

PRESENTATION OF THE XVI - XXIII PERIODIC REPORTS OF THE HOLY SEE TO THE
COMMITTEE ON THE CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION

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Mr. Chairperson, Dear Members of the Committee,

Allow me, first of all, to extend cordial greetings to all the members of the Committee on the Convention of the Elimination of All Forms of Racial Discrimination (hereinafter "the Convention"). In particular, I thank Mr. Francisco Cali Tzay, Chairperson of this Committee, and Mr. Carlos Manuel Vazquez, who had the important task of studying the Report of the Holy See which we are to consider here today and tomorrow. I would also like to introduce the members of our Delegation. In addition to myself, the Delegation is comprised of Monsignor Christophe El-Kassis and Professor Vincenzo Buonomo, of the Secretariat of State of the Holy See, Fr. Joseph Koonampampil of the Holy See Department for the Evangelization of the Peoples, and Monsignor Richard Gyhra, Secretary of the Holy See Mission.

1. My Delegation is particularly pleased to be able to present the report of the Holy See before this Committee, especially as we are at the threshold of the 50th anniversary of the adoption by the General Assembly of the Convention on the Elimination of All Forms of Racial Discrimination on December 21, 1965. It is worth remembering that the Holy See was one of the first signatories to the Convention on November 21, 1966, followed by its

ratification on May 1, 1969. The Holy See is also grateful to the Committee for providing a “List of Themes” that may be discussed in this inter-active dialogue and which have been taken into consideration in the preparation of this presentation.¹

Fundamental Principles

2. For the Holy See, becoming a State Party to this Convention is much more than a symbolic gesture. It is a manifestation of the solid conviction that racial discrimination is absolutely intolerable because all persons share in the same human dignity and, thus, enjoy the same fundamental and inviolable human rights. Indeed, there is a great convergence between the fundamental principles of the Convention with those basic tenets that the Holy See promotes, especially respect for the inherent human dignity of every human person regardless of race, color, descent, or national or ethnic origin.

3. The Holy See takes this opportunity to outline the basic principles of its position – largely set out in paragraph 44 of the Report – which have served to evaluate whether the making of a distinction in certain situations may amount to discrimination. The Holy See, relying upon the teachings of the Catholic Church, maintains that all members of the human race are equal *in inherent dignity* because their dignity is grounded in the image and likeness of God and the common rational nature shared by all humans as persons. The Holy See also maintains that rights and duties flow from this inherent dignity.² This equality, however, does not mean that all people are alike in all ways. What matters is, in fact, the respect of the dignity of every person. As Pope Francis states in the special meeting with the gypsies: “The

¹ INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, *List of Themes in Relation to the Combined Sixteenth to Twenty-third Periodic Reports of the Holy See* (CONVENTION/C/VAT/16-23), CONVENTION/C/VAT/Q/16-23, October 5, 2015 (hereinafter “List of Themes”).

² Catechism of Catholic Church (CCC), 1943, 1943-1935.

time has come to put an end to age-old prejudices, preconceptions and mutual mistrust that are often at the base of discrimination, racism and xenophobia. No one must feel isolated, and no one is authorized to trample on the dignity and rights of others.”³

The Holy See, Vatican City State and the Catholic Church

4. At the outset of this presentation, I wish to make an important distinction of definition among the entities of the Holy See, the Catholic Church, and the Vatican City State, because these terms are often interchanged as if they signify one and the same reality. The Holy See, as a member of the international Community, is related but separate and distinct from the territory of Vatican City State, over which it exercises sovereignty. Its international personality has never been confused with the territories over which it has exercised State sovereignty.

5. In its present form, Vatican City State was established in 1929 to ensure more effectively the absolute and visible independence of the Holy See, and to guarantee its indisputable sovereignty for the accomplishment of its worldwide moral, spiritual and religious mission, including all actions related to international relations (Preamble of Lateran Treaty of 1929). Indeed, following the end of the Papal States in 1870 until the establishment of Vatican City State in 1929, the Holy See continued to act as a subject of international law by concluding concordats and international treaties with States, participating in international conferences, conducting mediation and arbitration missions, and maintaining both active and passive diplomatic relations. Therefore, colloquial references to the Holy See as the “Vatican” can be misleading.

³ Pope Francis, Meeting with the Participants in the Pilgrimage of Gypsies, 25 Oct. 2015.

6. In this sense, the Holy See globally encourages basic principles and authentic human rights as recognized in the Convention, while implementing it within the territory of Vatican City State. The Catholic Church, spread throughout the world, over which the Holy Father as Bishop of Rome exercises religious authority in accordance with canon law, is a spiritual society composed of those persons who, by their own choice, freely adhere to the doctrines, morals, sacraments and discipline on religious practices proposed by the Catholic Church.

7. It follows that the Holy See, while having religious authority over its members who reside in different countries, recognizes the jurisdiction of national authorities where members of the Catholic Church are located or reside. The Holy See wishes, therefore, to reiterate unreservedly that the persons who live in a particular country are under the jurisdiction of the legitimate authorities of that country and are, thus, subject to the domestic law and the consequences contained therein. State authorities are obligated to protect, and when necessary, prosecute persons under their jurisdiction. The Holy See exercises the same authority upon those who live in Vatican City State in accordance with its laws.

8. Hence, the Holy See, in respecting the principles of autonomy and sovereignty of States, insists that the State authority, which has legitimate competency, act as the responsible agent of justice in regard to crimes committed by persons under their jurisdiction. It should be stressed, particularly in light of much confusion, that the Holy See has no civil jurisdiction - as that term is understood in international law - over each and every member of the Catholic Church. My Delegation wishes to emphasize that this includes not only those violations contained in the Convention, but also all other acts considered as crimes committed by any individual who, although a member of the Catholic Church, is subject to a particular State

authority. The obligation and responsibility of promoting justice in these cases resides with the competent domestic jurisdiction.⁴

Overview of the Report

9. With these important distinctions in mind, I wish to give briefly an overview of the Combined Report XVI-XXIII of the Holy See that was consigned to the Committee in June 2014. It is important to note that in preparation of the report, the following has been taken into account as much as possible given the unique nature of the Holy See: the guidelines regarding the form and content of the CERD-Specific reports (CERD/C/2007/1); the recommendations of the Committee on the Elimination of All Forms of Racial Discrimination that concern the previous report (CERD/C/SR. 1425,1433); and the concluding observations adopted by the Committee on 1 May 2001 (CERD/C/304/Add.89). The Report is divided into three Parts. Part I gives a brief introduction. Part II responds to the questions the Committee put to the Holy See in the Committee's last Concluding Observations, in particular those regarding implementation of the Convention in Vatican City State. Finally, Part III provides information on the statements and activities of the Holy See on the international level with regard to articles 2-7 of the Convention.

10. Moreover, I wish to highlight a number of aspects of the aforementioned Combined Report. In even greater conformity with Art. 4 of the Convention, the new Supplementary Norms of the Vatican City State promulgated by Pope Francis on July 11, 2013 provide a very clear and strong piece of legislation for the elimination of racial discrimination and include a punishment of five to ten years for those guilty of such crimes.⁵ These same Supplementary

⁴ Cfr., Holy See Report CONVENTION, pp. 30, 35 and 36. "The nature and scope of penal canon law, which differs greatly from State criminal laws, is not intended to usurp or otherwise interfere with them or with State civil actions."

Norms, in particular Articles 13-15, prohibit a vast array of "Crimes against Humanity" including those addressing violations directly motivated by considerations of race in the description of the offence, such as apartheid, persecution and genocide, imposing sentences of thirty to thirty-five years for those convicted.⁶ Such robust legislation manifests the

⁵ Cfr. Pontifical Commission for Vatican City State, Law VIII: Supplementary Norms on Criminal Law Matters (11 July 2013). In Chapter I, "Crimes Against the Person" Article 1 on "*Racial discrimination*" reads:

1. For the purposes of this article, "*racial discrimination*" means any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. Whoever commits one of the following acts:

- a) dissemination of ideas based on racial superiority or hatred;
 - b) incites acts of racial discrimination;
 - c) executes or incites others commit, for racial or ethnic reasons, to acts of violence against any race or group of persons of a different color or ethnic origin;
 - d) provides any form of support to activities directed toward racial discrimination, including by financing them;
- is punished with five to ten years imprisonment.

3. Whoever constitutes, organizes or directs an organization intended to propagate ideas based on racial superiority or hatred or which promotes or incites racial discrimination, is punished with five to ten years imprisonment.

4. Whoever participates intentionally in such an organization is punished, by the mere fact of his participation, with three to seven years imprisonment.

5. To the offence set forth in this article shall apply also the provisions of article 248, paragraphs 3, 5, 6 and 7 of the Criminal Code.

⁶ Cfr. Pontifical Commission for Vatican City State, Law VIII: Supplementary Norms on Criminal Law Matters (11 July 2013), Chapter III, Crimes Against Humanity: Art. 13 "*Definitions*" For the purposes of this chapter:

Art. 13 Definitions: f) "*apartheid*" means the acts referred to in article 1, paragraph 2, and article 15, letters a), b), c), d), e), f), g), h) and i), when committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

Art. 14 (Genocide)

Whoever, with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, commits one of the following acts:

- a) kills members of the group;
- b) deliberately inflicts upon members of the group conditions of life such as to bring about the physical destruction of the group, in whole or in part;
- c) causes serious bodily or mental harm to members of the group;

importance of defending persons from actions that are fueled by racial bias and hatred, with a view to punish the perpetrators of such crimes.

11. Indeed, beyond the implementation of such legislation within the territory of Vatican City State, the Holy See, in fulfilling its specific mission, which is of a religious and moral character, conveys the message behind these laws and the principles which underlie them to members of the Catholic Church and to all persons of good will, thereby encouraging the mutual respect of all persons. The Holy See also uses its media services to promote the abovementioned principles and to condemn racial discrimination. These media programs, articles and statements, in turn, are translated into different languages and reproduced by numerous other media outlets throughout the world (i.e. Vatican Radio, L'Osservatore Romano Newspaper, Vatican Television Center, Vatican Website, Holy See's Press Office Daily Bulletin, Vatican Information Services, Vatican Publishing House and Vatican News Website). History shows that the truth that all men and women are created equal, with certain inalienable rights, must constantly be reaffirmed, re-appropriated and defended. Such lofty principles should be embodied in social and political life to ensure the elimination of any form of racial discrimination. This moral appeal is universally applicable.

12. For example, this appeal has been echoed in the numerous statements by national Bishops' Conferences, individual Bishops in their dioceses and in the pastoral work of many priests, religious and lay people. One such example on the national level is the Statement delivered by the President of the United States Conference of Catholic Bishops, during the

d) imposes measures intended to prevent births within the group;

e) forcibly transfers minors of the group to another group.

is punished with thirty to thirty-five years imprisonment in the cases set forth in subparagraphs a) and b), and with no less than fifteen years imprisonment in the cases set forth in subparagraphs c), d) and e).

Article 15 (*Other crimes against humanity*)

Whoever, as part of a widespread or systematic attack directed against the civilian population, commits one of the following acts:

h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, sex, or other grounds that are universally recognized as impermissible under international law.

recent racial tensions in that country: "We join our voices with civic and religious leaders in pledging to work for healing and reconciliation. Our efforts must address root causes of these conflicts. A violent, sorrowful history of racial injustice, accompanied by a lack of educational, employment and housing opportunities, has destroyed communities and broken down families, especially those who live in distressed urban communities."⁷ In like manner, as noted in para. 36 of the Report, other Bishops' Conferences have been instrumental in promoting racial harmony, especially by encouraging mutual respect and understanding beginning with their educational institutions.

13. The role of the Holy See in promoting reconciliation, tolerance and friendship among nations and ethnic groups is not limited to moral exhortation. This is evident in the international activities that the Holy See carries out as explained in its Report. In addition, a concrete response to the abovementioned exhortation is rendered visible in the work of local Catholic churches and institutions, in accordance with their own authority in canon law and with respect for the laws of the countries in which they reside and operate. For example, consider the numerous schools which are run by religious communities and those in local parishes throughout the world. These schools, 215,784 globally, from kindergarten to universities, respecting applicable local, state and national educational standards, educate well over 64 million young people the majority of whom are not Catholic. It is well known that for centuries through its elementary and secondary schools, the Catholic Church has promoted the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality and the enjoyment of the right to education and professional training. Furthermore, through the system of its educational institutions, the Catholic Church has been effective in combatting prejudices which lead to racial discrimination. Another example is the system of health services managed by Catholics who provide care without any racial distinction. Worldwide, the Catholic Church operates 5,034 hospitals, more than 16,000

⁷ President of the USCCB, State on Race Relations at General Assembly, 10 June 2015.

dispensaries, and 611 leprosy facilities. The sum of all the various welfare institutions operated by the Catholic Church globally reaches a total of 116,185. These institutions have sought to promote equality, mutual understanding and peaceful coexistence among diverse ethnic and racial groups.⁸

14. In his video message on the occasion of the 2014 World Cup Soccer Tournament, the Holy Father stressed a culture of acceptance and tolerance. "The final lesson for sports which bear the fruits of peace is the respect deserved by our opponents. The secret to winning on the field, and also in life, is to respect my teammates and also my opponent. No one wins by himself, not on the field or in life! May no one isolate themselves or feel excluded! Be careful! No segregation, no racism!"

15. The Holy See would like to assure the Committee that it has taken effective legislative, administrative, judicial and other measures required under the Convention in Vatican City State. In addition, the Holy See has carried out different activities pursuant to its moral and spiritual mission within the international Community, so as to contribute to the prevention and elimination of racial discrimination, which is contrary to the inherent dignity of the human person.

In line with the above considerations, the Holy See assures this Committee of its engagement to continue in good faith to implement and to promote the Convention for the Elimination of All Forms of Racial Discrimination.

16. Before closing, one point is worth underlining. As a State Party to the Convention and to the 1969 Vienna Convention on the Law of Treaties, the Holy See wishes to underline that it has the right and the obligation to interpret the Convention in accordance with the rules of

⁸ Most of these statistics are found in: "Statistical Yearbook of the Church 2013" Rome, Libreria Editrice Vaticana, 2015.

interpretation contained in the latter and would expect the dialogue to remain within the specific area of concern of the Convention.⁹

17. My Delegation believes that the Holy See has fulfilled in good faith the treaty obligations assumed under the Convention, as implemented in the laws of Vatican City State according to the particular and unique nature of this State. In conclusion, allow me to underscore the singular role the Holy See has played, and will continue to play, in advocating on a global level the values and all human rights that safeguard the inherent dignity of every person and which are a necessary component for friendly relations among peoples and peace in the world.

⁹ The caveat of the Holy See is twofold. First, for the sake of defending the competency, integrity and duty of the Committee to oversee the implementation of the Convention on the Elimination of All Forms of Racial Discrimination, it seems fair and prudent that the focus should remain upon the contents of the Convention. Second, the introduction of other themes, topics and concepts, of which the Convention does not speak, effectively diminishes the original focus of the Convention and thus further jeopardizes the situations for those who are truly victims of racial discrimination.