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PONTIFICAL LEGATION
TO THE UNITED NATIONS

The appointment of legates of the Roman Pontiff as observers and delegates to the United Nations and its related bodies is a relatively new innovation dating back to the post World War II period¹. These legates are entrusted with an ecclesiastical office representing the Roman Pontiff in a stable manner in public authorities to which they are appointed². Legates also represent the Apostolic See as observers or delegates to pontifical missions at international meetings, conferences and councils³. With the expansion of the scope of work done by the United Nations, the Roman Pontiff has established Missions of the Holy See, appointing Permanent Observers and Delegates (Permanent Representatives) at the United Nations Headquarters in New York, United Nations Offices in Geneva and Vienna, and pontifical legates at UN Specialized Agencies and affiliated bodies in Nairobi, Madrid, London, Montreal, and Berne. Pontifical legates and their staff at the United Nations work within the extensive framework of issues

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

² See, c. 363 § 1.

³ See, c. 363 § 2.

and matters before the General Assembly and over 25 UN Specialized Agencies, Commissions and Programmes world-wide. The ecclesiastical office and functions of pontifical legates appointed to the United Nations are subject to both canon law and international law.

1. LEGAL FOUNDATIONS OF PONTIFICAL LEGATION TO THE UNITED NATIONS

The CIC c. 362 reaffirms the Roman Pontiff's right to legation as the Ainate and independent right to appoint, send, transfer and recall his own legates either to particular Churches in various nations or regions or to states and public authorities within the context of post-Vatican II *ad intra* and *ad extra* dimensions of Church relations⁴ As the Holy See is a signatory of the 1961 Vienna Convention on Diplomatic Relations, the norms of international law must be observed in regard to the appointment, sending and recalling of legates appointed to international organizations and bodies such as the United Nations.

(a) INTERNATIONAL PERSONALITY OF THE HOLY SEE

The Holy See is today identified as having international personality due to the expanded interpretation of sovereignty, autonomy, power of self-organization and capacity to enter into and act upon international juridical acts⁵. Previous models of the international personality of States, meeting criteria of a permanent population, a defined territory, government and capacity to enter into relations with other States⁶ did not apply to the Holy See.

⁴ See G. L a j o l o, *Nature and Function of Papal Diplomacy*, Singapore: Institute of Southeast Asian Studies 2005, p. 21; cf. D. le T o u r n e a u, *La mission „ad extra” des représentants pontificaux*, „Ius Ecclesiae” 9 (1997), pp. 485-507; cf. G. L a j o l o, *Funzione ecclesiale delle rappresentanze pontificie*, „La Scuola Cattolica” 3 (1969), pp. 205-231.

⁵ See: V. B u o n o m o, *A the Holy See in the Contemporary International Community* (further B u o n o m o, *Holy See*), in: G. de S i m o n e (ed.), *Civitas et Iustitia*, Rome: Lateran University Press 2004, pp. 11B14, 16. See also: H. E. C a r d i n a l e, *The Holy See & the International Order* (further C a r d i n a l e, *Holy See*), Gerrards Cross: Coli Smythe 1976, pp. 86-89, 93-94.

⁶ The Montevideo Convention on Rights and Duties of States (Inter-American), 26 December 1933, was signed at the 7th International Conference of American States by 20 national representatives (and ratified by the United States) and outlined these four criteria for statehood and its international personality.

Although the Vatican City State has its own international personality and can enter into relations with other international personalities, it is represented by the Holy See when it enters into international agreements. A clarification on the use of the titles ‘Vatican City State’ and ‘Holy See’ came from the UN Secretariat in 1957, when UN Secretary-General Dag Hammarskjöld identified the issue and confirmed that the appropriate title to be used was the Holy See⁷.

The right of papal legation is reiterated in the motu proprio *Sollicitudo omnium Ecclesiarum*: “the Roman Pontiff has the natural and independent right freely to appoint, send, transfer and recall his representatives without prejudice to the norms of international law as regards the sending and recalling of constituted legates to states (no. III, 1)”⁸. One can speak of two dimensions of legation: the right of legation *ad intra* which „[...] is an absolute right and carries with it complete freedom and independence from every authority whatsoever, with regard to nomination, assignment, transfer or recall” and the right of legation *ad extra* which „[...] should develop in conformity with International Law”⁹.

As the Holy See is a signatory of the 1961 Vienna Convention on Diplomatic Relations, the norms of international law must be observed in regard to the appointment, sending and recalling of legates appointed to international organizations and bodies such as the United Nations. Diplomatic law in this area had not been comprehensively updated since the 1815 Congress of Vienna. The Holy See participated in the Conference at the Neue Hofburg, signed the Convention on 18 April 1961 and submitted instruments of ratification to the UN Secretary-General on 17 April 1964¹⁰. The codification of diplomatic law in the form of an international convention on diplomatic inter-

⁷ See: S. V e r o s t a, *The Holy See and the International Organizations – 1972 Day of Peace at the Permanent Mission of Holy See at the IAEA*, ORe, 3 May 1973, p. 4. See also: J o h n P a u l I I, *Address to the United Nations General Assembly “Dignity of the Human Person Founded on Justice and Peace”*, 2 October 1979, New York, AAS 71 (1979), p. 1143, English translation in: ORe, 15 October 1979, p. 1.

⁸ SOE, ORe 17 July 1969, p. 3.

⁹ M. O l i v e r i, *The Representatives: The Real Nature and Functions of Papal Legates* Gerrards Cross: Van Duren Publishers 1981, p. 79. See also: G. P a r o, *The Right of Papal Legation* (further P a r o, *Papal Legation*), Canon Law Studies no. 211, Washington: The Catholic University of America Press, 1947, pp. 46-184. Gino Paro wrote a historical-juridical study of the right of papal legation, tracing back its historical background to the fourth century.

¹⁰ See: United Nations, *Treaty Series*, vol. 596, New York: UN Publications 1964, pp. 95B110, 212.

course, privileges and immunities was a major advancement in establishing regulatory provisions in this area of international law. As a signatory of the Convention, the Holy See and its diplomatic practices, legates, nunciatures and missions are therefore subject to the provisions of the Vienna Convention on Diplomatic Relations.

The United Nations Conference on Consular Relations was held at the Neue Hofburg in Vienna from 4 March to 22 April 1963, with 92 States represented, including the Holy See. Unanimously adopted on 22 April 1963, the Convention on Consular Relations, consisted of 79 articles which ‘codified the rules governing consular relations in general, facilities, privileges and immunities relating to consular posts, career consular officers and other members of a consular post’¹¹. The Convention came into force 19 March 1967, in accordance with article 77. The Holy See signed the Convention on 24 April 1963 and submitted instruments of ratification on 8 October 1970, becoming subject to the articles of the Convention on Consular Relations¹².

The level of acceptance of the Holy See’s Permanent Observer Mission by the international community of nations present at the United Nations has grown and developed into a fruitful relationship of cooperation and attentiveness to the Holy See’s contribution to substantive issues of debate, the formulation of international law legislation, interreligious dialogue, advocacy in the defence of the dignity of the human person and human rights throughout the world¹³. In the 20th century, the Holy See has undergone a process of professionalization of papal diplomatic services conforming to a global diplomatic practice of requiring professional practitioners and a skilled diplomatic corps able to respond and adapt to developing diplomatic requirements and procedures¹⁴. Diplomatic relations between the Church and States throughout the world in the post-Vatican II period underwent unprece-

¹¹ UN 63, pp. 510B513.

¹² See United Nations, *Treaty Series*, vol. 596, pp. 261B282. As of 31 December 2004, there were 181 States parties to the 1961 Vienna Convention on Diplomatic Relations and 166 States parties to the 1963 Vienna Convention on Consular Relations, in: UN 2004, p. 1317.

¹³ See: C. M i g l i o r e, *Ways and Means of the International Activity of the Holy See*, in: W. O n c l i n C h a i r, *Church and State Changing Paradigms*, Leuven: Katolieke Universiteit Leuven, Faculty of Canon Law 1999, pp. 31-41.

¹⁴ See: D. A l v a r e z, *The Professionalization of the Papal Diplomatic Service, 1909-1967*, “The Catholic Historical Review” 1989, pp. 233-248; cf. I. M a r t i n, *The Church’s Relations with Foreign Governments*, “Concilium” 8 (1970), pp. 94-103; G. B e n e l l i, *Validità della diplomazia pontificia*, “La Civiltà Cattolica” 2 (1972), pp. 268-278.

mented expansion and extension of relations¹⁵. The Holy See's expansion of global diplomatic activity included a focused attention to involvement and participation in the work of international organizations¹⁶.

Although the Holy See participated in the work of such agencies as FAO and IAEA since the 1950s, the formal invitation of Secretary General U Thant in 1964 to the Holy See to send a Permanent Observer to the United Nations marked the beginning of a higher level of participation. In 2004, the United Nations General Assembly passed resolution A/Res/58/314 formally acknowledging and establishing the range and levels of participation of the Holy See as a Permanent Observer¹⁷.

(b) DIPLOMATIC STATUS
OF HOLY SEE PERMANENT OBSERVER MISSION
AT THE UNITED NATIONS

The status of the Holy See Mission as a Permanent Observer at the United Nations continued until 2004 on the basis of the 6 April 1964 invitation letter of UN Secretary-General U Thant to Pope Paul VI¹⁸. The Holy See had received continuous invitations to attend and participate with interventions in a wide-range of United Nations meetings, international conferences and sessions of the General Assembly. With the purpose of fulfilling its spiritual mission, the Holy See participated in the work of post World War II international organizations and United Nations Specialized Agencies as early as the late 1940s¹⁹. Although the Holy See's participation had been extensive, there was no formalized acknowledgment of the range and level of partici-

¹⁵ Cf. J. C. O t e r o, *Church-State Relations in the Light of Vatican II*, "Concilium" 8 (1970), pp. 113-125; cf. G. C a p r i l e, *La diplomazia pontificia e i suoi compiti*, "La Civiltà Cattolica" 2 (1972), pp. 164-166; P. H u i z i n g, *Church and State in Public Ecclesiastical Law*, "Concilium" 8(1970), pp. 126-135; G. M u c c i, *La diplomazia pontificia dopo il Concilio*, "La Civiltà Cattolica" 2 (1989), pp. 535-546.

¹⁶ Cf. B. B e r t a g n a, *Santa Sede ed organizzazioni internazionali*, "Monitor ecclesiasticus" 106 (1981), pp. 250-286.

¹⁷ See: UN GA, 58th Session, resolution 58/314 (UN GA, resolution 58/314), 16 July 2004, in: *Official Records of the United Nations General Assembly*, New York 2005, pp. 1-2.

¹⁸ See: UN GA, 58th Session, resolution 58/314, p. 1.

¹⁹ Cf. H. d e R i e d m a t t e n, *The Part Played by the Holy See in International Organizations*, "Concilium" 8 (1970), pp. 74-93; cf. A. d e J o n g, *Concordats and International Law*, "Concilium" 8 (1970), pp. 104-112; F. C a v a l l i, *Spiritualità di fini e di metodi della diplomazia pontificia*, "La Civiltà Cattolica" 1 (1963), pp. 131-144.

pation of the Holy See as a Permanent Observer. This issue was addressed in 2004.

On 1 July 2004 The UN General Assembly at its 92nd plenary meeting in New York considered and adopted draft resolution A/58/L.64 as UN General Assembly resolution A/RES/58/314 B 'Participation of the Holy See in the Work of the United Nations'²⁰. The resolution first acknowledges the wide scope of participation of the Holy See in the work of the United Nations as both a Permanent Observer and member in various UN subsidiary bodies²¹. It also acknowledges that the Holy See contributes financially to the general administration of the United Nations, according to A/RES/58/1B of 23 December 2003²².

²⁰ See: UN GA, 58th Session, resolution 58/314; UN GA, 58th Session, 92nd plenary meeting, document A/58/PV92, 16 July 2004, in: *Official Records of the United Nations General Assembly*, p. 2.

²¹ See: UN GA, 58th Session, resolution 58/314, pp. 1B2. The resolution lists the Holy See's current participation in a diverse range of international instruments, including the Vienna Convention on Diplomatic Relations, Vienna Convention on Consular Relations, Vienna Convention on the Law of Treaties, the Convention relating to the Status of Refugees and the Protocol thereto, the Convention on the Rights of the Child and the Optional Protocols thereto, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention for the Protection of Cultural Property in the Event of Armed Conflict, the Paris Convention for the Protection of Industrial Property, the Treaty on the Non-Proliferation of Nuclear Weapons, the main disarmament treaties and the Geneva Conventions and the Additional Protocols. The Holy See is a Member in UN subsidiary bodies, Specialized Agencies and international intergovernmental organizations, including the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, the United Nations Conference on Trade and Development, the World Intellectual Property Organization, the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the International Committee of Military Medicine. The Holy See participates as an Observer at the FAO, ILO, WHO, UNESCO, UNIDO, IFAD, UNWTO, WTO, and is a full Member of the Organization for Security and Cooperation in Europe and a Guest of Honour in its Parliamentary Assembly. Moreover, the Holy See is an Observer in various other regional intergovernmental organizations, including the Council of Europe, the Organization of American States and the African Union, and regularly attends meetings of the Asian-African Legal Consultative Organization. In addition, the Economic and Social Council in 1977 recommended that the Holy See attend sessions of the regional commissions on the basis similar to those afforded to these UN Members which are not Members of the regional commissions.

²² See: *ibid.*, p. 2; UN GA, 61st Session, resolution 61/237, 22 December 2006, in: *Official Records of the General Assembly*, 13 February 2007, p. 7. "The Assessment of Contributions by Non-member States Towards the 2004 Expenses of the United Nations for Their Participation in United Nations Activities" was set for the Holy See at US\$ 7,180 and was reconfirmed

The UN General Assembly resolution A/RES/58/314 Annex lists ten points which outline the rights and privileges of participation of the Holy See. The first point states that the Holy See has ‘the right to participate in the general debate of the General Assembly’²³ the right to participate in the general debate after Member States and before Palestine²⁴. The acknowledgment of this right was important, as a formal recognition of the continuous and permanent presence of the Holy See Permanent Observer in the debates of the General Assembly. The UN General Assembly debates are an extraordinary world forum for making a contribution in the defence of the dignity of the human person. As a result of this resolution, expanding and formally regulating the Holy See’s level of participation was a milestone in the history of the Holy See’s presence at the United Nations. Subsequent points address: the right of inscription on the list of speakers; right to make interventions and right of reply; the right to having the Holy See’s communications at the General Assembly and all international conferences to be issued and circulated as official documents of the Assembly and conferences; the right to raise points of order relating to any proceedings involving the Holy See; the right to co-sponsor draft resolutions and decisions that make reference to the Holy See; seating arrangements at the General Assembly and conferences; and the Holy See does not have the right to vote or put forward candidates in the General Assembly²⁵.

By specifically stating the parameters of its participation and its rights, although some restrictions are applied, the General Assembly resolution gives the Holy See Permanent Observer Mission at the United Nations enhanced opportunities for participation in the work of the Assembly for the fulfilment of the Holy See’s spiritual mission of being able to bring about as the „purification of reason”²⁶, to defend the dignity of the human person, to strive for peace and development, by making an important contribution to the deba-

in UN General Assembly resolution A/RES/61/237 of 13 February 2007 for the fiscal years 2007B2009.

²³ See: UN GA, 58th Session, resolution 58/314, p. 2.

²⁴ See: UN Sec. Gen. Note, p. 2.

²⁵ See: UN GA, 58th Session, resolution 58/314, pp. 2B4; see also: UN Sec. Gen. Note, pp. 3B4.

²⁶ See: B e n e d i c t XVI, *Encyclical Letter* “Deus caritas est”, AAS 98 (2006), pp. 217-252 (DCE), English translation *God is Love*, Vatican City: Libreria Editrice Vaticana, 2006; cf. J o h n P a u l II, *Encyclical Letter* “Redemptoris missio”, 7 December 1990, AAS 83 (1991), pp. 249-340, English translation in: M i l l e r, pp. 435-496.

tes among the delegates of UN Member States. The papal legates' contribution in the nurturing of an unconditional commitment to the common good and peacebuilding are part of the spiritual mission of the Holy See at the United Nations and within the everyday work of its Committees and affiliated agencies. Through the work of the legates at the United Nations, this witness to Christ brings hope and perspective to an often overwhelming agenda of challenges and crises faced by Member States at the Committee and General Assembly levels of deliberations.

2. RECENT LEGISLATION ON PAPAL REPRESENTATIVES

(a) PONTIFICAL LEGATES AS REPRESENTATIVES OF THE ROMAN PONTIFF

The expression „Holy See” has two different meanings: in the first sense it means the office of Supreme Pontiff. In a broader sense, however, it means also the sections of the Secretariat of State: the First Section for General Affairs and the Second Section for Relations with States, and congregations, tribunals and other institutions, whose structures and competencies are defined in special law for the Roman Curia, fulfilling their duties in the name of the Roman Pontiff and by his authority for the good and the service of the particular churches²⁷.

(b) THE REFORM OF THE ROMAN CURIA – APOSTOLIC CONSTITUTION *PASTOR BONUS*

The bishops attending the Second Vatican Council expressed the desire for the reform of the Roman Curia and the revision of the functions of pontifical legates. In the early months of his pontificate, Pope Paul VI identified this need in his allocution to the Roman Curia on 21 September 1963 and the need for an ‘*aggiornamento*’²⁸. Vatican II Council Fathers in *Christus Dominus* called upon the Roman Pontiff to reorganize and modernize the Roman Curia, to integrate international staff and the laity into a universal and

²⁷ See: c. 361, PB 39B47; cf. c. 7 of the CIC/1917.

²⁸ See: P a u l VI, *Allocution to the Roman Curia, 21 September 1963*, AAS 55 (1963), pp. 793B800, English translation in: CLD, vol. 6, pp. 313B322.

unifying administration of the Church, to review the practices and procedures²⁹.

The Roman Curia was subsequently reorganized and reformed on 15 August 1967 by Pope Paul VI by the Apostolic Constitution *Regimini Ecclesiae universae*, taking effect on 1 March 1968³⁰. On 22 February 1968, the *General Regulations of the Roman Curia* were published³¹. The next major reform of the Roman Curia came with the promulgation of the Apostolic Constitution *Pastor bonus* by Pope John Paul II on 28 June 1988. The introductory section of *Pastor bonus* addresses the importance of service and communion in the Church and the purpose of the Roman Curia in strengthening this fruitful communion³². *Pastor bonus* continues to address the dependency of Curial ministry upon the Petrine ministry, and explains the ecclesial and vicarious character of the Roman Curia, with its primary function of ministry for the good of the Church and service to the bishops³³.

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

²⁹ See: CD, nn. 9B10 English translation in: Flannery 1, pp. 508-509.

³⁰ P a u l VI, *Apostolic Constitution “Regimini Ecclesiae Universae”* (REU), 15 August 1967, AAS 59 (1967), pp. 885-928, English translation in: CLD, vol. 6, pp. 324-357).

³¹ P a u l VI, *Regolamento Generale della Curia Romana (General Regulations of the Roman Curia)*, 22 February 1968, AAS 60 (1968), pp. 129-176, English translation in: CLD, vol. 7, pp. 147-176. These regulations were updated by Pope John Paul II through the Secretariat of State (AAS 84 [1992]) and further modified (AAS 91 [1999], pp. 629-699), English translation in *Exegetical Comm*, vol. 5, pp. 176-256.

³² See: PB, nn. 1-2, pp. 683B686.

³³ See: PB, nn. 7-8, pp. 691-692.

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

Members of institutes of consecrated life, societies of apostolic life and the laity take part in the diplomatic functions of the Holy See. Consultors and collaborators, appointed from among the Christian faithful other than clerics, are representative of the global Catholic community, exhibiting outstanding knowledge and prudence in specific areas of expertise³⁴. The Holy See seeks out from the worldwide reserve of talent and skill found from among the Christian faithful, both clergy and laity, noted for their virtue, prudence and experience, knowledge and academic training, to participate in and contribute to the work and mission entrusted to the Roman Curia³⁵.

(c) POST-VATICAN II
SPECIAL LAW FOR PONTIFICAL LEGATES

In 1965, the Second Vatican Council requested Pope Paul VI to review the functions of pontifical legates and to bring a more representative selection of people to serve the universal Church³⁶. The role and functions of the legates of the Roman Pontiff were reformed by special law, on 24 June 1969, by Pope Paul VI in his motu proprio *Sollicitudo omnium Ecclesiarum*³⁷, parts of which were later integrated into the canons of the CIC (cc. 362-367). The

³⁴ See: PB, art. 8, p. 701.

³⁵ See: *ibid.*, art. 9, p. 701.

³⁶ See: CD, nn. 9-10, pp. 508-509.

³⁷ Prior to the publication of this 1969 motu proprio, pontifical legates were subject to the provisions of cc. 265-270 of the CIC/17, together with periodically published lists of habitual faculties attached to their offices. A detailed study of the integration of provisions of the SOE and the applicable CIC/17 canons (for the period 1969-1981) can be found in: O l i v e r i, *Representatives*.

introductory section of the *motu proprio* refers to various documents from Vatican I and II, post-conciliar documents and Scripture, presenting the context within which the new norms were being established³⁸. In particular, there are references to the work of pontifical legates in international organizations and conferences³⁹.

The *motu proprio* specified that members of pontifical missions to international organizations were to be known as Delegates or Observers depending upon the Holy See's membership or observer status in a specific international organization or conference the Holy See was attending⁴⁰. Legates appointed to international organizations transmit to the Holy See communications and documents from the meetings of these organizations, act as liaison with the UN Secretary-General and receive instructions from the Holy See's Secretary of State as to the positions to assume and responses to propose on behalf of the Holy See⁴¹.

Sollicitudo omnium Ecclesiarum identifies the nature and the principal, characteristic function of a pontifical legate as making stronger and more effective the bonds of unity between the Apostolic See and particular Churches throughout the world⁴². The pontifical legate functions also as a conduit for peace and unity of the whole of the human family within the country in which he serves⁴³.

The *motu proprio Sollicitudo omnium Ecclesiarum* exempts the pontifical legate from the jurisdiction of the local Ordinary, addresses his right to perform liturgical acts, and grants certain faculties. Moreover, within "[...] the confines of his legation, the legate of the Roman Pontiff takes precedence over archbishops and bishops but not over members of the Sacred College nor patriarchs of the Oriental Churches whether they are in their own territory or are elsewhere performing sacred functions in their own rite"⁴⁴. The

³⁸ See: SOE, *Introduction*, ORe, 17 July 1969, p. 2.

³⁹ See: *ibid.*

⁴⁰ See: *ibid.*

⁴¹ See: C a r d i n a l e, *Holy See*, pp. 272-272. At the United Nations, the Permanent Observer of the Holy See has Permanent Observer, Delegate and Observer status, depending on the level of participation of the Holy See in a specific UN body, agency, commission, etc. This section of the *motu proprio* (SOE, no. II, 1-2, in: ORe, 17 July 1969, p. 3) was integrated into c. 363 § 2, replacing the word "laity" and "clerics" with "those."

⁴² See: SOE, no. IV, 1, ORe, 17 July 1969, p. 3.

⁴³ See: *ibid.*, no. IV, 2, ORe, 17 July 1969, p. 3.

⁴⁴ *Ibid.*, no. XII.

mission of the legate does not cease during a period of the vacancy of the Apostolic See, but does cease with the completion of his mandate, by revocation, by renunciation accepted by the Roman Pontiff or by reaching the age of 75⁴⁵.

The CIC did not abrogate the *motu proprio Sollicitudo omnium Ecclesiarum* and there has been some debate whether it remains in force as special law. There was no substantial reorganization of the special law in the canons of the CIC relating to pontifical legates, rather a continuation of the process of revising their role and functions in response to the request of the Second Vatican Council Fathers. The CIC consistently refers to the *motu proprio* as the source for several of the canons, and specifically c. 363 § 2 dealing with international organizations.

(d) SPECIAL REGULATIONS
FOR PONTIFICAL REPRESENTATIVES

The *Regolamento per le Rappresentanze pontificie*⁴⁶ was promulgated by Secretary of State Cardinal Angelo Sodano on 22 February 1994, initially taking effect 1 March 1994 on an *ad experimentum* basis for a five-year period. In 2003, an updated edition of the *Regolamento per le Rappresentanze pontificie*⁴⁷ was published, with no major difference between this version and the original *Regolamento* promulgated in 1994. The *Regolamento* remains in force today and consists of 10 titles containing 80 articles that deal with a whole range of matters concerning the legates' role, functions and duties, appointments, classifications, transfers, cessation of service and retirement, remuneration grades, vacation periods, categories of collaborators, etc. The *Regolamento* integrates provisions found within the 1969 *motu proprio Sollicitudo omnium Ecclesiarum* and CIC, cc. 362-367 into an executory decree, approved by Pope John Paul II, signed by Cardinal Angelo Sodano, Secretary of State. These administrative norms clearly specify the rights, obligations, roles, functions, range of activities and limitations of the offices of pontifical representatives. The *Regolamento* states that, together with the

⁴⁵ See: *ibid.*, no. III, 2-3.

⁴⁶ See: *Regolamento per le Rappresentanze pontificie*, Città del Vaticano: Secretariat of State 1994.

⁴⁷ See: *Regolamento per le Rappresentanze Pontificie (Nuova edizione)* (further *Regolamento*), Città del Vaticano: Secretariat of State 2003.

CIC and the motu proprio *Sollicitudo omnium Ecclesiarum*, „[...] the various functions of Papal Representatives are laid out in full”⁴⁸. It expands upon the earlier motu proprio and CIC canons by giving supplementary details regarding such matters as salary grades, retirement ages, specific office titles of representatives and collaborators, the spiritual component of service, and hierarchical reporting requirements.

3. ECCLESIASTICAL OFFICE OF PONTIFICAL LEGATES

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

The differences in hierarchical appointments appear to relate to the size and volume of work of each of the United Nations offices. Archbishops are appointed to head the Holy See Missions at the UN Headquarters in New York and the larger UN Office in Geneva. Other priests who are not in episcopal orders are appointed to the smaller concentrations of UN Offices and centres in Vienna, Rome and Paris⁴⁹. This does not appear to imply any

⁴⁸ *Regolamento*, art. 9, p. 6.

⁴⁹ For example, in New York (UNHQ) and Geneva (UNOV), the Holy See Permanent Observers and Permanent Representatives are titular Archbishop Celestino Migliori (UNHQ) and Archbishop Silvano Tomasi (UNOG), appointed Apostolic Nuncios (see: AN 2007, p. 1370). In comparison, the Permanent Observer and Permanent Representative of the Holy See at the “United Nations and Its Specialized Agencies” in: Vienna (UNOV) is Msgr. Michael Banach, representing the Holy See at the IAEA, CTBTO, UNIDO, UNCOPUOS and UNODC. In Rome, at FAO, IFAD and WFP, the Holy See Permanent Observer is Msgr. Renato Volante and the Permanent Observer at UNESCO in Paris is Msgr. Francesco Follo (see: AN 2007, p. 1371). The Apostolic nuncio Archbishop Alain Paul Lebeaupin, titular bishop of Vico Equense holds two ecclesiastical offices: Apostolic nuncio and Permanent Observer at UNEP and UN-Habitat and the Apostolic nuncio to the particular Churches and State of Kenya (see: AN 2007, p. 1370).

preference on the part of the Holy See to set the levels of importance of one centre over another.

The offices conferred by the Secretariat of State upon pontifical legates appointed to the Holy See Missions at the United Nations have several constitutive elements: the stability of the office, the ecclesiastical ordinance of the appointment, the specific functions attached to the office and the spiritual purpose of the Holy See's legate at the United Nations⁵⁰.

The legates' offices are established by the Roman Pontiff⁵¹, the competent ecclesiastical authority (c. 148), acquired validly by canonical provision (c. 146), through free conferral by that same authority (c. 147). Accordingly, the character of the ecclesiastical office may vary, according to the method by which it was established. When the ecclesiastical office is established by *motu proprio* or another legislative document, as in the case of Delegates and Observers at the United Nations, the juridical act of establishment would have a legislative character, in contrast to the less common establishment being done by a singular administrative decree⁵².

The Secretariat of State, First Section for General Affairs is responsible for appointments, transfers and juridical status of diplomatic staff of the Holy See⁵³. Pontifical legates are appointed by the Holy See through an *Apostolic Brief* made public by the Secretariat of State. The power of the legate is directly linked to the scope of the need for them to exercise their ecclesiastical office for a spiritual purpose as pontifical legates at the Holy See Missions at the United Nations. Working within the parameters of the office of the Permanent Observer at the United Nations, the papal representative at the time of his appointment receives instructions and faculties needed for him to perform his spiritual mission⁵⁴. These also include faculties pertaining to

⁵⁰ See: G e r o s a, *Canon Law*, p. 233; Cf. P. V. A. B r a i d a, *L'ufficio dei rappresentanti del Romano Pontefice*, "Apollinaris" 52 (1979), pp. 175-199; cf. J. I. A r r i e t a, *Governance Structures within the Catholic Church*, Montreal, Wilson & Lafleur 2000, pp. 63-95 (further A r r i e t a, *Governance Structures*).

⁵¹ The office of the pontifical legate is therefore of ecclesiastical origin, with its purpose to safeguard the interests of the community of the faithful; cf. B a r b e r i n i, *Le Saint-Siège*, pp. 138-139.

⁵² See: A r r i e t a, *Governance Structures*, p. 68.

⁵³ See: *Regolamento*, art. 4, p. 4. The First Section for General Affairs has 144 staff and personnel, of which 96 (67%) are clerics and 48 (33%) laity (AN 2007, pp. 1181-1185).

⁵⁴ Cf., for example, The *Index facultatum* of the papal legates outside mission territories, Congregation for Bishops, 1 January 1968, in: *Leges Ecclesie post Codicem iuris canonici edité, collegit, digessit notisque ornavit Xaverius Ochoa* (LE, volume number), vol. 3, Rome: Com-

the administration as Mission Head, such as management of the nunciatures, budgets, documentation of financial matters relating to the mission, the hiring of staff, their supervision and evaluation of their service⁵⁵. After the initial nomination or transfer, the Secretariat of State, Second Section for Relations with States will issue instructions regarding their mission⁵⁶. The diplomatic activity of papal representatives to international organizations aims at stimulating the temporal order with Christian values. This goal reaches beyond a mere aspect of safeguarding the interests of the community of the faithful and leads toward promoting the dignity of human person, defence of human rights and finding the solutions to humanitarian problems⁵⁷.

CONCLUSION

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

As a result of Pope John XXIII's call to an „aggiornamento” and the Second Vatican Council's invitation to review the role and functions of pontifical legates based upon the teaching of the Council, Pope Paul VI promulgated his *motu proprio Sollicitudo omnium Ecclesiarum* (1969) as special law for pontifical legates. This *motu proprio*, together with the CIC/17 cc. 265-270 and the Vatican II Council documents (LG, GS, AA, CD) became the

mentarium pro Religiosis, 1966-, cols. 5284-5288, English translation in: CLD, vol. 9, pp. 172-183; The *Index facultatum* of the papal legates in mission territories, Congregation for the Evangelization of Peoples, 1 January 1971, LE, vol. 4, cols. 5959-5961, English translation in: CLD, vol. 7, pp. 285-289; The *Index facultatum* given to the papal legates by the Congregation for the Oriental Churches, 31 October 1974, LE, vol. 6, cols. 7600-7604, English translation in: CLD, vol. 9, pp. 184-192.

⁵⁵ See: *Regolamento*, art. 64, pp. 28-29.

⁵⁶ See: *Regolamento*, art. 15, p. 10. The Second Section For Relations With States has 53 staff and personnel, with 40 (75%) clerics and 13 (25%) laity (AN 2007, pp. 1186-1187).

⁵⁷ See: B a r b e r i n i, *Le Saint-Siège*, p. 143.

foundation for CIC cc. 362-367 and the *Regolamento per le Rappresentanze pontificie* (1994). The motu proprio *Sollicitudo omnium Ecclesiarum*, the CIC canons and the *Regolamento* are the juridical norms that regulate the work of pontifical legates, also at the United Nations. The work of the Apostolic Nuncio, Permanent Observer, Observer or Delegate at the Holy See Missions to the United Nations is focused to promote the spiritual mission of the Church (c. 747 § 2), distinguishing the legates of the Roman Pontiff from UN State-mandated diplomats gathering at the United Nations.

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

As the world enters the first decades of the 21st century, with its unabated inclination to war and violence, the work of peace-building and the presentation of new ideas and powerful images of hope are in great demand. In this struggle for peace, pontifical legates at the United Nations, together with their lay collaborators, offer the family of nations a roadmap to reconciliation and a healing process needed by millions of people ravaged by war, hunger and depravity.

LEGACJA PAPIESKA W ONZ

S t r e s z c z e n i e

Artykuł omawia podstawy prawne legacji papieskiej w Organizacji Narodów Zjednoczonych, międzynarodową osobowość Stolicy Apostolskiej, status dyplomatyczny misji stałego obserwatora Stolicy Apostolskiej przy ONZ, najnowsze uregulowania prawne dotyczące przedstawicieli papieskich, kanoniczny wymiar urzędu legata papieskiego w ONZ w świetle stosownych przepisów kościelnych oraz rolę i funkcjonowanie przedstawicieli papieskich w ONZ w kontekście bieżących wydarzeń na świecie. Autor zajmuje się także statusem prawnym stałego obserwatora i misji Stolicy Apostolskiej w ONZ w kontekście właściwych przepisów,

tworzeniem się kanonów KPK w trakcie rewizji Kodeksu Prawa Kanonicznego i reformy Kurii Rzymskiej, istotnymi aspektami instytucji legata papieskiego jako funkcji kościelnej oraz obecnością osób świeckich jako przedstawicieli papieskich.

Translated by Tomasz Pałkowski

Słowa kluczowe: legacja papieska, stały obserwator, legat papieski.

Key word: pontifical legation, permanent observer, papal legate.