The Holy See: Sovereign Power internationally recognised

Does the authority the Holy See exercises within the International Community go along with a responsibility for Human Rights violations?

E.MA Thesis

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ABBREVIATIONS

CAT  The Committee against Torture
CDF  The Congregation for the Doctrine of the Faith
CERD The Committee on the Elimination of Racial Discrimination
CRC  The Committee on the Rights of the Child
ECHR The European Convention on Human Rights and Fundamental Freedoms
ECmHR The European Commission on Human Rights
ECtHR The European Court of Human Rights
FSIA The Foreign Sovereign Immunities Act
ICERD The International Convention on the Elimination of all forms of Racial Discrimination
IHEU The International Humanist and Ethical Union
ILC  The International Law Commission
UN  The United Nations
UNCAT The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCRC The United Nations Convention on the Rights of the Child
UNHRC The United Nations Human Rights Committee
US  The United States
VCLT The Vienna Convention on the Law of Treaty
ABSTRACT

The objective of this thesis is to examine the link between the competence and power recognised to the Holy See among the international community of states and international responsibility in case of human rights violations. The first part enlightens the purpose of the creation of the Vatican City State and gives a general background to the unique status the Holy See has been granted with. The second part analyses certain international treaties on human rights the Holy See has ratified and the consequences in case of violation. The Convention on the Rights of the Child is considered as a case study in order to discuss the possible direct responsibility of the Holy See. The third part examines the issue of alleged human rights violations that originated from actions of ecclesiastical members or institutions. Focus lies on liability under the European Convention on Human Rights and the Foreign Sovereign Immunities Act in the United States. As regards the European Convention, it is argued that the European Court may influence church-state relations in matters related to certain human rights principles such as the right to a fair trial, the right to respect for private and family life as well as the right to freedom of expression and freedom of religion. Thus, the third part encompasses an analysis of certain judgments of the European Court where decisions of churches’ institutions may have been taken in breach of individual’s rights. On the other hand, under the Foreign Sovereign Immunities Act, the special relationship between religious ministers, such as priests, and the Holy See is analysed through the recognition of the possibility for the Holy See to be seen as the priests’ employer and thus to engage its liability for clerical sexual abuses committed against children in the United States.
# TABLE OF CONTENT

ACKNOWLEDGEMENTS .................................................................................................................. 2
ABBREVIATIONS.......................................................................................................................... 3
ABSTRACT ........................................................................................................................................ 4

Introduction ..................................................................................................................................... 8

1. The diplomatic recognition of the Holy See and the Vatican City State ........ 11
   1.1. The creation of the State of the Vatican City and the international status of the Holy See ......................................................................................................................... 11
   1.2. The recognition of the Vatican City as a state and the Holy See’s sovereign authority ................................................................................................................................. 13
      1.2.1. The population and territory of the Vatican City .................................. 13
      1.2.2. The government of the Vatican City and the capacity of the Holy See to engage in international relations ................................................................. 15
   1.3. The foreign policy of the Holy See ........................................................................ 16

2. International human rights law and the possible direct responsibility of the Holy See ................................................................................................................................. 20
   2.1. The status of the Holy See within the United Nations .................................. 20
   2.2. United Nations mechanisms to promote and protect human rights .......... 22
   2.3. The Holy See and the Convention on the Rights of the Child ............... 24
      2.3.1. Within the Holy See’s jurisdiction .................................................. 25
      2.3.2. The Holy See’s reservations to the Convention ................................ 26
      2.3.3. Implementation of the Convention ............................................. 30
      2.3.4. The problem of sexual child abuses and the submission of reports .... 31
      2.3.5. The reaction of the Church: Catholic rules regarding clerical sexual abuses ......................................................................................................................... 34

   3.1. The status of the Holy See within the Council of Europe ...................... 39
3.2. The question of delegation of competence ........................................ 41

3.3. Some decisions of European Court of Human Rights and their impact on
    the Holy See ...................................................................................... 44
    3.3.1. Pellegrini v. Italy ........................................................................ 45
          3.3.1.1. The circumstances of the case ........................................... 45
          3.3.1.2. The decision of the European Court of Human Rights ...... 46
          3.3.1.3. The importance of the decision for human rights law ....... 48
    3.3.2. Lombardi Vallauri v. Italy .......................................................... 51
          3.3.2.1. The circumstances of the case ........................................... 51
          3.3.2.2. The procedure before the European Court of Human Rights .... 53
    3.3.3. The key provisions in the European Convention that might influence
          church-state relations ..................................................................... 57
    3.3.4. Obst v. Germany and Schüth v. Germany ................................... 59
          3.3.4.1. Introduction ....................................................................... 59
          3.3.4.2. The Constitutional mapping of the autonomy of religious societies in
                    Germany .................................................................................. 60
          3.3.4.3. Religious expression at the workplace - The labour law of churches and
                    religious societies in Germany ..................................................... 61
          3.3.4.4. The circumstances of the Obst case .................................... 62
          3.3.4.5. The circumstances of the Schüth case ............................... 64
          3.3.4.6. The decision of the European Court on the alleged violation of
                    Article 8 .................................................................................... 65
                      i. As regards Mr. Obst .............................................................. 66
                      ii. As regards Mr. Schüth ......................................................... 67
    3.3.5. Siebenhaar v. Germany .............................................................. 68
    3.3.6. The interests of the cases for the principle of autonomy recognised to
          religious communities ..................................................................... 69

4. The Holy See in the United States, a possible vicarious liability for clerical
   sexual abuses committed against children: The case of Doe v. Holy See....... 75
   4.1. The circumstances of the case and the decision of the District Court..... 76
   4.2. The Court of Appeals of the 9th Circuit ............................................ 77
4.3. On petition for a *writ of certiorari* ................................................................. 79

4.4. The consequences for the Holy See and the victims: unpredictable application of the FSIA ........................................................................................................ 81

5. Conclusion ............................................................................................................. 86

BIBLIOGRAPHY ........................................................................................................ 91
The Holy See: sovereign power internationally recognised: does the authority the Holy See exercises within the international community go along with a responsibility for human rights violations?

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