

# Report on the Holy See at the United Nations

UN CSW 63 PARALLEL EVENT

MARCH 14, 2019



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# Overview

Since 1964, the Holy See has held Permanent Observer status at the United Nations.<sup>1</sup> As the central government of the Roman Catholic Church, the Holy See is the only religious institution that enjoys this status.<sup>2</sup> It maintains full diplomatic relations with 177 countries out of the 193 member countries of the U.N. In addition, every pope who has reigned since the Holy See received its permanent observer status has addressed the U.N. General Assembly. The Holy See justifies its seat at the United Nations through its claim of having global moral authority.

In reality, though, the Holy See functions as a politically-motivated member state in this arena.<sup>3</sup> Despite not having an official vote, with fully functioning missions (or staffed offices) at the UN sites in Geneva and New York, it does not have an official vote, yet it exerts remarkable power as it influences policy development, negotiation positions and even the language used by other UN members.<sup>4</sup> The Holy See participates in many human rights discussions and is an engaged voice in conferences and meetings, development of treaties, negotiations of resolutions and agreements, and in discussions about the UN's budget and infrastructure.

The Holy See functions as a state whose power cuts across geographic boundary. Its reach is broad and its command, given its global influence, sometimes coercive. Despite its projected image of being a “neutral force for dignity” and representing the voices of “the vulnerable,” it functions as one of the most powerful political entities within the UN system. Its presence and its ideological groundings affect the development of and discourse about human rights standards.

In certain areas, and particularly in relation to gender and sexuality, this influence serves to limit rather than enhance protections; in many instances, the Holy See's positions further entrench discrimination, allow violence and serve to deny information and services. **Women and young people, and those who may identify as lesbian, gay, bisexual or transgender (LGBT) often bear the brunt of the Holy See's efforts to integrate its ideological commitments into the UN human rights system.**

For years, organizations have argued that the Holy See should not hold the status of Permanent Observer and that the UN should be a site of secular decision-making. Alternatively, some have asserted that Christianity and Catholicism should not be given preferred religious status to the exclusion of other religious entities. They claim that this privilege is discriminatory.

In addition, concerns about the Holy See's role in the UN are compounded by the relative impunity and lack of accountability it enjoys. Few governments are willing to comprehensively challenge the Holy See or to hold it accountable for not adequately complying with the human rights obligations that come with UN participation. Nor have they held the Holy See to account for human rights violations it -- and the individuals who represent it -- have perpetrated or suppressed information about. This, of course, is of particular interest given charges against it of torture and crimes against humanity in terms of sexual violence and the detail that has finally surfaced in recent days (and months and years) about clergy and sexual abuse of children, as well as sexual assault of nuns. Governments tend to not hold the Holy See accountable for these behaviors and its discriminatory positions.

The Holy See is a completely male dominated institution. There are no women who are in top decision-making positions. Every facet of Church governance and Holy See diplomacy is led entirely and only by ostensibly celibate men. In both the Vatican's teaching authority and the Holy See's structure of governance, women have never had a voice in developing doctrine or any decision-making authority. Yet, the Holy See is particularly active in the arenas of women's rights and rights of children, rights related to sexual orientation and gender identity and expression, and to contraception and sexuality education. In fact, overall, it has tenacious interest in areas of sexual and reproductive rights and health. Much of its involvement promotes “the” (monolithic heteronormative) family, anti-abortion and fetal rights (or rights of the unborn child) sentiment.

The following overview is not meant to present an exhaustive review of the Holy See's role in the UN or its

<sup>1</sup> The term “Holy See” refers to the supreme authority of the Church, that is the pope as Bishop of Rome and head of the college of Bishops.

<sup>2</sup> In fact, Palestine is the only other holder of this status.

<sup>3</sup> See Catholics for Choice, the Catholic Church in the United Nations: Church or State?, Washington, D.C. 2013. According to their research, the Holy See owes its participation in the United Nations to the membership of Vatican City in the Universal Postal Union (UPU) and the International Telecommunication Union (ITU), which the city-state joined because of its operation of postal and radio services. These groups and their members were invited to attend UN sessions soon after its formation.

<sup>4</sup> There are 193 member states within the UN system.

human rights system. But it is meant to flag some of the main concerns women's rights advocates - as well as others - have regarding the Holy See's wielding of power in those spaces.

Whether in relation to treaty bodies, the Commission on the Status of Women, the Human Rights Council or in other sites, the Holy See often covers up its own discriminatory and abusive behavior, particularly in relation to the catastrophic clergy sex abuse scandal, "cherry picks" which obligations it will meet in the human rights system, and takes positions that are inherently discriminatory and sexist. The Holy See should be held to account; it should not be shielded from valid criticism; and it should be exposed for its failures, just as any political entity should. This overview is meant to spark deeper research and further action.

- This report argues that the Holy See should not be allowed to retain its Permanent Observer status within the UN system because that status privileges one specific religious institution, because it does not fully meet the criteria of a state, and because it too often

follows a "moral code" and not the human rights based rule of law. Rather, it should be given the status of "non-governmental organization", which would create a parallel with other religious groups that participate in the UN.

- It argues that its non-compliance with its human rights obligations, including its failures to adequately self-assess and report for treaty body monitoring, should also be taken into consideration in a review of its status.
- It further argues that in addition to the reasons noted above, the Holy See should not be allowed to participate in future UN Commission on the Status of Women meetings based on its exclusionary and male dominated leadership structure; its legacy of violations and discrimination against women, girls, boys, LGBT and gender non-conforming people; its restrictive positions related to gender and sexuality; and its often obstructionist positions in relation to negotiations with governments on these and other issues.

## Vatican and the Holy See as a "state" ..?

The Holy See, the government of the Roman Catholic church, claims that its possession of a territorial entity — Vatican City — qualifies it as a state and thus grants it a place among states at the UN. The international community, however, has adopted specific norms that determine when a territory may be considered to be a state. According to the criteria codified at the 1933 Montevideo Convention on the Rights and Duties of States, Article 1, a state must have a defined territory, a government, the ability to enter into relations with other states and a permanent population. None of the entities involved, the Holy See, Vatican City or the Roman Catholic church, possess all four of these attributes that define a state.

According to the VaticanState.va website, "the population of Vatican City is about 800 people, of whom over 450 have Vatican citizenship, while the rest have permission to reside there, either temporarily or permanently, without the benefit of citizenship.

"About half of the Vatican's citizens do not live inside Vatican City. Because of their occupations (mostly as diplomatic personnel), they live in different countries around the world. The conferral or loss of citizenship, authorization to live inside Vatican City and formalities for entering the territory, are governed by special regulations issued according to the Lateran Treaty."<sup>5</sup> Vatican City is the smallest country in the world — smaller than an 18-hole golf course.

A 2013 article, "Behind the Walls: What It's Like to Live Inside the Vatican, for a Woman," Alina Mrowinska, the wife of member of the Swiss Guard. Mrowinska revealed that there are only 13 families that live in Vatican City and only 30 women have Vatican City citizenship. Women can only obtain citizenship through marriage, and it is only valid for the duration of their stay in Vatican City. "Here, women barely exist—and certainly play no significant role. Not so long ago, women couldn't open their own bank account in Vatican City," she writes.<sup>6</sup>

<sup>5</sup> See <http://www.vaticanstate.va/content/vaticanstate/en/stato-e-governo/note-general/popolazione.html>

<sup>6</sup> See <https://news.tfonline.com/post/44213684205/behind-the-walls-what-its-like-to-live-inside>

# Attacking "Gender", Narrowing Rights

In recent years, the Holy See has partnered with likeminded governments to promote an attack on the idea of "gender" as something dangerous to "the traditional family". It has been using a tactic in political (and other) spaces that undermines gender-related rights claims by denigrating them as "ideological". The Vatican has played a strong role in promoting concern about what they call "gender ideology." In short, this argument manipulates ideas about "gender" and suggests that it is, in essence, an affront to traditional sex-defined roles and "the" heteronormative family.

The rhetoric that the Holy See uses is echoed by governments and religious authorities, and is often vitriolic and fear-mongering. It is sometimes deployed for a political outcome, such as in the development of a policy in the UN, a national or local election, or for long term shaping of cultural attitudes. It is a discourse meant to undermine women's rights and the rights of LGBT and gender non-conforming people. It places value in the biology of sex: by claiming that "gender ideology" is something to be feared, they collectively argue that rights agendas will destroy the institution of marriage, the family and ultimately, the social order.<sup>7</sup> It has taken root in a number of regions, particularly in Latin America and Eastern Europe. The deployment of this "gender ideology" tactic has been effectively used in various political elections across regions, as well.

The tactic of promoting criticism of the idea of "gender" in intergovernmental spaces is not new. When the Beijing Platform for Action was agreed in 1995, the Holy See asserted in its comments after adoption:

...[T]hat it understood the term "gender" "as grounded in biological sexual identity, male or female" and excluded "dubious interpretations based on world views which assert that sexual identity can be adapted indefinitely to suit new and different purposes."<sup>8</sup>

The Holy See took an active role in the negotiation for establishment of the International Criminal Court, and its governing Rome Statute, in 1998. It sought to ensure a definition of "gender" that would actually emphasize "sex".

Article 7(3) of the Rome Statute speaks to gender this way, in part because of the Holy See's influence:

"For the purposes of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female,

*within the context of society. The term 'gender' does not indicate any meaning different from the above."*

The Holy See spearheaded an effort here that continues to this day. In the UN Human Rights Council, for instance, the Holy See plays an active role in negotiating resolutions, in the Universal Periodic Review (UPR) process, in sponsoring events alongside governments and religious NGOs and in other institutional discussions. They and others seek to focus on the language of two "sexes" rather than gender, marriage being only between a man and a woman, reproduction being central to and the purpose of sexuality, and "the family" as being the core unit of society. They show little flexibility; their patterns repeat over years.

In February of 2019, the Holy See made a public comment within an official session of the Council in which they asserted their concern about the inherent *dignity of all persons, before as well as after birth*. They lamented that within international fora the *interpretation of some rights has progressively changed with introduction of new rights* and this was a *new form of ideological colonialism*.

The language above reveals much of the Holy See's UN agenda: **it advocates against language that allows rights related to abortion, it condemns the terms "reproductive rights" or "sexual rights," and argues against support of rights related to sexual orientation and gender identity, in part by falsely arguing that these are "new" or actually not rights at all.** In a particularly manipulative turn of the screw, given its own coercive powers, it also suggests that these "new" ideas or "non-rights" are western / colonial / northern and an imposition on "more traditional" other cultures. This both denies the very real claims of local organizing on gender and sexuality (for instance, the work of local LGBT groups) in the global South, and it denies the coercive imperial nature of what the Holy See itself does.

The Holy See plays a very skilled and political game in maneuvering in intergovernmental spaces on these issues. **Women's bodily autonomy – and rights to make decisions about family, reproduction and sex itself - are too often the battlegrounds on which these debates are fought.** This is true, as well, in terms of sexual orientation and gender identity. More detail follows in this overview about these sets of issues.

<sup>7</sup> G. Kane; 'Gender ideology': big, bogus and coming to a fear campaign near you; <https://www.theguardian.com/global-development/2018/mar/30/gender-ideology-big-bogus-and-coming-to-a-fear-campaign-near-you>

<sup>8</sup> V. Oosterveld; The Definition of "Gender" in the Rome Statute of the International Criminal Court: A Step Forward or Back for International Criminal Justice? <https://www.legal-tools.org/doc/9b10b8/pdf/>

# UN Treaties and Holy See non-compliance

The Holy See also has the power to sign, ratify and therefore accede to treaties within the UN human rights system. Of the nine core human rights treaties, the Holy See has either signed or ratified three – the Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1966/1969), the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment (CAT, ratified in 2002), and the Convention on the Rights of the Child (CRC, 1990).<sup>9</sup> Overall, treaties are binding legal instruments whose ratification implies a level of seriousness. If a state ratifies a treaty, generally it has the intentions of complying with its content. It also agrees to be reviewed periodically by the “treaty monitoring body” that assesses countries’ compliance with the obligations related to the treaty.

The Holy See has an obligation to self-report on its progress on fulfilling the treaties it has ratified. **For the past two decades, the Holy See has either delayed or refused to fulfill this requirement on several treaties.** In fact, when it comes to complying with treaties, the Holy See takes a selective “play-by-its-own-rules” approach. It sometimes argues that its ideological “moral” and religious commitments keep it from being able to fully adhere to its political obligations.

So, for instance, when the Holy See ratified the Convention on the Rights of the Child in 1990, it expressed reservations about family planning language in the document, and warned that by signing it, it did “not intend to prescind in any way from its specific mission which is of a religious and moral character.”<sup>10</sup> Despite the

centrality of women’s access to family planning as a health and human rights issue, the **Holy See stance against contraception** has appeared for decades in its UN advocacy.

The Holy See has the distinct advantage of being able to choose when it is treated as a state and when it is treated as a religious group. It has effectively **exploited its right of self-definition to protect itself from accountability**, particularly when it comes to complying with UN treaties or fulfilling human rights obligations, generally. The Holy See should not be able to “opt out” of certain human rights and certain obligations; it should not be able to occasionally apply a morally and religiously based standard as a litmus test for compliance.

Unlike any other government or religious group, the Holy See exists in a realm between the well-defined expectations for member states and its own religious “dictates.” (Notably, these are not fixed and are both open to interpretation but also in dire need of modernization). In the same way the pope can visit a country as either a head of state or a religious leader, the Holy See has used its dual identities to advance its agenda in the public sphere. The Holy See uses this ambiguity particularly to further its right-wing agenda against sexual and reproductive health and rights, stressing its religious authority to justify its actions.

*It should also not have the ability to rest on religious canon when it “wants out of” human rights obligations, including those related to women’s human rights, rights of LGBT people, and other rights related to sexuality and reproduction.*

<sup>9</sup> It has also ratified “Optional Protocols” to these treaties; these are fundamentally related to the treaties themselves, and have separate ratification processes, but their overall “topic” remains that of the main treaty. These were the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2001) and the Optional Protocol to Convention on the Rights of the Child the involvement of children in armed conflict (2001).

<sup>10</sup> United Nations Treaty Collection, [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec). Full text of the Holy See’s reservations and its declaration after adoption are available here.

# The sex abuse scandal, treaty bodies and crimes against humanity:

In 1997, the Holy See failed to submit its review of its treaty compliance to the Committee on the Rights of the Child. The Committee is the group of independent experts that reviews reports and compliance and makes relevant recommendations to the state or entity.

During the intervening years, the scope of the clergy sex abuse scandal in the U.S. became clear after being ignited with the publication of details by the Spotlight team at the Boston Globe. It is unclear whether the gravity of the scandal informed the delay, but it is certainly possible that the Holy See delayed its report to and then

appearance before the Committee to avoid scrutiny as the U.S. scandal exploded.

It is notable that the report again flagged misgivings about the treaty's language on family planning. While it emphasizes that canon law "is not intended to usurp or otherwise interfere with [State criminal laws] or with State civil actions," information on how the Holy See's parallel legal system is to cooperate with civil laws is scarce. **The Holy See continued to differentiate between its legal obligations and the "higher" ones supposedly dictated by religious law.**

## Clergy abuse: The Holy See has violated treaties it has ratified

For more than three decades, investigative journalism, grand jury reports, law enforcement agents, government inquiries and the brave voices of countless sexual abuse victims-survivors in North America, Latin America, South America, Europe, Africa and Asia have revealed that the Roman Catholic Church's sexual abuse crisis is indeed a global epidemic. According to BishopAccountability.org, more than 90 bishops worldwide have been publicly accused of sexual misconduct. Thousands of Catholic clergy and religious officials have raped and sexually violated tens of thousands of children in the U.S. alone—perhaps more than 100,000 children—since 1950. And approximately two-thirds of sitting U.S. bishops were alleged in 2002 to have kept accused priests in ministry or moved accused priests to new assignments.

These statistics are just a small window into the massive worldwide scandal involving Catholic clergy who sexually violated children and the members of the hierarchy who aided and abetted these men. This global scandal - the abuse and the cover-up - continues to explode in March of 2019. Despite recent efforts by the Holy See and Pope Francis to acknowledge and condemn the epic scale of clergy abuse over decades, the recent example of Australian Cardinal George Pell suggests that the protection of clerical predators

continues. Despite years of Pell's being investigated for child sexual abuse, Francis chose to keep Pell as one of his closest advisors. Even after Pell's conviction in December 2018 on five counts of child sexual assault, Francis still refused to speak out about Pell, as remains the case immediately after his recent imprisonment.

Despite the Catholic hierarchy's recent attempt at accountability for its decades of covering up sexual abuse and aiding and abetting abusers by calling a historic summit of the world's leading bishops in February 2019, prelates returned to their home dioceses without clear or concrete procedures for how to deal with cases of sexual abuse. Also, survivors' demands for zero tolerance of sexual abuse and mandatory reporting to secular law enforcement were not taken seriously at the summit. Human rights violations continue, as does the overall impunity and lack of accountability.

The historic glaring lack of information on the church's culpability and myriad failures in addressing clergy sexual abuse have led to several critical UN discussions by the Committees monitoring compliance with the UN Convention on the Rights of the Child and the UN Convention Against Torture, as well as a sexual abuse case being put forward at the International Criminal Court.



# International Criminal Court

The scope of the abuse was so massive that in September 2011, the U.S.-based Center for Constitutional Rights (CCR) and the Survivors Network of those Abused by Priests (SNAP) filed an 80 page complaint, accompanied by 22,000 pages of supporting material, to the International Criminal Court (ICC) in The Hague asking for the investigation and prosecution of Pope Benedict XVI and three top Vatican officials for abetting and covering up the rape and sexual assault of children by priests.

“The high-level officials of the Catholic church who failed to prevent and punish these criminal actions have, to date, enjoyed absolute impunity,” the complaint said. The language of impunity is important here: challenging impunity is one of the main principles of human rights.

The International Criminal Court has jurisdiction over war crimes, crimes against humanity and genocide committed after July 1, 2002, the year the court opened. It is independent of the United Nations and has jurisdiction in the 123 countries that have ratified the statute that created the court. To this day, neither the U.S. nor Vatican City have signed or ratified the Rome Statute that created the Court. These are not innocent omissions.

In 2013, a prosecutor of an international court opted not to pursue the case, claiming that the matter did not fall within the jurisdiction of the ICC. The Holy See benefitted from this either as a politically motivated decision, or one which failed to recognize the relationship between widespread sexual assault and abuse and crimes against humanity. Between those two rationales, the Holy See was “let off the hook”.

## Case Study 1: The Committee on the Rights of the Child

In February 2014, the Holy See appeared before the Committee on the Rights of the Child, which monitors the Convention, as part of the regular reporting process. The Committee strongly criticized the Holy See's abysmal record on the clergy sex abuse crisis. It also called attention to the ways children worldwide were suffering from Catholic teachings, including the church's stances on abortion, denial of birth control and homosexuality.

Somewhat remarkably, the Vatican accused the panel of interfering with its teaching and freedom of religion. In the months leading up to the review, **the Holy See refused to provide detailed information requested on abuse cases and specific information concerning their handling and investigation of them, citing confidentiality norms.**

The Committee interrogated the Holy See on many issues, including an alleged lack of transparency in its handling of abuse cases and their aftermaths, punishment of abusers that was often insufficient, and inadequate co-

operation with civil judicial authorities. In a scathing rebuke, the Committee charged that the Vatican failure to implement policies has led to “the continuation of the abuse and the impunity of the perpetrators.”

Further, the Committee implored the Holy See to “immediately remove all known and suspected child sexual abusers” from their posts in the church and hand over the cases to law enforcement authorities in the countries concerned.

The panel also asked the Holy See to ensure that an expert commission set up by Pope Francis last year will “investigate independently” all cases of child sex abuse and the way in which they are handled by the Catholic hierarchy.<sup>11</sup>

The Committee further called for:

- The opening of records of past cases, to hold accountable the abusers and their protectors.

<sup>11</sup> The Commission, which accomplished little, was later allowed to lapse into dormancy by Pope Francis in 2017. He reactivated the Commission in February 2018 after public outcry. No victim-survivors serve on the Commission currently.



- The establishment of "clear rules, mechanisms and procedures" for the mandatory reporting of all suspected cases of abuse to civil law enforcement authorities.

And, it added that it was "particularly concerned ... that the Holy See has consistently placed the preservation of the reputation of the church and the protection of the perpetrators above children's best interests, as observed by several national commissions of inquiry."

The panel also urged the Holy See to launch a full investigation into Ireland's Magdalene Laundries, a system run by Irish nuns that enslaved tens of thousands of girls and women who were either pregnant and unmarried or deemed in some other way to be "fallen." The Committee said that if they are still alive, those who abused and exploited these women should be prosecuted. It also urged that "full compensation be paid to the victims and their families" who were held captive in the Magdalene system in Ireland.

While welcoming statements made by the Holy See delegation expressing a commitment to upholding the rights of children, the Committee made clear its "deepest concern" about abuse committed by clergy operating "under the authority of the Holy See".

"The committee is gravely concerned that the Holy See has not acknowledged the extent of the crimes committed,

has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators," it wrote.

In response to the Committee's recommendations, the Holy See issued a stunning statement saying that it agreed "to a thorough study and examination" of the UN Committee's findings, **but still insisted that the UN was interfering with its rights**, saying:

*"The Holy See does ... regret to see in some points of the concluding observations an attempt to interfere with Catholic church teaching on the dignity of human person and in the exercise of religious freedom."*

The statement added: *"The Holy See reiterates its commitment to defending and protecting the rights of the child, in line with the principles promoted by the Convention on the Rights of the Child and according to the moral and religious values offered by Catholic doctrine."*

These responses reveal the Holy See's tenacious interest in being judged differently by the human rights system, and its need for exceptionalism. To be held to account for this level of abuses would cause the Vatican architecture to crumble.

[end case study 1]

## Case Study 2: UN Committee Against Torture

In 2002, the Holy See acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This, however, again came with a caveat: "The Holy See, in becoming a party to the Convention on behalf of the Vatican City State, undertakes to apply it insofar as it is compatible, in practice, with the peculiar nature of that State." **The Holy See again reserved the right to avoid accountability for complying with the entire CAT treaty.**

As with the Convention on the Rights of the Child, the Holy See once again **did not comply with reporting requirements of the Convention Against Torture for over a decade.**

As part of the regular treaty monitoring process, the Holy See appeared before the Committee Against Torture, which monitors compliance with that treaty.

In its initial report to the CAT, the Holy See denounces torture and ill-treatment "inadmissible and inhuman" and says that it manifests its "moral authority" with other countries in order to try to stop it. **But it argued from a newer strategy here: exceptionalism based on geography.** The Holy See argued that under the Convention, it is bound to have responsibility only for the territory over which it has jurisdiction, the Vatican City State, *and in effect cannot be held responsible for the actions of Catholic clergy throughout the world.*

The Holy See wasn't content with this tactic on its own though – it also decided to seek cover by alleging that the Committee could be influenced by organizations that might disagree with Vatican policy. The Vatican issued a sternly worded warning to the UN that they not capitulate to pressure from "strongly ideological" NGOs that, he said, were forcing their agenda on to the proceedings. This was a veiled effort to implicate the many groups advocating for women's rights, sexual rights and also those seeking to shine light on the sex abuse scandal.

The Vatican added that the Holy See hoped for an "objective" dialogue, "otherwise, the Conventions may be distorted and the Committees risk losing authority and being reduced to tools of ideological pressure rather than a necessary stimulus towards the desired progress in promoting respect for human rights."<sup>12</sup> This, too, revealed an often-repeated tactic: position the UN as at risk of being weak, or unable to achieve its fundamental human rights agenda because of those who (likely) have been advocating for WHAT the "gender ideology" noted above CONDEMNS: A FULL RANGE OF RIGHTS related TO GENDER AND SEXUALITY.

Advocates who sought accountability for the Holy See submitted arguments to the Committee that linked the abuse with torture, and inhuman and degrading punishment. The Centre for Constitutional Rights, acting on behalf of the Survivors Network of those Abused by Priests (SNAP), argued that by having failed to provide adequate redress

for abuse victims or to properly punish perpetrators, the Vatican "has refused – and is still refusing – to uphold the core purpose of the CAT," namely to "make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment throughout the world".

"Months ago, Vatican officials submitted a report to the CAT that makes no mention whatsoever of the rape, sexual violence and cover-ups within the church, which carry severe and long-lasting harm," CCR claimed in a statement. "But the CAT and international human rights law are clear: rape and other forms of sexual violence are recognized as torture and cruel, inhuman and degrading treatment, and the Vatican has fallen woefully short of its obligation to prevent and protect against these crimes."

The last assertion is particularly important here: this case claims that the Vatican **fails to "prevent and protect" against violations and consequently does not meet the terms of its human rights obligations in the treaty.**

[end case study 2]

As the scandal continues to unfold, one recent development is also worth mentioning: in February of 2019, the Committee on the Rights of the Child noted concern about the many cases of children having been sexually abused by clergy of the Catholic Church in Italy and the low number of investigations there and criminal prosecutions that have ensued.

## Obstructionist and anti-women's rights behavior of the Holy See in the UN: Historic examples:

The Holy See skillfully uses its status to form coalitions of nations that share its ideology on issues related to women's human rights, access to sexual and reproductive health and education, and the rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people. The Holy See also has profound influence on non-governmental organizations (NGOs) at the UN and gives legitimacy and support to other organizations, particularly Christian Right networks.

It is important to understand the Holy See's theology regarding gender complementarity and natural law because this ideology is the "religious" basis for the Holy See's obstructionist tactics in negotiations, which began in the 1990s.<sup>13</sup> In the years since then, the Holy See has used its considerable power and influence to block consensus in human rights negotiations, foster opposition to and otherwise limit advances in human rights agreements in these areas.

<sup>12</sup> L. Davies, "Catholic church leaders prepare for grilling by UN human rights panel", The Guardian, 5 May 2014. <https://www.theguardian.com/world/2014/may/05/catholic-church-un-human-rights-torture-sex-abuse>

<sup>13</sup> Its religious basis is, of course, also a political one, as well.

# 1994 Cairo International Conference on Population and Development

As noted earlier, the Holy See tends to distance itself from language in UN agreements that it can't agree with. The Holy See's strategy of dissenting from the use of specific language in documents and goals produced by UN conferences began in earnest at the 1994 Cairo International Conference on Population and Development (ICPD). The Cairo conference established in a global context the fundamental notions that reproductive rights are human rights and that population policies should be guided by human rights.

In response to the final agreement, the Programme of Action, the Holy See:

- argued that sexual and reproductive health should be only considered in the context of marriage and family
- argued that sexual and reproductive health should not refer to individuals, but to married couples formed of one man and one woman.
- criticized the "outcome document" and argued it promotes an individual interpretation of sexuality and does not take into account the particularities of the marital bond
- disagreed with the practice of contraception and abortion, calling them "morally unacceptable."
- opposed the use of the term "unsafe abortion" because it implied that abortions would be safe in other circumstances.
- opposed the term "unwanted pregnancy" because it implied that pregnancy was a negative experience,

which was inconsistent with its notions of womanhood and maternity.

- opposed the idea that abortion, or access to it, is a dimension of sexual and reproductive rights.

Also on full display at the Cairo conference was the Holy See's tactic of forging alliances with the minority of countries that reject women's human rights and women's right to reproductive health care. The Holy See teamed up with small Catholic countries — including Honduras, Ecuador, Malta and Guatemala — as well as hardline Islamic governments like Iran and Libya to undermine the international consensus on women's right to reproductive health, including the right to contraception.

During the meeting, the Vatican held up consensus by instituting endless conversations about the meaning of phrases such as "reproductive health" and "reproductive rights" and disputing language designed to extend family planning services to adolescents, all in the name of halting the spread of modern contraceptives to developing nations. It also strategically "ran the clock down", knowing that at a certain point, the conference doors had to close, agreement on the outcome or not.

In protest of the conference's efforts to prioritize reproductive health access, Pope John Paul II later referred to the Cairo meeting as "the work of the devil."<sup>14</sup>

<sup>14</sup> See Catholics for Choice, The Vatican at Rio+20: What's at Stake, [http://www.catholicsforchoice.org/wp-content/uploads/2012/11/CFC\\_BrRpt\\_Rio20.pdf](http://www.catholicsforchoice.org/wp-content/uploads/2012/11/CFC_BrRpt_Rio20.pdf) and Joanna Manning, "The Devil and the Deep Holy See," The Globe and Mail (Canada), June 5, 2000.

# 1995 Beijing Fourth World Conference on Women

One year later, at the 1995 Beijing Fourth World Conference on Women, the Holy See continued its obstructionist tactics by questioning and dissenting from language used in the conference's Platform for Action.

The Beijing conference established that:

- women have right to control all aspects of their health, particularly their fertility, as basic to their empowerment
- sexual rights are human rights, particularly in the context of the HIV/AIDS pandemic that was exploding at that time, the global concerns about anti-LGBT violence and discrimination
- the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination, and violence.

In response to the Platform for Action, the Holy See further noted that:

- the expression “women’s rights to control their fertility” only has one interpretation in the context of sexuality within marriage.
- the ambiguity of the terms in the documents could be understood as approval of sexual relationships outside of heterosexual marriage.
- they could not “accept ambiguous terminology

concerning women’s unqualified control over sexuality and fertility particularly as it could be interpreted as societal endorsement of abortion or homosexuality,” concluding that “the Holy See does not endorse any form of legislation which gives legal recognition to abortion.”

- the phrase “family planning” is “morally unacceptable”; also asserted that family-planning services do not respect the freedom of spouses, human dignity and the human rights of those concerned.

One of the Holy See’s most notorious actions at the Beijing Conference was its hostile takeover of the conversation regarding the conference’s use of the word “gender.” The Holy See expressed concern that “a different and radical understanding of gender had been circulated during informal discussions.” They insisted that gender must only refer to the two sexes, male and female. Their lobbying was so aggressive that the president of the conference issued a special addendum to official conference report on the “commonly understood usage of the term gender,” explaining on that no “new meaning or connotation of the term, different from accepted prior usage.”<sup>15</sup> This “victory” on the part of the Holy See would inspire right-wing groups to mobilize and emboldened their lobbying tactics. Its effects are influencing policy and negotiations at the UN today.

<sup>15</sup> See <http://www.un.org/documents/ga/conf177/aconf177-20en.htm>

<sup>16</sup> Colum Lynch, “Can Pope Francis Get the Catholic Church’s Mind Off of Sex?” Foreign Policy, May 11, 2015.

<sup>17</sup> Interview, women’s rights advocate at the UN, February 2019.

# Sustainable Development Goals and the new pope: It's still a hardline

Though there was some hope at the beginning of the Francis papacy in 2013 that the Holy See might broaden its objectives to include more progressive social policy, the Holy See remains very much entrenched in its mission to block governments from expanding progressive policies on sexual and reproductive rights.

At that time, the UN was in the midst of a major years-long government process toward adopting a set of goals and objectives that would guide next decades of various forms of social and economic policy. Francis and the Holy See were seeking to make this a centerpiece of their diplomatic priorities at the United Nations.

According to journalist Colum Lynch,<sup>16</sup> during the negotiations on the UN Sustainable Development Goals between 2013-2015, the Holy See focused on very few issues:

"[t]he only time you hear about them in negotiations is on issues relating to abortion, women's rights, the family," said a European diplomat. "I really haven't encountered them on any other issues in last years."

Lynch also reported that "a second Western diplomat who has negotiated across the table from the Catholic Church's diplomats for years said the Vatican's traditional negotiating positions and policy preferences haven't changed under Francis. ... 'Not much has changed when you get into the negotiating room. It's the same hardline,'" the diplomat said.

Lynch's report also noted:

One tactic the Holy See's diplomats continued in their push to restrict sexual rights in negotiations is to insert the word "fundamental" before any mention of the human rights of women and girls. "In their minds, this would potentially exclude reproductive rights, sexual rights or other human rights that have not been explicitly agreed in UN treaties. **They also opposed reference to the role of women's organizations or feminist organizations in advancing gender equality.**"<sup>17</sup>

Francis's representative expressed concern that the negotiations were heading towards perilous moral waters.

"For a large number of countries, 'reproductive health' and 'reproductive rights agenda infringes on their national sovereignty in the politically and morally fraught questions of abortion," In response to a document on the SDG's goals, Archbishop Francis Chullikatt, the Holy See's former nuncio at UN headquarters, issued a statement expressing the Holy See's reservations about the final document to be endorsed by world leaders:<sup>18</sup>

(1) With reference to "sexual and reproductive health", so-called "reproductive rights," "family planning" and other language on which the Holy See has registered reservations at Cairo and Beijing, we reiterate these reservations as set out more fully in the Report of the ICPD and in the Beijing Platform for Action. In particular, the ICPD rejects recourse to abortion for family planning, denies that it creates any new rights in this regard.

(2) With respect to so-called "education" or "information" on "sexuality," my Delegation reaffirms the "primary responsibility" and the "prior rights" of parents, including their right to religious freedom, when it comes to the education and upbringing of their children, as enshrined, inter alia, in the Universal Declaration of Human Rights and the Convention on the Rights of the Child.

(3) By "gender" my Delegation understands to mean "male or female" only, and to have no meaning other than the customary and general usage of the term.

One advocate said "that while Pope Francis has projected a more progressive image, she has seen no evidence in a shift in the Holy See's policies at the United Nations":

"We have really seen a continuation of business as usual. We always saw them homing in on language about sexual rights. There have been a lot of proposed goals on poverty eradication and on reducing inequality and the Holy See hasn't said anything. They have been quiet."

<sup>16</sup> Colum Lynch, "Can Pope Francis Get the Catholic Church's Mind Off of Sex?" Foreign Policy, May 11, 2015.

<sup>17</sup> Interview, women's rights advocate at the UN, February 2019.

<sup>18</sup> [2] See <https://www.scribd.com/document/264668215/Holy-See-Reservations>

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# UN Commission on the Status of Women: annual complicated Holy See engagement

Each year, the UN Commission on the Status of Women (CSW) convenes for two weeks at the UN in New York. This is the UN's largest gathering that focuses on the human rights of women. While there are sometimes upwards of 2000 advocates who come to New York to participate in events and to lobby governments, the meeting is also of the Commission itself - a body of 45 member states of the UN. These membership positions are based on region. The Holy See is not a member of the Commission, given its specific status.

At the CSW, governments negotiate and produce a document called the "Agreed Conclusions" at the end of the two week session. The Agreed Conclusions document has a theme - a particular human rights or related issue as it pertains to women around the world. In recent years, themes have included violence against women, women in the media, rural women and girls, and women's economic empowerment, to name a few topics.

Alongside the language on the specific theme, the Agreed Conclusions always has paragraphs on issues that repeat each year. In other words, in each CSW, governments

will discuss paragraphs of text that pertain to rights of young people, reproductive rights, access to safe and legal abortion, discrimination and marginalized groups, sexual rights, sexuality education and a host of other issues. These, though, are of the ones which are most contentious.

The Holy See's role and the positions it takes on the aforementioned issues are predictable and consistent. Despite their not being a member of the Commission or a member state of the UN, the Holy See has an omnipresent role in the negotiations - and one which impedes progress for women, girls and gender non-conforming people. They vehemently repeat their stances as noted above, from the Cairo, Beijing and subsequent meetings. And they engage in the same tactics, including trying to preclude references in the final negotiated document to "sexual orientation", "gender identity", "comprehensive sexuality education", "intimate partner violence" and "access to safe and legal abortion."<sup>19</sup> In addition, the Holy See partners with governments that are generally known as most repressive in terms of rights of women, and NGOs that support these anti-rights agendas.

## Unholy Alliances: Sexism, Homophobia, Transphobia

The Holy See's coalition building at the UN over the past two decades has revealed that disparate groups such as highly conservative Muslim governments (ie. Egypt and Saudi Arabia) or religious traditions like Mormonism and Evangelical Christianity are united in a common

desire to prevent women from having control over their bodies and their fertility and to prevent gender non-conforming people and LGBT people from achieving protection under the law and freedom from violence and discrimination.

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<sup>19</sup> The Holy See's opposition to the term "intimate partner violence" (like the opposition of conservative governments) is rooted in concern about recognizing "non-heteronormative" relationships and those that may not be specifically "domestic". Concerns about same sex marriage are also at play here.



# One homophobic alliance: the Holy See and Russia

In recent years, the Holy See has found a particularly strong alliance with Russia at the UN. This union coincided with Vladimir Putin's push to reinstate the Russian Orthodox Church to the heart of Russia's politics. Putin has found in the church support for demonization of LGBT persons, including through the enactment of an anti-homosexuality "propaganda law" which criminalizes LGBT organizing and information sharing under the guise of "protection of minors."

In addition, Russia has created legislation to ban the adoption of Russian-born children by gay couples as well as all couples or single parents living in countries where marriage equality exists.

Of course, fears of weakening of the heteronormative nuclear family are at the heart of this alliance, with same sex marriage as a lightning rod. The Holy See has found a strong ally in Russia: Pope Francis and Russian Patriarch Kirill even signed a "Joint Declaration" in September 2017 in Havana, Cuba, which emphasized the importance of the family as marriage between one man and one woman, and their concerns relating to abortion and "biomedical reproduction technology." Russia and the Holy See are often in alignment in their positions within the UN system.

In her book *Born Again: The Christian Right Globalized*, Jennifer Butler writes that at the Cairo conference "the Holy See's alliance with representatives of Muslim nations on the issue of population policy inspired Christian Right NGOs to pursue alliances with Muslim governments and religious leaders."

Butler points out that George Weigel, an arch-conservative Catholic and close friend of Pope John Paul II, called Cairo "a watershed event for anti-abortion advocates who were inspired by the resistance of Islamic, Latin American and some African countries to the libertinism enshrined in the Cairo document."

At the five-year review of the Cairo Conference in 1999 and later at the five-year review of the Beijing Women's Conference, the Holy See recruited anti-choice and anti-contraception organizations such as the Catholic Family and Human Rights Institute (C-FAM) to apply for accreditation to UN conferences. These groups further amplified the Vatican's obstructionist tactics, aggressively objecting to terms such as "sex education" to slow proceedings, to

mark its opposition to comprehensive sexuality education, otherwise lobbying delegates beyond what is generally allowed in an attempt to disrupt the conference.

At the UN Special Session on Children in 2002 which was designed to reach accord on measures to protect rights of young people and to address disease and poverty, the Vatican teamed up with the George W. Bush administration and delegations from Syria, Libya and Pakistan to challenge the inclusion of a reference to reproductive health services for young adults and to push "abstinence-only" approaches to sex education and AIDS prevention. They succeeded in removing the reference to reproductive health "services," after arguing that the term was a "cover" for abortion, leaving a weakened document that endorsed young adults' access to reproductive healthcare but not to specific methods or programs to prevent AIDS or unwanted pregnancy. Other omissions and anti-sexual rights arguments were in line with those previously discussed.

One of the more unknown obstructionist activities is the way the Holy See uses its influence to stop some alliances from forming. The Holy See's looming, coercive presence at the UN has stopped more progressive Catholic NGOs, such as those run by women's religious communities, from making alliances with any NGO or working groups that have a commitment to the UN Sustainable Development Goals and address access to sexual and reproductive health and/or the protection of gender and sexual minorities — even if these issues are not the NGOs' main mission (such as environmental NGOs).

In many ways, the Holy See has been the brain trust for regressive ideas on gender, sexual and reproductive healthcare, and sexual minorities. They have invested their resources in becoming the intellectual powerhouse behind the ideas that now fuel, highly influential NGOs, like the Catholic Family and Human Rights Institute (C-FAM), the Family Research Council and the Alliance Defending Freedom that today are very active in shaping UN policy. **The Holy See used its influence to set-up, organize and legitimize many of these sexist, homophobic and transphobic right-wing NGOs within the UN.** The construction of anti-gender language and the narrow definition of family is the long project of the Holy See, and it has been so effective in disseminating those ideas around the world that, in effect, many countries and NGOs do the Holy See's bidding for them.



# A note on Catholic teaching and gender and the Convention on the Elimination of All Forms of Discrimination Against Women:

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is sometimes referred to as “the women’s treaty” in the UN system. CEDAW addresses a wide range of women’s experience of violations and discrimination. The Holy See has not signed or ratified CEDAW, and it not likely to for a simple reason: the Holy See’s theological ideology makes it incompatible with the aims of the treaty.

A fundamental theological ideology that grounds the Holy See’s ideology on women and sexuality currently makes it impossible for the Holy See to comply with CEDAW. The ideology is called gender complementarity. It is the idea that God designed men and women to complement each other and that our biological differences are evidence that God intends different roles and purposes for the sexes. In other words, according to God’s plan for humanity, genitalia is destiny.

Complementarity also teaches that women have a “special role” because of their “feminine genius.” That “feminine genius” is essentially the women’s womb. The fact that women have wombs, and men do not, indicates that women’s first and most essential vocation is to support motherhood, support their husbands, raise children and nurture their families.

Not surprisingly, in this system, men are always awarded power, authority and dominance, while women are relegated to the roles of service, nurturing and adoration. Church leaders may insist that women and men are equal in dignity and worth, but ultimately, women are always put in the position of obedience to men.

The basis of complementarity is the notion of natural law, which teaches that all of creation has a final purpose. The Holy See believes, therefore, that all sexual acts must have the potential to procreate. Any sexual act that does not have the potential to procreate — including heterosexual sexual acts that are not intercourse; heterosexual sexual acts involving any form of “artificial” contraception; and all same-sex sexual relations — are considered unnatural, disordered and sinful.

While in most cases the Roman Catholic church did not create the many contexts of abuse, violence and discrimination women face around the world, its doctrine on women serves to reinforce and exacerbate women’s experience of violations. Its doctrine also dictates its positions in the UN system, and reveals a fundamental incompatibility with the human rights provisions of CEDAW.

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# Recommendations to the UN

- 1.** The United Nations is the pre-eminent institution of international peace and security in the world. It protects every person's human rights, and raises the bar on best practices and helps improve standards for health and freedom around the world. The United Nations must therefore refuse to get stymied by its most extremist members, especially on issues related to women, families, and sexual minorities
- 2.** The tiniest country in the world, which is led solely by men who claim to be celibate should not be able to obstruct the protection of women, girls and the LGBTI community or prevent progress on achieving sustainability goals and equality.
- 3.** The Holy See should be removed from participating in the annual Commission on the Status of Women because:
  - a.** The Holy See's ideology prevents women from having any decision-making power. It is led, totally and absolutely, by a small, elite class of celibate males.
  - b.** Such a male-dominated and misogynist power structure should not be given power to influence policies with massive impacts on the health, safety and well-being of women, children and families.
- 4.** The Holy See should have its United Nations Permanent Observer Status revoked because:
  - a.** The Holy See does not meet the criteria as a state, so therefore it can be expelled. (Member states can get condemned, but not expelled.)
  - b.** The Holy See's record of criminal offenses in the aiding and abetting of clergy who raped and sexually violated minors makes it incapable of abiding by its secular legal commitments that it has ratified in treaties.
  - c.** The Holy See should have NGO status, like all the other religious groups and churches admitted to the UN.
  - d.** If the UN is currently addressing bad actors who, as a result, are losing their NGO status, the Holy See should also be subjected to this kind of review. The Holy See should be judged on the actual results of its policies as a state, and not the moral authority it projects as a religious group.

## NOTES



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