of their goods to help others, above all by giving them aid which will enable them to help and develop themselves" (ibid).

<sup>72</sup> See *ibid.*, nn. 79–81, pp. 867–870.

<sup>73</sup> See *ibid.*, no. 82, pp. 870–872.

<sup>74</sup> JOHN PAUL II, encyclical letter *Centesimus annus*, 1 May 1991, nn. 21, 51–52, in *AAS*, 83 (1991), pp. 793–867, English translation in MILLER, pp. 529, 554–555: "Furthermore, it must not be forgotten that at the root of war there are usually real and serious grievances: injustices suffered, legitimate aspirations frustrated, poverty, and the exploitation of multitudes of desperate people who see no real possibility of improving their lot by peaceful means. For this reason, another name for peace is *development*. Just as within individual societies it is possible and right to organize a solid economy which will direct the functioning of the market to the common good, so too there is a similar need for adequate interventions on the international level. For this to happen, *a great effort must be made to enhance mutual understanding and knowledge, and to increase the sensitivity of consciences*. [...] But to accomplish this, the poor – be they individuals or nations – need to be provided with realistic opportunities. Creating such conditions calls for a *concerted worldwide effort to promote development*, an effort which also involves sacrificing the positions of income and of power enjoyed by the more developed economies" (ibid., no. 52, p. 555).

<sup>75</sup> See JOHN PAUL II, encyclical letter *Redemptor hominis*, 4 March 1979, no. 17, in *AAS*, 71 (1979), pp. 257–324, English translation in MILLER, pp. 71–74.

appreciate the profound truth of another saying of St. Paul: ‘Repay no one evil for evil’ (Rom. 12:17). The one way out of the vicious circle of requiting evil for evil is to accept the apostle’s words, ‘Do not be overcome by evil, but overcome evil with good’ (Rom. 12:21) [...]. To attain the good of peace there must be a clear and conscious acknowledgment that violence is an unacceptable evil and that it never solves problems. ‘Violence is a lie, for it goes against the truth of our faith, the truth of our humanity. Violence destroys what it claims to defend: the dignity, the life, the freedom of human beings’ [...]. Today more than ever, a decisive condition for bringing peace to the world is an acknowledgment of the interdependence between wealthy and poor countries, such that ‘development either becomes shared in common by every part of the world or it undergoes a process of regression even in zones marked by constant progress (*Sollicitudo rei socialis*, no. 17).’<sup>76</sup>

The issue of war and peace are vitally important for the community of nations as they intersect all aspects of human lives, entering both the spiritual and temporal worlds, and the spheres of both politics and faith<sup>77</sup> as these two are not exclusive to themselves.

The road to peace is an arduous one, requiring consistent attention and effort on behalf of peacebuilders facilitating open dialogue and cooperation among peoples and nations. In this regard, a particular role in defence of the dignity of the human person and the mission of peace at the United Nations belongs to representatives of Catholic-inspired Non-governmental organizations,<sup>78</sup> consisting of clergy, religious and lay collaborators. The laity have an important role in bringing the social teaching of the Church to the

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<sup>76</sup> JOHN PAUL II, 2005 World Day of Peace Message “Overcome Evil with Good,” 8 December 2004, in *Origins*, 34 (2005), pp. 457, 459, 461.

<sup>77</sup> The “Commitment to Peace” was the theme of the 2002 Day of Prayer for Peace in Assisi where over two hundred religious leaders from around the world joined Pope John Paul II in prayer. This was an extraordinary display of inter-religious dialogue among representatives of world religions – all voicing their commitment to building a world of peaceful coexistence and expressing their fidelity to the goal of peacebuilding and the condemnation of terrorism and violence. See JOHN PAUL II, “2002 Day of Prayer for Peace in Assisi, 19–27 January 2002,” in *ORe*, 30 January 2002, pp. 1–9. Pope John Paul II expressed their sentiments: “This is the solemn appeal that, together with the leaders of various religions, I addressed to the men of our time, forcefully rejecting the temptation to resolve serious problems of humanity by using arms and violence. Thus we have placed another milestone on the road to building a civilization of peace and love [...]. Together we affirmed in Assisi that the mission of religion consists in fostering peaceful coexistence among peoples and cultures, in reciprocal respect [...].” (JOHN PAUL II, *Angelus*, 27 January 2002, in *ORe*, 30 January 2002, p. 1).

<sup>78</sup> See BENEDICT XVI, “Counter Relativism,” pp. 5–6.

world through their work and actions. In constituting the vast majority of the Christian faithful, the impact of the laity cannot be underestimated as a global reservoir of potential that is necessary for the Church's teaching mission.<sup>79</sup>

#### 4.3.2 Conflict Resolution and Emergence of Preventative Diplomacy

Since the 1990s, as a result of UN diplomatic and peacekeeping failures in dealing with international conflicts, such as the genocide in Rwanda, there have been measured attempts at the United Nations to initiate an approach of preventative diplomacy in dealing with conflict resolution on a global level. Since 2001, there has been progress in moving away from working solely in a "culture of reaction" to international conflict, to

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<sup>79</sup> See *LG*, nn. 31–34, English translation in FLANNERY1, pp. 353–355. Cf. E. SCHILLEBEECX, "The Teaching Authority of All," in *Concilium*, 4 (1985), pp. 12–22; H. FRIES, "Is There a Magisterium of the Faithful?" in *Concilium*, 4 (1985), pp. 82–91; J. COULSON, "Il magistero dell'unica Chiesa e le sue relazioni col 'sensus fidei'," in *Concilium*, 8 (1975), pp. 138–150; R. GAILLARDETZ, "The Theology Underlying Lay Ecclesial Ministry," in *Origins*, 36 (2006), pp. 138–144; H. VORGRIMLER, "From *Sensus Fidei* to *Consensus Fidelium*," in *Concilium*, 4 (1985), pp. 3–11. The Community of Saint Egidio, based in Rome, can be an example of a public lay association extensively involved in informal conflict resolution and a mission of peace throughout the world. See M. GIRO, "The Community of Saint Egidio and Its Peace-Making Activities," in *The International Spectator*, 33 (1998), Rome, Istituto Affari Internazionali, pp. 85–100, see also <[http://santegidio.org/news/rassegna/00000/19980703\\_spectator\\_EN.htm](http://santegidio.org/news/rassegna/00000/19980703_spectator_EN.htm)>. Extensive conflict resolution and intervention work has been undertaken by the public lay association: The Community of Saint Egidio, established in 1968 in Rome, as a movement of lay people today numbering over 50,000 in 70 countries, working to bring peace and solidarity with the poor through prayer, communicating the gospel, ecumenism and dialogue. It is directly involved in actively participating in peace-making efforts throughout the world, offering development assistance, emergency and humanitarian aid, especially in Mozambique, Ethiopia, Eritrea, Romania, Albania, San Salvador, Vietnam, Lebanon, Armenia, the Kurds in Iran. The community's "approach to peace-making is based on the fundamental social commitment to the poor and the dispossessed" (ibid. <[http://santegidio.org/news/rassegna/00000/19980703\\_spectator\\_EN.htm](http://santegidio.org/news/rassegna/00000/19980703_spectator_EN.htm)>). The community believes that war must be avoided and disavowed as an instrument for conflict resolution and that "the community's non-official diplomacy can create the conditions for taking up contacts and picking up threads within national communities in crisis, but above all for reconstructing links to isolated realities that have slipped out of the control of the state system and international institutions. [...] The ideal solution involves synergy between the 'institutional' and the 'informal,' in which the greater flexibility of the informal is complemented by the necessary 'officialness' of the institutional. [...] The real factor behind the success of this formula is the fact that Saint Egidio is interested solely in putting an end to the conflict; it has no other interests to defend and considers any contribution that can work to this end useful and welcome" (ibid. <[http://santegidio.org/news/rassegna/00000/19980703\\_spectator\\_EN.htm](http://santegidio.org/news/rassegna/00000/19980703_spectator_EN.htm)>).

the development of a “culture of prevention.”<sup>80</sup> Secretary-General, Kofi Annan, in his 2006 *Progress Report on the Prevention of Armed Conflict*, noted that although new tools and mechanisms are being developed,

[...] An unacceptable gap remains, however, between rhetoric and reality in the area of conflict prevention [...]. To prevent armed conflicts we must understand their origins and seek to make violence a less reasonable option. We must also take care that preventative action does not ignore the underlying injustices or motivations that caused people to take up arms. Violence finds followers when people lack alternatives and feel voiceless. Our dual challenge is to address or diminish the sources of tension for society and to strengthen the institutions that give it the ability to channel conflict non-violently and to allow for dialogue [...]. The thrust of preventative work must shift – as indeed it has begun to do – from reactive, external driven interventions with limited and ultimately superficial impact to internally driven initiatives for developing local and national capacities for prevention [...]. The most effective way to prevent crisis is to reduce the impact of risk factors. Some of the main sources of societal tension can be and are being addressed at the systemic, global level.<sup>81</sup>

Measures that need to be taken are the national and international regulation of materials and resources that enflame conflict, and have devastating economic, social and political consequences. These include activities such as pillaging of resources; sales of

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<sup>80</sup> This process is documented at various levels at the United Nations from 2001–2005, the Security Council and World Summit. More specifically the following measures were taken: UN GA, 55<sup>th</sup> Session, resolution 55/281 “Prevention of Armed Conflict,” 1 August 2001, in *Official Records of the United Nations General Assembly*, 2001. See also UN GA, 57<sup>th</sup> Session, resolution 57/337 “Prevention of Armed Conflict,” 3 July 2003, in *Official Records of the United Nations General Assembly*. See also UN SECURITY COUNCIL, resolution 1366 (2001) “Role of the Security Council in the Prevention of Armed Conflict,” 30 August 2001, in *Official Records of the Security Council*, 2003. See also UN GA, 2005 World Summit, resolution 60/1 “2005 World Summit Outcome,” 14–16 September 2005, in *Official Records of the United Nations General Assembly*, 2005. The 2005 World Summit brought together 170 Heads of State and Government, the largest gathering of world leaders at the United Nations, who pledged to continue with the implementation of the UN Millennium Declaration Goals, reaffirmed their commitment to peace, fundamental values of freedom, equality, solidarity, tolerance, respect for human rights, respect for nature and the environment. They reaffirmed the importance of an effective multilateral system, such as the central role held by the UN and committed to strengthening the effectiveness of the United Nations. Global interdependence was acknowledged, with commitments to extend efforts in the areas of sustainable development, the eradication of poverty, peace, human rights, collective security, respect for good governance and the rule of law, democracy, religious freedom and respect for cultural differences, and increased financing for development.

<sup>81</sup> K. ANNAN, *Progress Report On The Prevention of Armed Conflict* (=ANNAN, *2006 Prevention Report*), Report of the Secretary-General, UN GA, 60<sup>th</sup> Session, Document A/60/891, UN Publications, 2006, nn. 4, 5, 7, 15, pp. 4–5, 7.

small and light weapons; proliferation of nuclear, chemical and biological agents; diamond smuggling; narcotics trafficking and production; inaction in dealing with HIV/AIDS crisis; and environmental degradation.<sup>82</sup> Private companies are responsible for the development, production, sales and distribution of: military hardware and weapons, landmines, and small arms and light weapons.<sup>83</sup> Both private and State companies produce nuclear, radiological, biological and chemical materials and weapons, and manage their production, sales and distribution.<sup>84</sup> Problems of environmental degradation and pollution are often aggravated by international corporate irresponsibility,<sup>85</sup> resulting in population displacement, forced migrations, and human trafficking practices. Irresponsible resource exploitation projects cascade whole populated regions into continuous cycles of socio-economic hardship including widespread youth unemployment, fueling conflict and regional instability. This is most prevalent in areas of the world suffering from abject poverty, economic or social instability, hunger and serious health issues.<sup>86</sup>

Article 33, §1 of the United Nations Charter offers Member States eight different methods through which their disputes may be resolved. The Article states that

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.<sup>87</sup>

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<sup>82</sup> See *ibid.*, no. 15, p. 7.

<sup>83</sup> See *ibid.*, no. 18, p. 8.

<sup>84</sup> See *ibid.*, no. 19, pp. 8–9.

<sup>85</sup> See DEVELOPMENT AND PEACE, <<http://www.dev.org/devpme/main-eng.html>> (25 January 2008).

<sup>86</sup> See ANNAN, *2006 Prevention Report*, nn. 22–25, pp. 8–10.

<sup>87</sup> See UN Charter, in *UN2004*, p. 1522.

Although Member States of the United Nations have these eight options, they hesitate to resort to these instruments, in sustaining peace and security. There is often a lack of confidence and low expectation levels with respect to the successful resolution of conflicts developing in many regions. The effectiveness of preventive diplomacy depends upon not only the willingness of the parties to seek a resolution to their disputes or conflicts, but also the commitment to peace and credibility of the diplomatic corps available for mediation within the context of a “culture of prevention.”

The United Nations High-Level Panel on Threats, Challenges and Change, was appointed by the Secretary-General to study both potential and current security threats faced by Member States in the 21<sup>st</sup> century. The Panel published its report in 2005 titled “A More Secure World: Our Shared Responsibility.” The Report offers extensive recommendations concerning establishing a new security consensus, collective security and the challenge of prevention, the use of force, and specific proposals for a more effective United Nations for the new century.<sup>88</sup> In the following year, the Secretary-General’s 2006 *Progress Report on the Prevention of Armed Conflict* identified six categories of core prevention: (a) Early warning, information and analysis; (b) Good offices and mediation; (c) Democracy, good governance and culture of prevention; (d) Disarmament and arms control; (e) Equitable socio-economic development; (f) Human rights, humanitarian law and international justice.<sup>89</sup>

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<sup>88</sup> See UN, *A More Secure World: Our Shared Responsibility. Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change* (=UN, *A More Secure World*), New York, United Nations Publications, 2004.

<sup>89</sup> See ANNAN, *2006 Prevention Report*, Annex A, p. 32.

In 2005, the UN General Assembly and the Security Council mandated the Peacebuilding Commission,<sup>90</sup> a new United Nations entity for the purpose of preventing armed conflict. The Secretary-General noted that the central mission of the United Nations is now conflict prevention and will require the leadership and commitment of the international community to assist the United Nations in effectively fulfilling this critical mandate.<sup>91</sup>

The 2005 Report of the United Nations High-Level Panel on Threats, Challenges and Change emphasizes the urgent necessity for skilled, professional diplomatic practitioners:

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<sup>90</sup> See United Nations Peacebuilding Commission, <<http://www.un.org/peace/peacebuilding/>> (23 January 2008). The creation of the Peacebuilding Commission was mandated on 20 December 2005 by UN GA resolution 60/180 and Security Council resolution 1645 (2005). In its June 2006 – June 2007 report (A/62/137-S/2007/458), they reiterated that “The Peacebuilding Commission will marshal resources at the disposal of the international community to advise and propose integrated strategies for post-conflict recovery, focusing attention on reconstruction, institution-building and sustainable development, in countries emerging from conflict. The Commission will bring together the UN’s broad capacities and experience in conflict prevention, mediation, peacekeeping, respect for human rights, the rule of law, humanitarian assistance, reconstruction and long-term development” (ibid.).

<sup>91</sup> See ANNAN, *2006 Prevention Report*, nn. 90–92, p. 26: “[...] while prevention is now fully understood as central to the mission of the Organization [United Nations], a system-wide strategic leadership in this area is still weak. The Department of Political Affairs is the focal point for conflict prevention on behalf of the whole system; it is also the chief source of political analysis and advice, as well as the centre for direct support for preventive diplomacy and good offices [...]. Meaningful diplomatic intervention cannot be achieved without intimate knowledge of political, cultural and geographic reality combined with the patient groundwork of building critical local relationships, trust and capacity over a long period [...]. These efforts are labour-intensive and cannot be carried out within existing resources [...] Several coordination mechanisms exist in the United Nations system that address specific sectors related to conflict prevention, but they have fallen short of providing a coherent, overarching strategy, both in the field and at Headquarters.” The current challenges faced by the Peacebuilding Commission are daunting. In 2006, the UN Peacekeeping forces were allocated \$5.2 billion for their mission, where the first allocation of funds by the General Assembly for the Peacebuilding Commission was \$22 million. See ANNAN, *2006 Prevention Report*, no. 96, p. 27. See also UN GA, 60<sup>th</sup> Session, 99<sup>th</sup> Plenary Meeting, resolution 60/287 “The Peacebuilding Fund,” 8 September 2006, in *Official Records of the United Nations General Assembly*, 2006. A small fraction of the Peacekeeping budget, underscores the obvious disproportion in funds allocation by the international community.

United Nations efforts to prevent outbreaks of internal violence have met with less success than its efforts to prevent inter-State wars, and they are often inhibited by the reluctance of Member States to see their domestic affairs internationalized. But more effort could and should be made in this area, particularly through the appointment of skilled, experienced and regionally knowledgeable envoys, mediators and special representatives, who can make as important a contribution to conflict prevention as they do to conflict resolution.

In making such appointments, the Secretary-General should place high-level competence above all other criteria and do more to nurture internal and external expertise in this respect [...]. Mediators and negotiators need adequate support. Although the demand for United Nations mediation has skyrocketed in the past 10 years, resources devoted to this function have remained minimal. The deliberate underresourcing of the Department of Political Affairs of the United Nations Secretariat by Member States is at odds with these same States' professed desire for a strong United Nations.

While the details of such a restructuring should be left to the Secretary-General, it should take into account the need for the United Nations to have: (a) A field-oriented, dedicated mediation support capacity, comprised of a small team of professionals with relevant direct experience and expertise, available to all United Nations mediators; [...].<sup>92</sup>

In his 2006 *Progress Report on the Prevention of Armed Conflict*, the Secretary-General wrote about the need for operational actions to address sources of tension. He emphasized the necessity of having recourse to "the good offices of external actors."<sup>93</sup> In this context "good offices can be understood as any diplomatic initiative undertaken by a third party acting as an honest broker and a channel of communication between parties to a dispute, with functions ranging from passing messages from one party to another, to brokering a limited agreement, to negotiating a comprehensive accord."<sup>94</sup> The Secretary-

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<sup>92</sup> UN, *A More Secure World*, pp. 37–38.

<sup>93</sup> ANNAN, *2006 Prevention Report*, no. 31, p. 12.

<sup>94</sup> *Ibid.*, no. 31, p. 12. Many regional organizations are involved in the work of developing a preventive diplomatic approach in areas most vulnerable to armed conflict, as a result of unstable economic, social and political conditions. These include: a) the African Union's "Peace and Security Council" and a "Committee of the Wise;" b) the European Union's "Programme for Conflict Prevention;" c) the Organization of American States' "Inter-American Democratic Charter;" d) the Association of Southeast Nations (ASEAN) cooperative programs with the United Nations in conflict prevention initiatives. See *ibid.*, nn. 64–67, pp. 20–21. There are many local, national and international potential partners in the private sector, civil society, media, and international financial institutions who could assist in developing effective conflict prevention measures within their jurisdictions which have so far been underdeveloped. See *ibid.*, no. 69, p. 21.

General had provided his services in dealing with a whole range of international conflicts in the past: inter and intra-State wars, maritime and border disputes, constitutional and electoral disputes, independence issues, etc.<sup>95</sup>

The UN 2005 World Summit held in New York, September 14–16, 2005 proposed a coordination of global mediation efforts.<sup>96</sup> The General Assembly subsequently approved the creation of the Mediation Support Unit, attached to the UN Secretariat's Department of Political Affairs through resolution 60/246.<sup>97</sup> The Secretary-General summarized the intended function of the new unit:

The aim of this Mediation Support Unit, working in tandem with strengthened Department of Political Affairs regional divisions, the Department of Peacekeeping Operations and others, will be to provide mediators and their teams with advice, operational tools and guidance on key issues they face, based on the wealth of lessons and best practices accumulated by the United Nations and its partners in this field in the past decade or more, and to ensure that they can readily call upon appropriate expertise and experience. The services of the Mediation Support Unit will be available not just to United Nations mediators but to the whole United Nations system and its partners, including Governments, regional and subregional organizations, non-governmental organizations and

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<sup>95</sup> See *ibid.*, no. 32, p. 12. The UN General Assembly's 2005 World Summit Outcome resolution 60/1 stated that "recognizing the important role of the good offices of the Secretary-General, including in the mediation of disputes, we support the Secretary-General's efforts to strengthen his capacity in this area." See UN GA, resolution 60/1, no. 76, in *Official Records of the United Nations General Assembly*, 2005.

<sup>96</sup> The Apostolic Nuncio, Archbishop Migliore praised the efforts of the Summit to reflect on new possibilities of peacebuilding: "One of the most promising trends in this field seems to be the concept of 'responsibility to protect' that was enshrined – however timidly – in the outcome document of the Summit of Heads of State and Government two years ago [2005]. This concept, developed in different circles from the intellectual and academic world to the civil society and governments, is gradually putting aside the old notion of 'might makes right.' Sovereignty is not only a right but above all a responsibility. Nations are independent, equal and free to determine their own system and rule, inasmuch as they meet their responsibilities to their citizens and to the international community. Nations have a double responsibility: to their citizens who are entitled to be protected and to some standards commonly accepted by the international community. If they are not up to it, or worse, if they violate the commonly accepted standards of the international law, this breach calls for a collective responsibility to protect. That is, it calls upon the international community to respond and to challenge, prosecute and rectify these abuses. This collective responsibility is to be exercised, first of all, by using peaceful means as envisioned by international law. Any other option must only be seen as a last resort" (SYLVA, interview, p. 15).

<sup>97</sup> See UN GA, 60<sup>th</sup> Session, resolution 60/246, 23 December 2005, in *Official Records of the United Nations General Assembly*, 1 February 2006.

private individuals. Even when the United Nations is not the lead mediator, it often plays a crucial role as a provider of technical expertise and a standard-setter.<sup>98</sup>

In the context of creating global mediation resources, an important point made by the Secretary-General in his Report was the recognition of the importance of religious leaders as partners for peace:

Civil society and religious leaders are important partners for peace, often indispensable in 'track two' and 'people to people' diplomacy. At times, they can complement the work of the United Nations by offering valuable analysis originating in the field, forging partnerships to implement United Nations decisions, increasing the sustainability of United Nations operations and creating networks to advocate for peace.<sup>99</sup>

The Permanent Observer of the Holy See Mission at the United Nations, Archbishop Celestino Migliore, spoke at the UN General Assembly's 98<sup>th</sup> Plenary Meeting (60<sup>th</sup> Session), held in New York on 7 September 2006, with a statement regarding the Secretary-General's 2006 *Report on the Prevention of Armed Conflict*. The Apostolic Nuncio was supportive of several measures taken, especially: the introduction of a third sphere of preventative action – systemic prevention; issues regarding limited use of sanctions; and the acknowledgment of the gap between rhetoric and reality in the implementation of preventative diplomacy in the field.<sup>100</sup> In particular, Archbishop Migliore supported the Secretary-General's acknowledgment of the importance of inclusion of religious leaders and faith-based organizations in the UN preventative diplomacy efforts:

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<sup>98</sup> ANNAN, *2006 Prevention Report*, no. 33, p. 12.

<sup>99</sup> *Ibid.*, no. 71, p. 22. Although the reference is made for the contribution of religious leaders to Track Two diplomacy, which means unofficial, person-to-person diplomatic efforts, the role of religious leaders in preventative diplomacy must not be underestimated. Track One is understood to be formal diplomatic practices, i.e. official state to state diplomacy.

<sup>100</sup> See UN GA, 60<sup>th</sup> Session, 98<sup>th</sup> Plenary Meeting, document A/60/PV.98, 7 September 2006, in *Official Records of the United Nations General Assembly*, 2006, p. 24.

[...] My delegation wishes to welcome the recognition given by the report to the important role of faith-based organizations, and of religious leaders in particular, as agents of change and peaceful coexistence. The Holy See would like to reaffirm that its institutions throughout the world are constantly engaged at all levels in promoting a culture of peace and understanding, as well as in fostering post-conflict healing and reconciliation.<sup>101</sup>

The urgency of inclusion of religious leaders and faith-based organizations in the UN preventative diplomacy efforts is strengthened by the fact that traditional diplomatic approaches to conflict resolution have proven ineffective in areas where there are deeply-rooted and faith-based issues. These unaddressed disputes are in many areas of the world where the peoples' faith is of primary importance and foundational to their lives.<sup>102</sup> The approach of diplomats and analysts in developing strategies to deal with violence and armed conflict based on pure reason in these situations usually delivers only temporary solutions or enforcement structures, as is the case in several of the current UN peacekeeping missions administered by the Department of Peacekeeping Operations.<sup>103</sup> Identified as a form of Track Two diplomacy, faith-based diplomacy integrates the religious dimensions of the parties within the context of the international peacebuilding objective, where the reconciliation of the parties is significantly important in the resolution of the conflict.<sup>104</sup> The Third Party Neutral mediation method complements the

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<sup>101</sup> Ibid.

<sup>102</sup> See D. JOHNSTON, "Introduction: Realpolitik Expanded" (=JOHNSTON, "Introduction"), in *Faith-Based Diplomacy*, New York, Oxford University Press, 2003, p. 7.

<sup>103</sup> See UN Department of Peacekeeping Operations, <[http://www.un.org/Depts/dpko/dpko/pub/year\\_review06/PKmissions.pdf](http://www.un.org/Depts/dpko/dpko/pub/year_review06/PKmissions.pdf)> (23 January 2008). As of 31 December 2006 there were 18 Peacekeeping Operations deployed around the world, with a total of 101, 642 personnel, an approved budget of \$5.28 billion (1 July 2006 to 30 June 2007). The total funds spent on Peacekeeping operations since 1948 equal \$41.54 billion, with a total of 2,322 fatalities during that same time period.

<sup>104</sup> See JOHNSTON, "Introduction," p. 15.

faith-based diplomatic approach. There is an expectation that this combined diplomatic track will produce more fruitful results to the mediation table.<sup>105</sup>

Douglas Johnston Jr.<sup>106</sup> delineates five characteristics of a faith-based diplomat:

[...] Firstly, there is a conscious dependency on spiritual principles and resources in the conduct of peacemaking [...]. Faith-based practitioners call into play a range of spiritual tools that are unavailable to their secular counterparts: prayer, fasting, forgiveness, repentance, and a wealth of helpful and often inspiring references from sacred scriptures [...]; The second characteristic of faith-based practitioners is that they operate with a certain spiritual authority [...]; The third quality is a pluralistic heart, [...] firmly rooted in their own religious traditions, but they understand and respect the essence of other traditions. They do not seek common ground by reducing faith to its lowest common denominator [...]; The fourth characteristic is a transcendent approach to conflict resolution. This, once again, is where religious faith introduces a logic that is absent in secular diplomacy [...]; The final quality of faith-based intermediaries is their ability to persevere against overwhelming odds. Their motivation to be reconcilers and peacemakers stems from a deep sense of religious calling [...].<sup>107</sup>

Applications of this method of community-based and faith-based conflict resolution are an effective mediation tool in Track Two preventative diplomacy within the context of

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<sup>105</sup> The Third Party Neutral mediation process is taught by educational institutions throughout the world. The Canadian Institute for Conflict Resolution (CICR), established in 1988 as an independent non-profit organization, is located on the campus of Saint Paul University in Ottawa, Ontario. The Institute offers community-based Third Party Neutral (TPN) training for public and private sector individual participants interested in mediation, facilitation and dialogue as tools for conflict resolution. The Institute affirms: “[...] that first, conflict resolution must be practical, efficient and effective, and its development must be sustainable. Second it must be inclusive, barrier free, and positively centered. [CICR] focuses on developing communities that resolve their own conflicts. The program is designed to get at underlying and deep-rooted conflicts, which precede and fuel disputes. Interpersonal conflict, gender, multiculturalism, race and community relations are addressed in the program. Effectiveness of [CICR] demands the formation of Third Party Neutrals who work as mediators, conciliators, facilitators, negotiators, trainers and system designers [...]” (CICR, *TPN-3, Resource Guide: Mediation*, Ottawa, CICR, 2007, p. 4). The TPN process emphasizes important elements of the mediation process: proper preparation, mandate, location, dignity and respect fostering trust, listening, focusing on the process, responding rather than reacting to the parties, applying discretion and a non-judgmental attitude, and fostering participant ownership of the process (see *ibid.*, p. 6). Layers of the conflict are explored seeking out the elements that constitute the deep-rooted conflict, while considering the various levels of engagement including attitudes, interests, reactions, receptivity, beliefs, rights, responses and power (see *ibid.*, p. 50).

<sup>106</sup> D.M. JOHNSTON is president and founder of the International Center for Religion and Diplomacy (ICRD) in Washington, DC.

<sup>107</sup> D.M. JOHNSTON and B. COX, “Faith-Based Diplomacy and Preventative Engagement,” in *Faith-Based Diplomacy*, pp. 16–18.

the United Nations Peacebuilding Commission's mandate. Johnston also develops three modes for faith-based peacemaking:

First, there is the offering of a new vision, in which the diplomat encourages the parties to embrace a new reality and a new relationship with one another [...]; A second mode of intervention is building bridges, a task that involves the development of tangible and intangible connections between diverse groups so they can communicate their respective needs and aspirations more effectively [...]; A third mode involves healing conflict, usually through mediation. Here the goals are threefold: to bring an end to the hostilities, to resolve the issues underlying the conflict, and to restore the relationships [...].<sup>108</sup>

The development and choices of modes of diplomatic faith-based preventative diplomacy would always be specific to the particular diplomatic corps or group. International crises and armed conflict are often fluid in nature, developing over many months, years or even decades. Approaches to these situations require flexibility in adapting diplomatic engagement measures to the circumstances of each potential crisis.

Preventative diplomacy is perceived as foundational for the future of international relations and the work of the United Nations. Secretary-General Kofi Annan explained that “[...] over the last five years [prior to 2006], we have spent over \$18 billion on United Nations peacekeeping that was necessary partly because of inadequate preventative measures. A fraction of that investment in preventative action would surely have saved both lives and money [...], I feel more strongly than ever that we have a long way to go and no time to waste.”<sup>109</sup>

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<sup>108</sup> Ibid., pp. 18–19.

<sup>109</sup> ANNAN, *2006 Prevention Report*, no. 4, pp. 4–5. In the final paragraph of his Report, the Secretary-General appealed to member states to provide more funding in support of conflict-prevention initiatives and programs, at a rate of 2% of the Peacekeeping Budget. See *ibid.*, no. 118, p. 31. This would translate into an infusion of over \$100 million into UN preventative diplomatic activities. A United Nations Press Release described the reaction to funding shortfalls: “[Deputy Secretary-General Mark Malloch Brown] said that [...] if 2 per cent of the peacekeeping budget was spent on prevention, there was a possibility to prevent one or more wars a year. Everyone agreed that prevention was better, but if prevention was so cheap, why were people so reluctant to invest in it? The answer was that the utility of any given prevention strategy

As the history of the Holy See's involvement at the United Nations clearly indicates, the Permanent Observer and his staff have a pivotal role at the United Nations as the voice of peace, contributing to the peacebuilding process through their interpretations and analysis of international issues in the daily interaction with Member State delegates and the presentation of the Holy See's interventions, statements and proposals for action based on the faith-inspired principles valid for all humanity.

#### **4.3.3 Global Warming and the Ethical Aspects of Biotechnological Research**

Many serious issues facing the world community need to be urgently addressed, with commitments for action from global financial, governmental institutions and the United Nations. Viable solutions for many of these global issues are available, yet national state institutions and international organizations persist to react, rather than take preventative action. Inaction will lead to the serious consequences of global warming and environmental degradation, ultimately creating the conditions for deep-rooted social, economic and political disorder to take hold.

Indications from climatologists point to the real possibilities of global warming trends continuing over the next 50–100 years, regardless of how much carbon emissions are curtailed. The UN World Meteorological Organization's "Intergovernmental Panel on Climate Change" 2007 Report<sup>110</sup> explains that a process of climate change and global warming has already been put into motion. Even if all emissions were stopped today, the

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was very difficult to prove. The need for it could always be questioned, until it had already failed. Wars that did not happen were not news" (UN GA, 60<sup>th</sup> Session, 98<sup>th</sup> Meeting, press release "General Assembly Decides to Continue Consideration of Secretary-General's Report," 7 September 2006, New York, Department of Public Information, News and Media Division, pp. 1–2).

<sup>110</sup> See UN WORLD METEOROLOGICAL ORGANIZATION, 2007 Report "Intergovernmental Panel on Climate Change," Valencia, Spain, 17 November 2007, <<http://www.ipcc.ch/ipccreports/ar4-syr.htm>> (23 January 2008).

process of global warming and its consequences would persist for at least 50+ years. During this up-coming turbulent period, there may be draught and famine, serious disruptions of food production and crop failures in areas of the world that are already stricken with devastating poverty, such as Africa, India and Asia. This may lead to even greater economic hardship, political instability and social unrest, resulting in a potential escalation of disputes and conflicts over such basic human needs as water, food and housing. This leads to the involuntary migration of peoples, creating more instability in neighbouring societies, cultures and states.

Many of the world's leading scientists are pursuing solutions to these crucial questions in a wide variety of fields, including biological and chemical research. Although this research and the application of its results may be well-intentioned, the potential devastating consequences of unrestricted scientific research is enormous. On 4 December 2007, J. Craig Venter delivered the annual Richard Dimbleby Lecture entitled "A DNA-Driven World."<sup>111</sup> Dr. Venter spoke about the scientific progress being made in genome-biological research<sup>112</sup> and the many crises faced by the world today, including global warming, the use of fossil fuels, and devastating environmental degradation. According to him, the world is changing very rapidly, and critical issues facing the nations of the world need to be resolved, which he contends can be addressed and

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<sup>111</sup> See J.C. VENTER, The Richard Dimbleby Lecture 2007 "A DNA-Driven World" (=VENTER, "A DNA-Driven World"), <[http://www.bbc.co.uk/print/pressoffice/pressreleases/stories/2007/12\\_december/05/dimbleby.shtml](http://www.bbc.co.uk/print/pressoffice/pressreleases/stories/2007/12_december/05/dimbleby.shtml)> (21 January 2008).

<sup>112</sup> In 2000, Venter was the first scientist to map the human genome, specifically his own DNA, and on 4 September 2007, he announced the results of the first complete human genome map consisting of a six-billion letter sequence. See J.C. VENTER, et AL., "The Diploid Genome Sequence of an Individual Human," <<http://www.biology.plosjournals.org/perlserv/?request=get-document&doi=10.1371/journal.pbio.0050254> &ct=1> (15 December 2007).

possibly resolved through biological research.<sup>113</sup> From his perspective, the world community is doing very little to make substantive progress in dealing with these impending life-threatening changes. Venter has clearly indicated that he believes that the manipulation of the human genome and “modifications” of the human being are not only possible but must be pursued immediately. Laboratories throughout the world, similar to the Venter Research Institute in the United States, are today developing new species of life, previously unknown to our planet and natural environment. The application of currently practiced utilitarian principles to scientific research, combined with free market, profit driven economic forces, unleashes potentially lethal and irreversible consequences into the natural order. The power to permanently change biological life forms in an

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<sup>113</sup> See VENTER, “A DNA-Driven World.” Venter sees a rapidly changing world in the near future: “The last century could be termed the nuclear age, and I propose that the century ahead will be fundamentally shaped by advances in biology and my field of genomics, which is the study of the complete genetic make-up of a species. [...] I will argue that the future of life depends not only in our ability to understand and use DNA, but also, perhaps in creating new synthetic life forms, that is, life which is forged not by Darwinian evolution but created by human intelligence. [...] Yet, sadly, very little thinking, planning or projections about how to cope with the carbon problem and climate change have taken into account the capabilities of modern science to produce what we have long needed to help solve these global threats. It is clear to me that we need more approaches and creative solutions. We need new disruptive ideas and technologies to solve these critical global issues. This is where, I believe, biology and genomics, come in. [...] So over a short period of time genome projects, which 10 years ago required several years to complete, now take only days. Within 5 years it will be common place to have your own genome sequenced. [...] Using genomics has also rapidly accelerated the discovery of new species. [...] Young students of science can today make more discoveries in one year than major institutions or countries could make in a decade just a short while ago. [...] But above all I believe the best examples of disruptive technologies that could change our future are in the new fields of synthetic biology, synthetic genomics and metabolic engineering. [...] Simply put: this area of research will enable us to create new fuels to replace oil and coal. [...] We and others have been working for the past several years on the ability to go from reading the genetic code to learning how to write it. It is now possible to design in the computer and then chemically make in the laboratory, very large DNA molecules. [...] Instead of evolution happening only due to random mutations that survived selective pressure, we can see how by adding chromosomes to or exchanged between species, that thousands of changes could happen in an instant. Now they can happen not just by random chance but by deliberate human design and selection. Human thought and design and specific selection is now replacing Darwinian evolution” (ibid). In 2007, Dr. Venter circumnavigated the world’s oceans in his Venter Research Institute 95-foot yacht – Sorcerer II, and decoded the DNA of 6 million genes in a single scientific paper (ibid.).

instant appears to have very vague parameters of acceptable ethical research. The president of the Pontifical Academy for Life, Bishop Elio Sgreccia, spoke out in response to Venter's comments and genome research:

The aspirations of some geneticists to modify the human genome, to improve it, is nothing new, but it has become even clearer that the word 'improve' is very ambiguous [...]. If 'improvement' means producing anything that does not occur naturally (obtaining a higher IQ, different heights, or trying to lengthen the life span), then it is something very dangerous, an attempt at dominating man which scientists have not yet made [...]. Science itself has belied and condemned the media, which spread ideologically-oriented rather than scientific information. This should be a lesson for our politicians too; they should be careful when it comes to moral issues. Ethically-oriented research is a necessity. Science must stop when human life is involved. Legislators should take seriously their responsibilities in this field; limits must be imposed. Science is no longer justifiable when it damages the human being. [...] Scientists are trustworthy as long as they are not committed to destructive science. As the Pope [Benedict XVI] has repeated in his last encyclical, science can be good, when ethically oriented, but it can also damage. In addition, science alone is not enough to save man. The truth about man (anthropological truth, i.e., the truth about the identity of man) and the definition of good (what is good or bad for man) do not fall within the scope of science. Science can promote progress when it keeps within limits; when it oversteps these limits, it can only cause destruction, as everyone can see.<sup>114</sup>

These critical ethical issues pertaining to the development of new species of life need to be addressed on the United Nations level of debate, through the prism of both faith and reason. The Holy See Mission has the available intellectual and spiritual resources to prepare and present crucial analysis, offering viable positions concerning the ethical consequences of biological research on an international level. This research progresses at an accelerated rate and at advanced stages of development without effective international monitoring or active ethical reviews of the possible global consequences of genetic engineering. The United Nations and its Member States need to more

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<sup>114</sup> W. RZEDZIOCH, interview with Bishop Elio Sgreccia, President of the Pontifical Academy for Life "Progress or Abuse?" in *Inside the Vatican*, 3 (2008), pp. 40–42.

substantially address the importance of ethics and scientific responsibility in this potentially planet-altering biological research.

#### **4.4 Expanded Modes of Participation in the Mission of the Holy See at the United Nations**

There are several avenues of research assistance available to pontifical legates in performing their vital work at the United Nations. Supplementary to personal research and contributions from on-site experts and individual collaborators are the resources located in Rome: the Secretary of State, the Pontifical Academies and Pontifical Councils.

Among examples of such cooperation one can point to the involvement of the Pontifical Academy of Social Sciences which is instrumental in identifying and developing difficult subjects and positions which, in turn, serve as valuable sources when formulating interventions and action plans at the United Nations in New York.<sup>115</sup> As an example, the Pontifical Academy of Social Sciences in its 13<sup>th</sup> Plenary Session (2007) chaired by its President, Professor Mary Ann Glendon, explored the area of “Charity and Justice in the Relations among Peoples and Nations,” and identified seven “worrying

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<sup>115</sup> See Roman Curia, Pontifical Academies, <[http://www.vatican.va/roman\\_curia/pontifical\\_academies/cdscien/index\\_social\\_en.htm](http://www.vatican.va/roman_curia/pontifical_academies/cdscien/index_social_en.htm)> (28 January 2008). Pope John Paul II addressed the Pontifical Academy of Social Sciences in 1998 emphasizing the valuable contribution of the Academy and its role in proclaiming the Church’s teaching in our contemporary circumstances: “The Church’s social doctrine is not called to concern itself with the technical aspects of the various social situations, in order to formulate her own solutions. The Church proclaims the Gospel and wants to manifest in all its richness the newness that characterizes it. The Gospel message must permeate the various cultural, economic and political situations. In this effort of inculturation and spiritual reflection, the Academy of Social Sciences is also called to make its particular contribution. As experts in the social disciplines and as Christians, you are called to play a role of mediation and dialogue between faith and science, between ideals and concrete situations; a role that is sometimes one of pioneers, because you are asked to indicate new paths and new solutions for solving in a more equitable way the burning issues of today’s world” (in *ORe*, 6 May 1998, p. 2).

signs of the times,”<sup>116</sup> identified as: (1) the re-emergence of nationalism; (2) weak convergence; (3) pervasive poverty; (4) the weakness of multilateralism; (5) Millennium goals; (6) insufficient and inefficient aid; (7) terrorism and war.<sup>117</sup> The 14<sup>th</sup> Plenary Session (2–6 May 2008) explored the issues, “Pursuing the Common Good: How Solidarity and Subsidiarity Can Work Together.”<sup>118</sup>

The Pontifical Council for Justice and Peace, chaired by Cardinal Renato Martino, regularly contributes research publications that are beneficial to the work of pontifical legates.<sup>119</sup> In 2007, the Pontifical Council hosted an international conference, “Climate Change and Development,” to study the phenomenon of global warming and to search for solutions, with government representatives from Argentina and Poland; bishops from Germany, England and Australia; and representatives from the World Council of Churches.<sup>120</sup>

The Permanent Observer Mission at the United Nations in New York has initiated an excellent student-intern program and an annual week-long student seminar held in

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<sup>116</sup> See PONTIFICAL ACADEMY OF SOCIAL SCIENCES, 13<sup>th</sup> Plenary Session, Vatican City, 27 April – 1 May 2007, “Charity and Justice in the Relations among Peoples and Nations” (=PONTIFICAL ACADEMY OF SOCIAL SCIENCES, “Charity and Justice”), no. 1, <[http://www.vatican.va/roman\\_curia/pontifical\\_academies/acdscien/documents/rc\\_pa\\_acdscien\\_doc\\_20070327\\_social\\_plenary-session-2007\\_programme\\_en.html](http://www.vatican.va/roman_curia/pontifical_academies/acdscien/documents/rc_pa_acdscien_doc_20070327_social_plenary-session-2007_programme_en.html)> (28 January 2008). See also Participants List, in *ibid.*, pp. 8–14. The President of the Pontifical Academy of Social Sciences, Professor Mary Ann Glendon, was joined by her 32 colleague-members, together with over 25 experts and invited participants, including former US Secretary of State Henry Kissinger and Archbishop Celestino Migliore, Head of Mission and Permanent Observer of the Holy See at the United Nations in New York.

<sup>117</sup> See PONTIFICAL ACADEMY OF SOCIAL SCIENCES, “Charity and Justice,” no. 1.

<sup>118</sup> See PONTIFICAL ACADEMY OF SOCIAL SCIENCES, 14<sup>th</sup> Plenary Session, Vatican City, 2–6 May 2008, “Pursuing the Common Good: How Solidarity and Subsidiarity Can Work Together,” <[http://www.vatican.va/roman\\_curia/pontifical\\_academies/acdscien/2008/BOOKLET\\_05.pdf](http://www.vatican.va/roman_curia/pontifical_academies/acdscien/2008/BOOKLET_05.pdf)> (23 January 2008).

<sup>119</sup> See Roman Curia, Pontifical Council for Peace and Justice, <[http://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/index.htm](http://www.vatican.va/roman_curia/pontifical_councils/justpeace/index.htm)> (28 January 2008).

<sup>120</sup> See PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, “Climate Change and Development,” <<http://www.zenit.org/article-19451?l=English>> (28 January 2008).

New York. Through these initiatives, students from across the United States are invited to experience and witness the work being done by the Holy See at the United Nations.<sup>121</sup> This adds to heightening student awareness as to the value and breadth of the work at the United Nations and fosters an understanding of the challenges of global issues confronting member states. The program is an excellent means of generating student interest in pursuing both studies and research work pertaining to international issues and to prepare them for possible future academic contributions to the work of the Holy See Mission at the United Nations.

Permanent Observers, Observers and Delegates of the Holy See at the United Nations Headquarters and at UN Offices, UN Specialized Agencies and UN international bodies, Committees, and conferences have a wealth of international experience and knowledge available to them through the Secretary of State, as the central authority through which pontifical legates function. Although internal reports and analysis are an essential part of the work of the legates, it would perhaps be fruitful to have an annual publication highlighting the major issues of the day at the United Nations, as seen through the eyes of the pontifical representatives appointed to the UN. Through these publications, valuable insights, analyses, and comments could be made available as additional tools for both students and academia to gain a deeper insight into the involvement of the Holy See at the United Nations.

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<sup>121</sup> See SLT, "Holy See," 2007.

#### 4.5 Conclusion

The mission of the Church to teach moral principles regarding the social order<sup>122</sup> and render moral judgments concerning the fundamental rights of the human person (c.747, §2) is acted upon everyday in the work of pontifical legates and their staff at the various offices of the United Nations. Although the sources of this canon date back to Church and papal documents written 50–70 years ago, they are still relevant to issues concerning the defence of the dignity of the human person in the current international context. The mission of the pontifical legate at the United Nations is unique among those who are present at the table of the community of United Nations. Archbishop Migliore describes papal diplomacy in specific areas:

We can categorize the papal diplomacy in three specific coordinates. The Holy See is first of all a religious entity whose basic code is the Gospel, and the scope is the individual and communal salvation of any person and society it serves. The Holy See is universal, with no geographical or ethnic boundaries, and not apologetic about its patrimony of values shared also by different cultures and religions. Finally, the Holy See has a specific humanitarian nature. Convinced as it is that all human beings are created in the image and likeness of God, it stands at the service of every fellow man and woman.<sup>123</sup>

Through the work of fellow legates and collaborators, the Permanent Observers in New York, Geneva, Vienna and other centres present interventions, participate in the negotiations at a wide-range of gatherings at the United Nations, from the General Assembly and its six Committees, to international conferences, FAO, UNESCO, the IAEA and various committees, agencies, bodies, and summits having global deliberations in UN offices throughout the world. The Holy See is directly involved in over 27 UN-related international organizations: a Member of 7 and a Permanent Observer or Observer of 20 of these organizations. Voluminous issues of ethics, morality, justice and equity

<sup>122</sup> Cf. OTSUKA, *La funzione*, pp. 253–299.

<sup>123</sup> SYLVA, interview, p. 15.

requiring deeper understanding and interpretation are presented to the Permanent Observer for his discernment and judgment. Through their theological and diplomatic training, combined with extensive field experience, the Permanent Observer and his staff, on behalf of the Church, apply the purification of reason in their analysis, offering Christian insight into understanding the signs of the times and the needs of the world.

## Conclusion

In the 20<sup>th</sup> century, the role and function of pontifical legates has evolved, undergoing several important stages of development. The world endured the consequences of the First World War, the turbulent 1920s and 1930s, and the Second World War, arriving at the doorstep of a new era in 1945. An explosion of technological innovation and global communication systems transformed the world. From 1909–1967, the papal diplomatic service underwent a process of professionalization, leading the legates of the Holy See into direct diplomatic relations with States and their governments and, gradually, also with international organizations. Nevertheless, the Holy See had been effectively excluded from participation in the work of the League of Nations during the pre-war period of the 1930s.

In the early 1940s, the attitude of the international community of nations was becoming more focused towards a collective action to ending the war and ensuring peace and security in the world. The United Nations Organization was created in 1945, opening the doors for Member States to establish and build international structures for the defence of the common good. Global peace and development, human rights and the defence of the dignity of the human person were priority goals set by the United Nations – the new international gathering place of nations. As international organizations began to take form, such as FAO and UNESCO, the Holy See sent papal legates to participate as observers. Their role in international fora was rapidly changing.

By the mid-1960s, the Second Vatican Council Fathers recognized the need to reform the role and function of papal legates, to which Pope Paul VI responded with his motu proprio *Sollicitudo omnium Ecclesiarum* in 1969. Pope John Paul II promulgated

the 1983 *CIC* with new and modified canons relating to the legate. In 1994, Pope John Paul II promulgated the *Regolamento per le Rappresentanze pontificie*, integrating details of the role and function of the papal legates and the reforms that had been initiated by Pope Paul VI after the Second Vatican Council, followed by an updated new edition of the *Regolamento* published in 2003. With the 20<sup>th</sup> century drawing to a close, the parameters of the role and function of the legate was, therefore, defined as the world entered a new and accelerated phase of technological advancement. Forty-five years after the Second Vatican Council, the world was quite different as it embraced the technological development of the 21<sup>st</sup> century with high-speed telecommunication, computer technology and instantaneous access to information.

Papal legates were involved in the work of the United Nations as early as the 1950s, and by the mid-1960s the Holy See was recognized by the UN General Assembly as a Permanent Observer and a valuable and appreciated participant in the debates and discussions of the various agencies and international bodies. As the role and function of the Permanent Observer at the United Nations developed and the Holy See Mission gained momentum in its work, it became apparent that the level of participation needed to be formalized. In 2004, the UN General Assembly acknowledged the work accomplished by the Permanent Observer Mission of the Holy See at the United Nations by unanimously adopting UN GA resolution 58/314 outlining the expanded level of participation in the work of the Organization.

The United Nations continues to undergo a period of self-examination and re-definition. The primary goal of the UN remains the same – the defense and maintenance of global peace and security; with structures, methods and practices remaining essentially

unchanged. The Member States of the United Nations have entrenched within their collective understanding of international affairs a “reactive” approach to conflict resolution, the maintenance of peace and security, and the alleviation of poverty and hunger. Diplomats within the United Nations structures, including former Secretary-General Kofi Annan and current Secretary-General Ban Ki-moon, have initiated a substantive shift to a “preventative” method of dealing with international affairs and global issues. A simple reaction to crisis is no longer an effective approach to resolving conflict and addressing the growing problem of global warming and the consequences of the degradation of our planet’s environment. Simply “responding” will not be sufficient. Through a conversion of heart, a change in mentality and approach by the community of nations is possible, from a “maximum exploitation with minimum responsibility” for their actions to a “collective responsibility” for the welfare and security of all.

The urgency for a conversion of heart must be realized if nations of the world are to abandon the application of instruments of war and violence as methods of “keeping the peace” and embrace the application of preventative measures and collective actions to anticipate conflict and meet violence at the door before it enters. Preventative diplomacy is the diplomatic practice of the future of the United Nations. Over US\$15 billion dollars was spent in 2006–2007 for UN Peacekeeping Operations, with only a fraction being applied to preventative measures. Tools of modern technology are available to investigate and monitor world events and developing scenarios that can be dealt with preemptively with preventative diplomatic practices. The issue before the world community is to raise the level of understanding for active prevention, and for leaders and diplomats dealing with armed conflict to engage in a serious and unwavering commitment to peace and

nonviolence. Vitally important, is the commitment of Member States to act decisively and promptly in response to the call for global peace and security, followed by the prudent and effective action of their diplomatic corps. The peoples of the world have the right to peace, and it is the responsibility of the leaders of Member States and international organizations such as the United Nations, along with their staff, to defend this fundamental human right. As Pope Benedict XVI reiterated in his 2008 address to the UN General Assembly:

The United Nations remains a privileged setting in which the Church is committed to contributing her experience ‘of humanity,’ developed over the centuries among peoples of every race and culture, and placing it at the disposal of all members of the international community. This experience and activity, directed towards attaining freedom for every believer, seeks also to increase the protection given to the rights of the person. Those rights are grounded and shaped by the transcendent nature of the person, which permits men and women to pursue their journey of faith and their search for God in this world. Recognition of this dimension must be strengthened if we are to sustain humanity’s hope for a better world and if we are to create the conditions for peace, development, cooperation, and guarantee of rights for future generations.<sup>1</sup>

International diplomacy is undergoing a major shift in focus, from reactive to preventative diplomatic practices. Pontifical legates, as highly trained and experienced diplomats, strengthened by their faith and grace, are peacemakers by nature. The global community and its international organizations, such as the United Nations, are in desperate need of effective peacemakers. There is a gradual shift in the international community and the United Nations to an understanding of the value and importance of faith-based conflict resolution. The narrow secular fundamentalist approach of excluding religious and faith-based diplomacy from preventative conflict resolution is an artificially induced position that holds little credibility. Reactive diplomatic practices applied to

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<sup>1</sup> BENEDICT XVI, address to the UN GA “UN: Sign of Unity, Instrument of Service to the Human Family,” 18 April 2008, New York, in *ORE*, 23 April 2008, p. 13.

outbreaks of armed conflict are important; but often too little, and too late to avoid bloodshed and destruction. Anticipatory measures can be developed taking into consideration all aspects of human life – people’s religious, cultural, social and political heritage. The diplomatic approach that excludes God and faith when dealing with human conflict has a limited shelf life, with temporary outcomes and failed measures. Conflict resolution requires addressing the deep-rooted issues, which lay festering for decades and even generations.

The international diplomat practicing preventative diplomacy in the 21<sup>st</sup> century requires the mediation training and the acquired skill to deal with faith-based conflict resolution. The pontifical legate, as a legate-mediator would be an excellent choice for the UN Secretary-General when sending special envoys to address sensitive faith-based conflict in regions worldwide. The United Nations General Assembly created the Peacebuilding Commission, mandated to pursue the development of preventative diplomatic practices and to engage the international community in identifying and intervening in areas of potential conflict and social breakdown. This is another area where the skills and abilities of pontifical legates would prove effective. The Track Two diplomatic approach of private, person-to-person diplomatic practices is effective, but if not reinforced by Track One formal diplomatic measures, on a United Nations or Member State level, then the outcomes of this private approach may also prove to be temporary. Track Two must eventually be brought into the formal Track One level of conflict resolution, defended and supported by national state structures and reinforced by international agreements and mediated resolutions. The ultimate goal of peacebuilding and fulfilling the papal legate role of peacemaker can be actualized through direct service

on the Track One diplomatic level. With forecasts of deteriorating environmental conditions due to global warming, resulting in social, economic and political disruptions, the need for preventive diplomacy will become more evident with the passage of time.

Pontifical legates at the United Nations are uniquely situated as the nexus for cooperation between Track One and Track Two diplomatic efforts, resulting in the strengthening of preventative and transformative conflict resolution, as a nexus between the spiritual and temporal realms. Through their training as legates of the Holy See and professional diplomatic experience in the secular world, they have an exceptional multi-level insight into the human condition and experience. Although very serious global issues confront the nations of the world today, there is a tangible framework for addressing these issues through the mechanisms available at the United Nations. Once again, as it was in 1945, difficult human circumstances and situations in the world depend upon the formulation of foundational solutions. The United Nations came into existence through the work of people committed to peace in response to the horrors of World War II and the disordered international community of the early 1940s. The crises facing humankind today can be addressed both soundly and successfully with the same human resources available to the United Nations through its Member States and Observers, combined with the great spiritual resources available to the Holy See and the world. In 1975, His Eminence Cardinal Antonio Casaroli spoke eloquently of the contribution of the Holy See:

A full member of the international community, on an equal footing with the States, the Holy See finds itself in a unique situation. Its sovereignty is spiritual in nature. Its authority – which is also spiritual and religious – extends over hundreds of millions of persons scattered all over the world and belonging to the most different peoples and countries. Its strength does not lie in armies, armaments, great material means – whatever people may have said – of

persuasion or pressure. It arises from the respect that its words, its teaching, its policies enjoy in the conscience of the Catholic world (a respect that is widely shared by many people who do not belong to the Church.) [...].

Its real kingdom is the kingdom of conscience. This does not prevent the Holy See to exercise a real influence, not infrequently a considerable one, in the life of the international community also, but rather, enables it to do so [...].

The clear acceptance of the Holy See in the concert of Nations (even while its specific nature and consequently, its special position in the international community is recognized), commits it particularly to full collaboration – in the specific nature of its aims and means – in order to carry out the aims of the community itself. Most of these aims, in fact, or at least certain aspects of them, correspond very well to the aims that, because of their very mission, the Catholic Church and the Holy See pursue as regards the earthly city.

[...] therefore, the Holy See still presents itself today, a friend – confident in the friendly response of all – to the Community of peoples; and it offers this Community its sincere and loyal contribution, in order that the deep aspiration of mankind may be fulfilled in a better and more certain way as a result of a joint effort: a peace established and strengthened in justice.<sup>2</sup>

The Holy See's understanding and interpretation of world affairs brings the "purification of reason," to the international debate of fundamental human questions of life and death. The Holy See also contributes to the internal reflection on the status and role of the United Nations as an international organization. Accordingly, Pope John Paul II called for a change of heart of the Member States of the United Nations in his address to the UN General Assembly:

The United Nations needs to rise more and more above the cold status of an administrative institution and to become a moral center where all the nations of the world feel at home and develop a shared awareness of being, as it were, a 'family of nations.' The idea of 'family' immediately evokes something more than simple functional relations or a mere convergence of interests. The family is by nature a community based on mutual trust, mutual support and sincere respect. In an authentic family the strong do not dominate; instead, the weaker members, because of their very weakness, are all the more welcomed and served.

Raised to the level of the 'family of nations,' these sentiments ought to be, even before the law itself, the very fabric of relations between peoples. The United Nations has the historic, even momentous, task of promoting this qualitative leap in international life, not only by serving as a center of effective mediation for the resolution of conflicts

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<sup>2</sup> A. CASAROLI, lecture at Italian Society for International Organizations "The Unique Role of the Holy See in the International Community," January 1975, in *Paths*, pp. xxviii-xxxvii.

but also by fostering values, attitudes and concrete initiatives of solidarity which prove capable of raising the level of relations between nations from the 'organizational' to a more 'organic' level, from simple 'existence with' others to 'existence for' others, in a fruitful exchange of gifts, primarily for the good of the weaker nations but even so, a clear harbinger of greater good for everyone.<sup>3</sup>

The Permanent Observer and his staff review information, available through online databases at the UN, in preparation of interventions and public statements at Committee meetings and the UN General Assembly. Analyzing large amounts of information and data generated by dozens of UN agencies and Secretariat Departments is a daunting task. The research base of the Permanent Observer Mission of the Holy See at the United Nations can be expanded to engage a wide-range of lay intellectual potential. Through a deepened involvement of the laity in the research and diplomatic work of the pontifical legate, viable and positive approaches and alternate forms of conflict resolution, generated by the power of new ideas, would advance the cause of peace. The publication of Holy See interventions, articles, reports and related United Nations materials on a regular bi-monthly or semi-annual basis, available to the public, academia and students is a means by which the contribution of the Holy See can reach a wider global audience. The need exists to encourage and develop a new direction for Catholic academia at the international level, to an awareness of the issues before the United Nations. As a nexus between the spiritual and temporal, the Permanent Observer can access the vast potential of lay Catholic academia and engage them in generating road maps to peace and global security.

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<sup>3</sup> JOHN PAUL II, address to the 50<sup>th</sup> Session of the United Nations General Assembly, New York, 5 October 1995, in *ORe*, 11 October 1995, p. 9.

The international community is moving forward in addressing global issues and developing crises without a directional compass. Secular humanism and relativism are not viable vehicles through which authentic and sustainable solutions will be found. Unfortunately, this approach has brought the world community to the current brink of global environmental collapse, societal and economic challenges. To recover, the world desperately needs detailed road maps to guide the minds and spirit of the people of the world, their leaders, intellectuals and diplomats to a deeper understanding in their formulation of solutions to global problems. The current trend of unbridled biological research in developing new species of life is but one example of the “high-speed aircraft” of human progress flying without a compass, without a map to an unknown destination. Modern science continues on the path to altering the natural order through the application of pure reason, negatively affecting the present and future of human development, desecrating the sacredness of life. Sadly, the situation did not change since Pope John XXIII had spoken about science in the service of human life and the contradiction of modern thinking:

Accordingly, with great sadness we note two conflicting trends: on the one hand, the scarcity of goods is vaguely described as such that the life of men reportedly is in danger of perishing from misery and hunger; on the other hand, the recent discoveries of science, technical advances, and economic productivity are transformed into means whereby the human race is led toward ruin and a horrible death. Now the provident God has bestowed upon humanity sufficient goods wherewith to bear with dignity the burdens associated with procreation of children. But this task will be difficult or even impossible if men, straying from the right road and with a perverse outlook, use the means mentioned above in a manner contrary to human reason or to their social nature, and hence, contrary to the directives of God Himself.<sup>4</sup>

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<sup>4</sup> *MM*, nn. 198–199, pp. 62–63.

Changes to special law affecting pontifical legates may need to be formulated, either as modifications to the *Regolamento per le Rappresentanze pontificie*, or as a new special law to reflect changes in the role and function of pontifical legates at the United Nations. The role and function of the Permanent Observer is undergoing changes towards an increased involvement in the defence of the dignity of the human person. In this regard, Pope Benedict XVI spoke to the diplomatic corps about the ultimate goal of their activity, namely bringing hope to humanity:

Diplomacy is, in a certain sense, the art of hope. It lives from hope and seeks to discern even its most tenuous signs. Diplomacy must give hope. The celebration of Christmas reminds us each year that, when God became a little child, Hope came to live in our world, in the heart of the human family. Today, this certainly becomes a prayer: May God open the hearts of those who govern the family of peoples to the Hope that never disappoints!<sup>5</sup>

The soul of the world is in need of a conversion of heart to a culture of peace and development. The legates of the Roman Pontiff are witnesses to the truth, providing hope, inspiration and the light of peace to the ‘family of nations’ at the United Nations. In this regard, they are in the service of the vision and “programme” of the enduring mission of the Church:

It is not therefore a matter of inventing a ‘new programme.’ The programme already exists: it is the plan found in the Gospel and in the living Tradition, it is the same as ever. Ultimately, it has its centre in Christ himself, who is to be known, loved and imitated, so that in him we may live the life of the Trinity, and with him transform history until its fulfilment in the heavenly Jerusalem. This is a programme which does not change with shifts of times and cultures, even though it takes account of time and culture for the sake of true dialogue and effective communication. This programme for all times is our programme for the Third Millennium.<sup>6</sup>

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<sup>5</sup> BENEDICT XVI, address to the diplomatic corps accredited to the Holy See “Building Justice and Peace Takes God,” 7 January 2008, in *ORe*, 9 January 2008, p. 5.

<sup>6</sup> JOHN PAUL II, apostolic letter *Novo millennio ineunte*, 6 January 2001, no. 29, in *AAS*, 93 (2001), pp. 266–309, English translation in *ORe*, 10 January 2001, special insert.

## Appendices

### APPENDIX I<sup>1</sup>

International Intergovernmental Organizations and Bodies of which the Holy See is a:

Member:

CTBTO Preparatory Commission for the Comprehensive Nuclear-Test Ban Treaty Organization, Vienna;  
 IAEA International Atomic Energy Agency, Vienna;  
 ICMC International Committee of Military Medicine, Brussels;  
 IGC International Grains Council, London  
     (Member also in the name and on behalf of Vatican City State);  
 INTELSAT International Telecommunications Satellite Organization, Washington  
     (Member also in the name and on behalf of Vatican City State);  
 ITU International Telecommunication Union, Geneva  
     (Member also in the name and on behalf of Vatican City State);  
 OPCW Organization for the Prohibition of Chemical Weapons, The Hague;  
 UNCTAD United Nations Conference on Trade and Development, Geneva;  
 UNHCR United Nations High Commissioner for Refugees, Geneva;  
 UNIDROIT International Institute for the Unification of Private Law, Rome  
     (Member also in the name and on behalf of Vatican City State);  
 UPU Universal Postal Union, Bern (Member also in the name and on behalf of Vatican City State);  
 WIPO World Intellectual Property Organization, Geneva;

Permanent Observer or Observer:

FAO United Nations Food and Agriculture Organization, Rome;  
 ICAO International Civil Aviation Organization, Montreal (Observer on informal basis);  
 IFAD International Fund for Agricultural Development, Rome;  
 ILO International Labour Organization, Geneva;  
 IMO International Maritime Organization, London (Observer on informal basis);  
 IOM International Organization for Migration, Geneva;  
 LU Latin Union, Paris;  
 UNCHS/Habitat United Nations Centre for Human Settlements, Nairobi;  
 UNCOPUOS United Nations Committee on Peaceful Use of Outer Space, Vienna  
     (Observer on informal basis);  
 UNCSD United Nations Commission on Sustainable Development, New York  
     (Observer on informal basis);  
 UNISDR International Strategy for Disaster Reduction, Geneva (Observer on informal basis);  
 UNODC United Nations Office on Drugs and Crime, Vienna;  
 UNEP United Nations Environment Programme, Nairobi;

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<sup>1</sup> See SECRETARIAT OF STATE, <[http://www.vatican.va/roman\\_curia/secretariat\\_state/documents/rc\\_seg-st\\_20010123\\_holy-see-relations\\_en.html](http://www.vatican.va/roman_curia/secretariat_state/documents/rc_seg-st_20010123_holy-see-relations_en.html)> (25 January 2008).

UNESCO United Nations Educational, Scientific and Cultural Organization, Paris;  
UNIDO United Nations Industrial Development Organization, Vienna;  
UNO United Nations Organization, New York, Geneva, Vienna;  
UNWTO World Tourist Organization, Madrid;  
WFP World Food Programme, Rome;  
WHO World Health Organization, Geneva;  
WMO World Meteorological Organizations, Geneva (Observer on informal basis);  
WTO World Trade Organization, Geneva.

APPENDIX II<sup>2</sup>

Regional Intergovernmental Organizations and Bodies of which the Holy See is a:

Member:

CEPT European Conference of Postal and Telecommunications Administrations  
(Member also in the name and on behalf of Vatican City State);  
CDCC Council for Cultural Co-operation of the Council of Europe, Strasbourg;  
EUTELSAT European Telecommunications Satellite Organization, Paris  
(Member also in the name and on behalf of Vatican City State);  
OSCE Organization for Security and Co-operation in Europe, Vienna;

Observer:

AALCC African Asian Legal Consultative Committee, New Delhi  
(Observer on informal basis);  
CE Council of Europe, Strasbourg;  
OAS Organization of American States, Washington;  
OAU Organization of African Unity, Addis Ababa;

Delegate:

AL Arab League, Cairo;

Guest of Honour:

OSCEPA Parliamentary Assembly of the Organization for Security and Co-operation in Europe.

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<sup>2</sup> See SECRETARIAT OF STATE, <[http://www.vatican.va/roman\\_curia/secretariat\\_state/documents/rc\\_seg-st\\_20010123\\_holy-see-relations\\_en.html](http://www.vatican.va/roman_curia/secretariat_state/documents/rc_seg-st_20010123_holy-see-relations_en.html)> (25 January 2008).

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### **Curriculum vitae**

Roman A. Melnyk was born in Toronto, Canada on 26 September 1954. In 1979 he graduated from York University in Toronto with a BA degree in Political Science. During the 1980's and early 1990's Mr. Melnyk worked for various private sector companies and government departments, including the Canadian Immigration and Adjudication branches in Toronto. In the 1990's, Mr. Melnyk worked in the immigration private practice field, with offices in Jeddah, Saudi Arabia and other locations. Married in 1977 in Toronto, he has shared his life journey with his wife Sonya (Winnipeg), and two children Adrian (1978) and Anna (1985). In 2000, he returned to academic studies to the Master of Divinity (Philosophy/Theology) programs at the University of Toronto: St. Michael's College/St. Augustine's Seminary (2000-02). In 2002, he began his Master's and Licentiate programs in Canon Law at Saint Paul University in Ottawa, and subsequently in 2004 proceeded with the JCD and PhD Canon Law programs offered conjointly at Saint Paul University and the University of Ottawa. Mr. Melnyk has been a 3<sup>rd</sup> degree member of the Knights of Columbus (Toronto) since 1986.