



**Open Letter from Catholics for Human Rights to United Nations Secretary-General
Calling for Revocation of Nonmember State Permanent Observer Status
from the Roman Catholic Church**

March 14, 2019

H.E. Mr. António Guterres
Secretary-General
United Nations
New York, New York 10017

Dear Mr. Secretary-General,

We are members of Catholic organizations and networks who have come together to urge that you revoke the status of Nonmember State Permanent Observer from the Holy See - the administrative arm of the Roman Catholic Church.¹ For the reasons set out below, we believe this is in your power and that it is urgent and imperative that you do so.

I. Background

We urge this bearing in mind the gravity, significance, and seriousness of this demand as it is both a personal matter of conscience and a public matter of justice. In doing so, we renew calls that have been made in the past as the situation has only grown more dire and urgent.² The Church's status at the United Nations is not a harmless fiction. Given what we now know about the global scale and magnitude of rape, sexual violence, and torture perpetrated by clergy and the systematic cover-ups by Church officials, it has become clear that the diplomatic and sovereign

¹ We use the terms Catholic Church or Church to refer to the church as a whole, including adherents, clergy and hierarchy, or what church representatives have described as a “spiritual community of faith, hope and charity constituted as a visible society...” See *infra* n. 15 at 4. When referring to the administrative arm of the Church, known at the United Nations as the “Holy See,” we use the terms Church administration, leadership, representatives, officials, or hierarchy – to more clearly reflect the actual function served by that entity. We use the term “Holy See” when quoting or referring to its positioning or reporting before United Nations bodies.

² Tens of thousands of individuals and more than 700 organizations from more than 80 countries signed in support of the earlier calls on the United Nations to revoke the Holy See's status. See www.seechange.org.

immunities that accompany statehood have aided Church leaders in maintaining secrecy about the crimes and shielding them from investigation by secular authorities.

Even before this dimension of the crisis became apparent, the United Nations long ago created a dangerous precedent in allowing the leadership of a religious organization to have Nonmember State Permanent Observer status in processes that influence the development of broad human rights frameworks that are to apply to all people without distinction. We feel a responsibility to demand that this change since it is our religion that has been privileged above all others by having a seat as a State at the United Nations. That position provides our Church leadership with privileged access and power to influence policies and processes that affect the lives of billions of people around the world – the overwhelming majority of whom are adherents of other faiths and beliefs, or who, for their own moral reasons and conscience, do not ascribe to a faith.³

Nonmember State Permanent Observer Status allows the Holy See to, *inter alia*, participate in the general debate of the General Assembly, participate in any meetings open to all Member States, make points of order, circulate proposals, and co-sponsor resolutions and decisions.⁴ The Holy See is also allowed to participate on the same terms as other Member States in major conferences and treaty negotiations, where it can vote like other Member States, and has negotiating power to influence text and outcomes.⁵ We are deeply concerned that many of the policies pursued by our Church leadership, both through United Nations bodies, and through the power and influence it exerts at the state level around the world, can and do result in violations of human rights, particularly of women and girls, and lesbian, gay, bisexual, transgender, and intersex people, in particular the basic rights to equality and nondiscrimination, life, and health.

We must respectfully point out that the United Nations is itself a subject of international law and must adhere to the foundational principles of equality and non-discrimination set out in the Charter, its founding document, and every human rights declaration and treaty adopted since. In allowing the Church to occupy the privileged and rarefied space it has at the United Nations based on a legal fallacy, the organization is, in effect, discriminating against billions of people of other faiths, as well as those who do not adhere to a faith. Moreover, history will one day renounce as a most egregious error the fact that the United Nations allowed the Holy See, which is not a State and which explicitly, unequivocally, and systematically excludes women from all

³ According to the Vatican's figures, there are approximately 1.3 billion people baptized as Catholic as of 2016. *See* <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2018/06/13/0440/00957.html>. The current global population is approaching 7.7 billion. Of those, approximately 1.8 billion identify as Muslim, 1.2 billion as secular/agnostic/atheist, 1.15 billion as Hindu, 521 million as Buddhist, between 800 million and one billion as Protestant Christian, 394 million as Chinese traditional religion, 100 million with African traditional religions, 30 million as Sikh, 14.5 million as Jewish, 7 million as Bahai'I, 4.2 million as Jain, 2.6 million as Zoroastrian. *See* <http://www.adherents.com/> for a further breakdown.

⁴ *See, e.g.*, General Assembly Resolution, A/58/314, July 16, 2004, https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/58/314.

⁵ *See, e.g.*, Yasmin Abdullah, *The Holy See at United Nations Conferences: State or Church?*, 96 Colum. L. Rev. 1835, 1844 (1996).

leadership, governance, and decision-making, to participate as a State in processes like the Commission on the Status of Women, founded for the “promotion of women’s rights in political, economic, social, and educational fields.”⁶

The historical error of the Holy See’s status at the UN must be corrected now.

II. Our Church is not a State.

The United Nations has gone along far too long with the pretense that the leadership body of the Catholic Church constitutes a State. It is now well-documented that through an apparent quirk of history, in the still-forming process and practice in the United Nations’ earlier days, the Church leadership began insinuating itself into the community of nations with a status it did not merit and should never have enjoyed.⁷ In fact, it had earlier been refused a seat at the League of Nations because of questions as to its status and concerns that it could have “undue influence on the votes of Catholic member states.”⁸ In 1964, having become a member of the International Atomic Energy Agency, the Church leadership then asserted its intention to send permanent observers to UN Headquarters in New York via a communication to then-Secretary-General U Thant.⁹ Church leaders based this approach on an apparently unwritten practice at UN Headquarters at the time. There is no record of any actual decision approving the Church’s status, either within the Secretariat, or by the General Assembly or any other body.¹⁰

In reality, the Holy See did not then, and does not now, meet the criteria of a State set out in the 1933 Montevideo Convention on the Rights and Duties of States. Article 1 of the Convention

⁶ Resolution of the Economic and Social Council on the Commission on the Status of Women, 11(II) of June 21, 1946, available at http://www.un.org/womenwatch/daw/csw/pdf/CSW_founding_resolution_1946.pdf.

⁷ For more background and details as to the Church’s history at the United Nations, see *The Catholic Church at the United Nations: Church or State?*, Catholic for Choice, 2013, (hereinafter “Church or State?”) available at http://www.catholicsforchoice.org/wp-content/uploads/2014/01/CFC_See_Change_2013.pdf; Briefing Paper, *The Holy See at the United Nations: An Obstacle to Women’s Reproductive Health and Rights*, The Center for Reproductive Rights, August 2000, available at https://www.reproductiverights.org/sites/default/files/documents/pub_bp_holyseeattheun.pdf; See also, Geoffrey Robertson, QC, *THE CASE OF THE POPE: VATICAN ACCOUNTABILITY FOR HUMAN RIGHTS ABUSE*, Penguin UK 2010.

⁸ Church or State?, *supra* at 6.

⁹ *Id.* at 7.

¹⁰ *Id.* This is in stark contrast to Palestine, the only other entity accorded the status of Nonmember State Permanent Observer, which obtained this status after a long campaign and a vote of the General Assembly in 2012. See UN General Assembly Resolution 67/19, “Status of Palestine in the United Nations,” 4 December 2012, available at <https://unispal.un.org/DPA/DPR/unispal.nsf/0/19862D03C564FA2C85257ACB004EE69B>. The comparison to Palestine, an actual State, makes even clearer the fallacy of the Church being accorded the same status, as it squarely meets the criteria set out in the [Montevideo Convention](#), including having a permanent population of approximately 4 million people, a defined territory, and a government.

requires that a “State” have: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with other states.¹¹

a) *The “Holy See” does not have a permanent population: It has employees it calls “citizens.”*

In its 2011 report to the Committee on the Rights of the Child, Church officials reported that as of 2009, there were 567 “citizens” of Vatican City. According to the Holy See’s report, “[c]itizens are generally comprised of Cardinals, diplomatic personnel, other ecclesiastics and religious, the Pontifical Swiss Guards, lay men and lay women.”¹² Only 241 of those “citizens” resided in Vatican City at the time of the report.¹³ In 2011, it was also reported that there were only 32 female “citizens.”¹⁴ Citizenship is not based on birth, cannot be inherited, and is revoked upon termination of one’s service.¹⁵

Functionally, this means that “citizens” in the Vatican are really employees, working in service to and at the direction of the Church leadership – albeit with a special passport and credentials. They are not citizens as that term is understood with regard to actual countries and they certainly do not constitute a *permanent* population.

b) *The Holy See does not have a defined territory.*

The Holy See is explicitly described by Church officials and internal church law as a “non-territorial entity.”¹⁶ By its very definition it does not have *any* territory, much less a defined one. In fact, it is considered to exist separate and apart from any territory over which the Church claims to exercise ownership -- existing at times when there was no property or real estate over which the Catholic Church exercised any ownership.¹⁷ Since the establishment of Vatican City under the Lateran Treaty with Italy in 1929, the entity

¹¹ Montevideo Convention on the Rights and Duties of States, 1933, art. 1, available at <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml>.

¹² *Second Report of Holy See to UN Committee on the Rights of the Child*, CRC/C/VAT/2, at ¶ 111, September 27, 2011, (hereinafter “Holy See Second CRC Report”) available at https://ccrjustice.org/sites/default/files/attach/2015/09/UNCRC_VaticanReport_0.pdf.

¹³ *Id.*

¹⁴ *Only 32 women in Vatican City*, Agence France Presse, March 2, 2011, available at <https://www.heraldsun.com.au/archive/news/only-32-women-in-vatican-city/news-story/71348d2d250afeaef3fbd1edd3020eb>

¹⁵ See e.g., *New law on citizenship, residence and access to the Vatican*, L’osservatore Romano, March 2, 2011, <http://www.osservatoreromano.va/en/news/new-law-on-citizenship-residence-and-access-to-the>; Catholics for Choice, *supra* n. 5 at 6.

¹⁶ *Written replies by the Holy See to the List of Issues prepared by the Committee on the Rights of the Child*, November 2013, at ¶ 6, available at https://ccrjustice.org/sites/default/files/assets/Holy%20See_Written%20Replies_CRC.pdf.

¹⁷ *Id.*

that is the Holy See is considered to exercise ownership over the territory of Vatican City. However, Church officials consider Vatican City as established to “more effectively promote the spiritual and moral mission of the Holy See” but still separate from the Holy See.¹⁸ And, as is routinely noted, the “territory” consists of approximately 110 acres constituting what is essentially a tiny, protected, religious enclave in Rome.

c) The Holy See Does Not Have a Government.

The entity referred to as the “Holy See,” which is the entity that enjoys State status at the United Nations, is defined in internal Church law as “the government of the universal Church composed of the Pope and of the institutions which proceed from him”¹⁹ for the accomplishment of its “worldwide moral mission.”²⁰ Thus, it is essentially an administrative structure overseeing the operations of a religious organization worldwide – more akin to officers and employees of a multinational corporation than the government of a country. Even if there were some entity associated with the Catholic Church that could be considered a State, which does not exist, the Holy See would not *have* a government, it would *be* the government, not the State.

The Holy See was not a State in 1964 when it assumed its Nonmember State Permanent Observer status and is not a State now. The status was obtained through a murky process in effect at the time. Ultimately, a Secretary-General allowed the Church this status; and a Secretary-General can, and must, take it away.

III. The United Nations is itself a subject of international law and is obligated to adhere to the foundational principles of equality and nondiscrimination.

It is axiomatic that the organization founded for the maintenance of international peace and security and the promotion of human rights must also abide by the same principles it was established to promote around the world – and that it must first do no harm nor be complicit in situations giving rise to human rights violations.²¹ At a minimum this means that United Nations bodies, including the secretariat, Economic and Social Council, specialized agencies,

¹⁸ *Id.* at ¶ 7.

¹⁹ Code of Canon Law 361. *See also* Holy See Second CRC Report, *supra* n. 10 at ¶ 2, available at https://ccrjustice.org/sites/default/files/attach/2015/09/UNCRC_VaticanReport_0.pdf.

²⁰ *Id.* at ¶ 3.

²¹ That the United Nations itself has this duty has been recognized in various resolutions and mandates. *See e.g.* General Assembly Resolution on the High Commissioner for the promotion and protection of all human rights, A/RES/48/141 (Dec. 20, 1993) available at <http://www.un.org/documents/ga/res/48/a48r141.htm>; and Resolution of the Economic and Social Council on the Follow-up to the Fourth World Conference on Women, ECOSOC Res. 1996/6, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N97/775/21/IMG/N9777521.pdf?OpenElement>, both of which acknowledge protection and respect for human rights and gender-mainstreaming as system-wide obligations.

programmes and funds, may not discriminate on the basis of, *inter alia*, race, religion, or sex, in fulfilling the organization's purposes and carrying out its work.

Article 1 of the United Nations Charter established that a central purpose of the United Nations is “promoting and encouraging respect for human rights and fundamental freedoms for all.”²²

Article 55 requires that “the United Nations shall promote... (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” Every human rights declaration and treaty adopted since the Charter have included these and other prohibited bases of discrimination.

In allowing the leadership of the Church to occupy the privileged space at the United Nations based on a legal fallacy, the United Nations is, in effect, discriminating against billions of adherents of other religions around the world, and those who do not adhere to a particular faith or religion. No other religion purports to be a State and entitled to a seat at the table of nations – nor should it. The Church leadership's access, actions, and conduct at the United Nations have significant and far-reaching impacts on the lives of billions of people on the planet.

Nondiscrimination on the basis of sex has also been a mandate for the United Nations since its inception and has been reiterated and elaborated in subsequent declarations and treaties. The Commission on the Status of Women was founded in 1946 specifically to help make that right a reality as it was tasked with the “promotion of women's rights in political, economic, social, and educational fields.”²³ In 1996, the Commission's mandate was expanded and deepened, giving it a “catalytic role in mainstreaming a gender perspective in policies and programmes,” which included implementation of the Beijing Platform for Action “through the work of all the bodies and organizations of the United Nations system.”²⁴

The Church's administration, or hierarchy, is a non-State entity that systematically excludes women from positions of leadership, authority, and governance and claims a “citizenry” that includes only 32 women. Using its access and privileged position at the United Nations, it has worked to impede progress in the promotion of the rights of women and LGBTI people and has taken aim at policies and recommendations concerning sexual and reproductive health and education geared to protecting the right to life and health and ensuring bodily autonomy.²⁵ Church representatives have repeatedly advocated that abortion, even in cases of rape and incest,

²² UN Charter, Art. 1(3), <http://www.un.org/en/charter-united-nations/>.

²³ ECOSOC resolution 11(II) of 21 June 1946, *supra* n. 4.

²⁴ ECOSOC resolution 1996/6, July 22, 1996, *supra* n. 19.

²⁵ See Joanne Omang, *Playing Hardball Against Women's Rights: The Holy See at the UN*, Conscience Vol. XXXIV No. 2 2013, available at http://digital.graphcompubs.com/article/Playing_Hardball_Against_Women%E2%80%99s_Rights_/1439705/165029/article.html; See also, Holy See Second CRC Report, *supra* n. 11, describing Vatican interventions at various fora on these issues.

be excluded from the concept of the right to health.²⁶ They have further advocated against contraception and safe-sex practices aimed preventing the spread of HIV/AIDS and other sexually-transmitted disease.²⁷

In 2014, the Committee on the Rights of the Child highlighted the harmful effects of the Church hierarchy's positions when it expressed its "deepest concern" about the response of Church leadership to the case of a nine-year-old girl in Brazil who underwent an emergency life-saving abortion in 2009, after having been raped by her stepfather. The archbishop sanctioned the girl's mother and the doctor who performed the abortion. The sanction was later approved by the head of the Congregation of Bishops in Rome.²⁸ The Committee also expressed concern about the negative real-life consequences of the Holy See's "position and practices of denying adolescents' access to contraception, as well as to sexual and reproductive health and information."²⁹

The Holy See's positioning at the CSW on these issues and in other fora where it enjoys State-like status, and its punitive sanctioning of a mother and doctor who chose to save the life of a nine-year-old rape survivor, are particularly egregious when one considers the credible investigations and reports highlighting cases where priests and other Church officials helped procure abortions for victims of rape and sexual violence by clergy as part of the cover-up. With respect to the plight of nuns and religious sisters, as one recent report points out, high-ranking Church officials knew about these reports for decades.

For example,

- A Grand Jury in the United States which undertook extensive investigation into cases of sexual violence by clergy reported that an 11-year-old girl was raped by her priest and became pregnant and that the priest took her for an abortion.³⁰
- A book by a religion editor in the United States reported that "a number of [church] insiders, including a diocesan priest" in the diocese of Toledo, Ohio, described privileged diocesan files contained "reports of abortions paid for by the diocese."³¹

²⁶ See e.g., Explanation of the Holy See on the Resolution "Women, The Girl Child and HIV and AIDS," <https://holyseemission.org/contents/statements/575070ae98af67.99624336.php>.

²⁷ *Id.*; Omang, *supra* n. 25.

²⁸ UN Committee on the Rights of the Child, Concluding Observations: Holy See, ¶54, Jan. 31, 2014, available at https://ccrjustice.org/sites/default/files/attach/2014/12/UN_CRC_ConcludingObservations_CRC.pdf

²⁹ *Id.* at ¶ 56.

³⁰ *Report of the Grand Jury*, First Judicial District of Pennsylvania, at 3, Sept. 17, 2003, available at bishopaccountability.org/reports/2005_09_21_Philly_GrandJury/Grand_Jury_Report.pdf.

³¹ See David Yonke, *SIN, SHAME & SECRETS: A TRUE STORY OF THE MURDER OF A NUN, THE CONVICTION OF PRIEST, AND THE COVER-UP IN THE CATHOLIC CHURCH*, 2015.

- A woman in California settled a lawsuit against the Church for \$1.2 million in which she alleged that a priest got her pregnant when she was 16 and paid for her abortion.³²
- More recently, Women Church World, a Vatican women's magazine, denounced the rape and sexual abuse of nuns by priests, and the resulting scandal of "religious sisters having abortions or giving birth to children who go unrecognized by their fathers."³³ The magazine noted that religious sisters "told Vatican officials as far back as the 1990s about priests sexually abusing nuns in Africa because they were considered 'safe' targets during the HIV crisis."³⁴ One of those reports, which focused on dioceses in Africa, noted that "sexual harassment and even rape of sisters by priests and bishops is allegedly common" and sometimes, "when a sister becomes pregnant, the priest insists that she have an abortion."³⁵

Thus, in one of the most striking displays of hypocrisy and double-standards, the Church leadership has used its presumed moral authority in the world and its position at the United Nations and other fora to denounce and condemn access to what is at times life-saving, necessary medical care while at the same time its own employees and officials resorted to and condoned the same procedures in the context of rape and sexual violence committed by clergy as part of the institutional cover-up.

IV. The Church's "Statehood" has facilitated and enabled the widespread rape and sexual violence by clergy and systematic cover-up of these crimes by higher Church officials and leadership.

The fact of a global crisis of rape and sexual violence by Catholic clergy and institutional cover-up that is widespread, systematic, and severe is now well-documented and incontrovertible.³⁶

³² *\$1.2 Million Settlement in Alleged Sex Abuse Case: Woman Also Files Crime Report*, NBC4.TV, April 1, 2002, available at [https://www.bishop-accountability.org/news/2002_04_01_NBC4TV_\\$12Million.htm](https://www.bishop-accountability.org/news/2002_04_01_NBC4TV_$12Million.htm)

³³ *See Nuns were sexually abused by priests as church looked the other way, Vatican magazine says*, Los Angeles Times, Feb. 1, 2019, <https://www.latimes.com/world/la-fg-vatican-nuns-abuse-20190201-story.html>; Jason Horowitz, *Sexual Abuse of Nuns: Longstanding Church Scandal Emerges from Shadows*, New York Times, Feb. 6, 2019, <https://www.nytimes.com/2019/02/06/world/europe/pope-francis-sexual-abuse-nuns.html?login=email&auth=login-email>.

³⁴ *Id.*

³⁵ Marie McDonald, *The Problem of Sexual Abuse of African Religious in Africa and in Rome, Paper for the Council of "16"*, Nov. 20, 1998, available at http://natcath.org/NCR_Online/documents/McDonaldAFRICAreport.htm

³⁶ For compilations of different national inquiries and investigations and other reporting on sexual violence by clergy and cover-up, see, e.g., *Victims' Communication Pursuant to Article 15 of the Rome Statute Requesting Investigation and Prosecution of High-Level Vatican Officials for Rape and Others Forms of Sexual Violence as Crimes Against Humanity and Torture as a Crime Against Humanity*, September 2011, available at <http://s3.documentcloud.org/documents/243877/victims-communication.pdf>; *Fighting for the Future*, submitted to the Committee on the Rights of the Child upon review of the Holy See, February 2013, available at <https://ccrjustice.org/sites/default/files/assets/SNAP%20Shadow%20Report%20to%20UN%20CRC.pdf>; *Shadow Report, prepared for 52nd Session of the Committee Against Torture in Connection with its Review of the Holy See*,

This awareness has *only* come about as a result of the efforts of survivors and advocates who have come forward in different countries over the past few decades, often with considerable personal sacrifice – not through *any* efforts on the part of the Church. The Committee on the Rights of the Child recognized in 2014 that “tens of thousands of children worldwide” have been subjected to acts of sexual violence by members of the Catholic clergy and that this crisis is ongoing.³⁷ The Committee Against Torture followed soon after with similar findings and concerns.³⁸ The cases and revelations continue to emerge³⁹ and there is no sign of real improvement. Despite the long-overdue and widely publicized summit held recently in Rome about the crisis, Vatican officials have done nothing to fundamentally alter the systems and structures that facilitate and enable widespread rape and sexual violence.

Less known and understood is the way in which the Holy See’s claimed status as a State has been key in allowing the crisis to go unchecked for so long. As survivors of sexual violence have long reported, the hybrid status wrongly accorded the Holy See – an administrative body overseeing a religious organization with a tiny enclave in Rome but a virtually global presence with protections afforded sovereigns *and* religious entities – is a significant factor enabling the widespread sexual violence within the Church. The Church is thus able to exist alongside as well as within other countries which gives rise to a situation on the ground that helps block redress for victims of sexual violence by clergy and aids Church officials in concealing the offenses.

With State status, Church officials can invoke sovereign immunity, or diplomatic immunity under the Vienna Convention on Diplomatic Relations, to avoid civil suit or criminal prosecution. As the Secretary-General knows, under the Vienna Convention for example, the premises, correspondence, archives, and documents of diplomatic missions are inviolable, and

April 2014, available at https://ccrjustice.org/sites/default/files/attach/2014/12/CCR_SNAP_Shadow_Report_apr2014.pdf; *Supplemental Submission to the United Nations Committee Against Torture in Advance of its Review of the Holy See During its 52nd Session*, Center for Constitutional Rights and Survivors Network of those Abused by Priests, April 2014, available at https://ccrjustice.org/sites/default/files/assets/SNAP_UNCATSuppReportFINAL_2014-04-18.pdf. *Alternative Report to the United Nations Committee on the Rights of the Child Regarding the Periodic Reports of the Holy See Due on 1 September 2017*, September 2017, available at https://ccrjustice.org/sites/default/files/attach/2017/09/2017-09_SNAPCCR_Report_CRC.pdf; *40th Statewide Investigating Grand Jury, Report 1: Interim*, Redacted, Released August 14, 2018, available at <http://media-downloads.pacourts.us/InterimRedactedReportandResponses.pdf?cb=5510158>.

³⁷ United Nations Committee on the Rights of the Child, *Concluding Observations: Holy See* (31 Jan. 2014), ¶¶ 43, 44(b) available at https://ccrjustice.org/sites/default/files/attach/2014/12/UN_CRC_ConcludingObservations_CRC.pdf.

³⁸ United Nations, *Concluding Observations of the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the Initial Report of the Holy See*, CAT/C/VAT/CO/1 (17 June 2014) (“CAT Concluding Observations”), paras. 9-18, available at https://ccrjustice.org/sites/default/files/attach/2015/09/UNCAT_ConcludingObservationsVatican%28June2014%29.pdf.

³⁹ Fredrick Nzwili, *Africa is also grappling with clerical abuse, say Catholic leaders*, Catholic News Service, Feb. 7, 2019, <https://www.catholicnews.com/services/englishnews/2019/africa-is-also-grappling-with-clerical-abuse-say-catholic-leaders.cfm>.

diplomatic agents enjoy immunity from criminal and civil jurisdiction wherever they exist around the world.⁴⁰ As of 2018, the Holy See had diplomatic relations with 183 states.⁴¹ Its State status at the United Nations has undoubtedly assisted it in becoming second only to the United States in the number of countries with which it has diplomatic relations.⁴² In 1959, before Church leadership assumed Nonmember State Permanent Observer Status at the United Nations, only 24 ambassadors affirmed diplomatic relationships with the Vatican – 30 years after the Lateran Treaty gave the Church ownership of Vatican City.⁴³

Church officials have used the status of statehood to assert sovereign and diplomatic immunities to shield against efforts to investigate and prosecute the crimes or civil actions.⁴⁴ As recently as February 2019, reports about the efforts of the British government’s Independent Inquiry into Child Sexual Abuse noted concerns that “nuncios are using their diplomatic immunity to help the Catholic Church resist cooperating with police and civil investigations.”⁴⁵

At the same time, Church authorities have used the fact of the Church’s status as a religious entity to shield it from civil suits on the grounds that any inquiry by national courts into the church’s handling of abuse cases constitutes an undue interference with the free exercise of religion. In one case in the United States, an appellate court agreed with Church authorities and

⁴⁰ Vienna Convention on Diplomatic Relations, 1961, articles 22, 24, 27, 29-31, available at http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf.

⁴¹ Note on the Diplomatic Relations of the Holy See, Aug. 1, 2018, Holy See Press Office, <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/01/08/180108a.html>.

⁴² Paolo Mastrolilli, “*The Vatican is like us Americans. A Global Power able to influence the world*”: Dispatches sent to Washington before Bergoglio settled in, Vatican Insider, June 27, 2017, <https://www.lastampa.it/2017/06/27/vaticaninsider/eng/world-news/the-vatican-is-like-us-americans-a-global-power-able-to-influence-the-world-1rSp8c1WUeXmrZlpkazjCJ/pagina.html>.

⁴³ See Church or State, *supra* n. 7 at 7.

⁴⁴ See, e.g., James Robertson, *Archbishop Used Immunity in Civil Suit*, Sidney Morning Herald, 9 July 2012, <https://www.smh.com.au/world/archbishop-used-immunity-in-civil-suit-20120708-21pkh.html>; *French European minister calls on Holy See to revoke nuncio’s diplomatic immunity*, Catholic News Agency, March 4, 2019, available at <https://www.catholicworldreport.com/2019/03/04/french-european-minister-calls-on-holy-see-to-revoke-nuncios-diplomatic-immunity/>; *Vatican Fights to Keep Pope Out of Court*, Associated Press, March 31, 2010, available at <https://www.cbsnews.com/news/vatican-fights-to-keep-pope-out-of-court/>; *U.S. Asks Court to Dismiss Abuse Suit That Names Pope*, Associated Press, Sept. 21, 2005, available at <https://www.nytimes.com/2005/09/21/us/us-asks-court-to-dismiss-abuse-suit-that-names-pope.html>; *Vatican Declines Extradition for Papal Nuncio Accused of Abuse*, The Catholic Culture, Jan. 10, 2014, available at http://www.bishop-accountability.org/news2014/01_02/2014_01_10_CatholicCulture_VaticanDeclines.htm; Brian Rowe, *Vatican Nuncio Quashed Sexual Misconduct Inquiry of Archbishop Nienstedt*, National Catholic Reporter, July 21, 2016, available at http://www.bishop-accountability.org/news2016/07_08/2016_07_21_Roewe_VaticanNuncio.htm.

⁴⁵ Catherine Pepinster, *British inquiry into church sexual abuse blasts UK’s papal nuncio*, National Catholic Reporter, February 19, 2019, <https://www.ncronline.org/news/accountability/british-inquiry-church-sexual-abuse-blasts-uks-papal-nuncio>.

the United States Supreme Court let the decision stand, ending any hope of redress for the victim in that case.⁴⁶

Finally, Church leaders have demonstrated that they want the benefits, but not the responsibilities, that come with being a State. The Holy See ratified the Convention on the Rights of the Child in 1990 and acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) in 2002. It was only in 2014, more than two decades after ratifying the child rights convention, and a decade after acceding to CAT, that Church representatives were summoned to report to these treaty bodies. This demonstrates that both the Holy See and likely the international community viewed its ratification of these conventions as largely symbolic – until the scale and magnitude of the rape and sexual violence by clergy and the institutional facilitation of it became undeniable.

In its report to the Committee Against Torture, the Holy See’s submission made no mention of the widespread rape and sexual violence by clergy and cover-up even though rape and sexual violence have long been legally understood as forms of torture because, as the International Criminal Tribunal for the Former Yugoslavia observed, it “strikes at the very core of human dignity and physical integrity.”⁴⁷ A Vatican spokesperson, however, warned the Committee beforehand not “to bring the issue of sexual abuse of minors into the discussion on torture.”⁴⁸

The Committee did bring the issue into the discussion with Church representatives and, like the Committee on the Rights of the Child, expressed very serious concern and posed very tough questions as to the lack of institutional response. Once these bodies became questioning and critical, the Holy See refused to engage further. To date, it has failed to comply with requests from both committees to provide additional information about the issue and with subsequent reporting requirements.⁴⁹

⁴⁶ See *Doe v. Roman Catholic Archdiocese of St. Louis*, Decision of the Missouri Court of Appeals, Eastern District, No. ED94720, 5 July 2011, *cert. denied*, *John Doe AP v. Roman Catholic Archdiocese of St. Louis*, 11-840 (U.S. Mar. 19, 2012) available at <http://www.courts.mo.gov/file.jsp?id=47627>. The court held:

...questions of hiring, ordaining, and retaining clergy, necessarily involve interpretation of religious doctrine, policy, and administration, and such excessive entanglement between church and state has the effect of inhibiting religion, in violation of the First Amendment, U.S. Const. Amend. I. Further, adjudicating the reasonableness of a church's supervision of a cleric--what the church 'should know'-- requires inquiry into religious doctrine.

⁴⁷ See *Prosecutor v. Mucic, et al.* (Čelebići Case), Case No. IT-96-21-T, Judgement (16 Nov. 1998).

⁴⁸ *Vatican Urges U.N. Not to Equate Abuse with Torture as Hearings Get Underway*, Religion News Service, May 2, 2014, https://www.huffingtonpost.com/2014/05/02/vatican-sex-abuse-torture_n_5255605.html.

⁴⁹ See *Alternative Report to the United Nations Committee on the Rights of the Child Regarding the Periodic Reports of the Holy See Due on 1 September 2017*, September 2017, available https://ccrjustice.org/sites/default/files/attach/2017/09/2017-09_SNAPCCR_Report_CRC.pdf;

Conclusion

The Holy See is not a State and it was not a state in 1964. Its presence as such at the United Nations violates basic principles upon which the organization was founded – in particular the rights to equality and non-discrimination. The State status gives the Church's leadership access and power that disadvantage and discriminate against billions of people around the world. Its State status has also given it a power at the international and national level that has allowed it to shield itself against accountability for what amount to crimes against humanity – widespread, systematic rape, sexual violence, and torture of children and vulnerable adults. This harmful charade must end now. We as Catholics for Human Rights call upon your offices to make it so.

Sincerely,

Catholics for Human Rights

cc: H.E. María Fernanda Espinosa Garcés, President, General Assembly
H.E. Inga Rhonda King, President, Economic and Social Council
Ms. Amina J. Mohammed, Deputy Secretary-General
Ms. Phumzile Mlambo-Ngcuka, Executive Director, UN Women
Dr. Natalia Kanem, Executive Director, United Nations Population Fund
Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights,
Office of the High Commissioner for Human Rights
Ms. Āsa Regnér, Deputy Executive Director and Director, Intergovernmental Support and
Strategic Partnerships Bureau, UN Women
Ms. Jane Connors, Assistant Secretary-General, Victims' Rights Advocate
Mr. Andrew Gilmour, Assistant Secretary-General, Office of the High Commissioner
for Human Rights
Ms. Laura Cecilia Londén, Assistant Secretary-General, Deputy Executive Director,
United Nations Population Fund
Ms. Renate Winter, Chairperson, Committee on the Rights of the Child
Mr. Jens Modvig, Chairperson, Committee against Torture
Mr. Achim Steiner, Administrator, United Nations Development Programme
Mr. Kent Buse, Chief of Strategic Policy Directions,
Joint United Nations Programme on HIV/AIDS
Ms. Karima Bennouna, Special Rapporteur, The Field of Cultural Rights
Dr. Ahmed Shaheed, Special Rapporteur, Freedom of Religion or Belief
Mr. Nils Melzer, Special Rapporteur, Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment
Ms. Dubravka Šimonovic, Special Rapporteur, Violence Against Women,
Its Causes and Consequences
Mr. Victor Madrigal-Borloz, Independent Expert, Protection Against Violence
and Discrimination Based on Sexual Orientation and Gender Identity
Ms. Susan O'Malley, Chair, NGO Committee on the Status of Women