

# Oxford Bibliographies

Your Best Research Starts Here



## Vatican and the Holy See

Juan José Ruda Santolaria

LAST REVIEWED: 31 MARCH 2016

LAST MODIFIED: 31 MARCH 2016

DOI: 10.1093/OBO/9780199796953-0128

### Introduction

The Holy See is the supreme governmental organ of the Catholic Church, representing it in the international arena. The subject of international law, for some, is the Church, while for others it is the Holy See itself. Beyond this discussion, one can verify an international performance of the latter that comprises the exercise of the right of passive and active legation, the participation as a member or as an observer in different international organizations, the celebration of bilateral (concordats or agreements of that nature) and multilateral treaties, as well as its role in the peaceful solution of international controversies. Said performance dates back several centuries, and has been ongoing in an uninterrupted manner, even during the times in which the Holy See has been deprived of a piece of territory under its sovereignty, such as, for example, during the time period between 1870 and 1929. On the other hand, in virtue of the Lateran Treaty of 1929 between the Holy See and Italy, the latter recognizes the sovereignty and ownership of the former over Vatican City, an area of 44 hectares embedded in Rome and which serves as a guarantee of liberty and independence of the Holy See. The majority opinion is that it is a State which, in its own unique way, gathers the presupposed requirements of said condition, with its own international legal personality. In spite of this, it acts internationally through the Secretariat of State of the Holy See, even though there are some treaties and international organizations to which it is, respectively, in and of itself a party of or a member of as such, in other words, as the Vatican City State. Finally, there is discussion as to whether there is only one subject of international law or if there are two subjects of international law. The more widespread criterion is the latter one, even though opinions are divided between those who propose that said subjects are the Roman Catholic Church and the Vatican State on the one hand, and those who sustain that this condition falls on the Holy See and the Vatican State on the other. At the same time, various appreciations in regards to the relationship between these two subjects have been given, in the sense that it can be defined as a personal union, a real union, or a vassal relationship of the Vatican State to the Holy See.

### General Overviews

The Catholic Church has in its structure a supreme organ, the Holy See, which represents it internationally and—even after the disappearance of the Pontifical States in 1870—celebrating treaties (concordats) and exercising the right of legation. The Lateran Treaty of 1929 celebrated between the Holy See and Italy recognizes the sovereignty of the former over Vatican City, which guarantees its independence. The Vatican is subject to international law that integrates some organizations of technical character (Diez de Velasco 2004), even though for some (Rousseau 1966) it is not a State due to the exiguity of its territory. For some authors (Miaja de la Muela 1979) the subject of international law is the Catholic Church, while for others it is the Holy See, which has the capacity to act internationally (Acquaviva 2005, Barboza 2008, Diez de Velasco 2004, Nkambo Mugerwa 1973, Podestá Costa and Ruda 1985, Travieso 2012, and Verdross 1982).

**Acquaviva, Guido. "Subjects of International Law: A Power-Based Analysis." *Vanderbilt Journal of Transnational Law* 38 (March 2005): 345–396.**

Because of its sovereignty, the Holy See is subject to international law, equivalent to States, even though it doesn't have some of the elements of these. It is the Holy See, a governmental organization of the Catholic Church and Vatican City, to which falls the international personality. This exercises the right of legation and the "*ius tractatum*."

**Barboza, Julio. *Derecho internacional público*. Buenos Aires, Argentina: Zavalía, 2008.**

It explains that for some authors, the Catholic Church is not a subject of international law because it is the Holy See which conducts its relations in that area; for others, the Church would be the subject and the Holy See its governmental organization which represents it internationally.

**Diez de Velasco, Manuel. *Instituciones de derecho internacional público*. Madrid: Tecnos, 2004.**

The Holy See acts as a subject of international law exercising the right of legation and celebrating concordats, even between 1870 and 1929, when it lacked territory. Vatican City seeks to assure the independence of the Holy See. It is subject to international law celebrating treaties and integrates international organizations.

**Miaja de la Muela, Adolfo. *Introducción al derecho internacional público*. Madrid: Gráficas Yagües, 1979.**

The international subject is the Church, with the Pope and the Holy See being its organs. The Vatican is a State with its own territory and population. The Pope acts in the international arena as Head of the Catholic Church and as that of that State, at times, as the supreme organ of the Church at others.

**Nkambo Mugerwa, Peter James. "Sujetos de derecho internacional." In *Manual de derecho internacional público*. Edited by Max Sorensen, 260–313. Mexico City: Fondo de Cultura Económica, 1973.**

The 1929 Lateran Treaty created the Vatican State, physical basis for the legal personality of the Holy See. This holds diplomatic relations with third-party States and is part of treaties, while Vatican City is a member of specialized organizations such as the International Union of Telecommunications and the Universal Postal Union (UPU).

**Oppenheim, L. *Tratado de derecho internacional público*. Barcelona: BOSCH, Casa Editorial, 1961.**

The disappearance of the Pontifical States in 1870 did not alter the international performance of the Holy See. It celebrated the Lateran Treaty; its right of legation and the sovereignty of Vatican City, of which it is Head, is recognized for purposes essentially different from those of States.

**Podestá Costa, L. A., and José María Ruda. *Derecho internacional público*. Buenos Aires, Argentina: Tipográfica Editora Argentina, 1985.**

The Holy See subsisted as an international institution after the integration of the Pontifical States in Italy. Because of the Lateran Treaty, Italy recognizes its right of legation as well as its sovereignty and ownership over the Vatican. The Holy See has international personality, equal to that of States, although it is unique given that political attributions are excluded.

**Rousseau, Charles. *Derecho internacional público*. Barcelona: Ariel, 1966.**

The sovereignty of the Papacy is different from that of the States. The Holy See is not a State, for it does not possess the inherent elements of one. The exiguous character of Vatican territory, in contrast with that of the former Pontifical States, is an impediment in its path to be seen as a State.

**Travieso, Juan Antonio. *Derecho internacional público*. Buenos Aires, Argentina: AbeledoPerrot, 2012.**

The international personality of the Pope as Head of the Catholic Church and of the Pontifical States is recognized. In losing temporal sovereignty, the Pope still exercises the right of legation and the negotiation of treaties. Because of the Lateran Treaty, the Holy See has sovereignty over Vatican City; both are different international juristic persons.

**Verdross, Alfred. *Derecho internacional público*. Madrid: Aguilar, 1982.**

The Holy See is a subject of international law that has the right of legation and celebrates concordats with States. The international subjectivity of the Church is independent of that of the Pontifical States, as was seen in 1870; said subjectivity is recognized by the Lateran Treaty (Articles 12 and 24).

---

## Concept of the Holy See

The Catholic Church is a universal community of believers that has, according to Barberis 1981, Crawford 2006, and Ruda Santolaria 1997, its central organ of government in the Holy or Apostolic See. The expression “Holy See” is understood fundamentally in two aspects: (i) as the figure of the Pope, Bishop of Rome and Head of the Church, or (ii) as integrated by the Pontiff and the different bodies and offices of the Roman Curia, among which that of Secretary of State stands out. This last one is manifested by Barberis 1981, Ciprotti 1970, the *Codex Canonum Ecclesiarum Orientalium—Código de Cánones de las Iglesias Orientales* 1994 (1990), the *Codex Iuris Canonici—Código de Derecho Canónico* 1990 (1983), Crawford 2006, García Martín 1998, Reese 1996, and Ruda Santolaria 1997.

**Barberis, Julio. “Sujetos del derecho internacional vinculados a la actividad religiosa.” In *Anuario de Derecho Internacional*. Vol. 1. 18–33. Buenos Aires, Argentina: Instituto de Derecho Internacional Público de la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires, 1981.**

The Catholic Church, as a community of believers that has the Pope as its head, is a subject of international law. The Holy See, integrated by the Pope and the institutions that second him, acts as an organ of the Church.

**Ciprotti, Pío. “Santa Sede: Su función, figura y valor en el derecho internacional.” *Revista Concilium, Revista Internacional de Teología* 58 (1970): 207–217.**

The Holy See has two definitions: (i) the position/job of the Pope; (ii) a group of congregations, tribunals, and offices through which the Pope administers the government of the Church.

***Codex Canonum Ecclesiarum Orientalium—Código de Cánones de las Iglesias Orientales*. Madrid: Biblioteca de Autores Cristianos, 1994.**

This Code, applicable only to the Oriental Rite Catholic Churches (Canon 1), contemplates that the Bishop of Rome is the Head of the College of Bishops and Pastor of the Universal Church, over which he has ordinary, supreme, complete, immediate, and universal authority (Canon 43). The Holy See or Apostolic See comprises the Pope and the Roman Curia (Canon 48). Promulgated in 1990.

**Codex Iuris Canonici—Código de Derecho Canónico. Madrid: Biblioteca de Autores Cristianos, 1990.**

This Code, applicable to the Latin Church (Canon 1), contemplates that the Church is governed by the Pope, the Bishop of the Roman Church, and the bishops in communion with him, whose college he heads. The expression “Holy See” or “Apostolic See” comprises the Pope (pastor of the Universal Church, over which he has complete and supreme authority) and the Roman Curia (Canon 361). Promulgated in 1983.

**Crawford, James. *The Creation of States in International Law*. New York: Oxford University Press, 2006.**

The Holy See is the central authority and government of the Catholic Church. It is comprised of the Pope, the Holy College of Cardinals, and the principal organisms of Church government.

**García Martín, Carlos. “El estatuto jurídico de la Santa Sede en las Naciones Unidas.” *Ius Canonicum* 38.75 (1998): 247–289.**

In a strict sense, the Holy See is the Roman Pontiff, and in a broad sense, the posts or institutions of the Roman Curia that work with the Pope.

**Reese, Thomas J. *Inside the Vatican*. London: Harvard University Press, 1996.**

The Holy See comprises the Pope, the Bishop of Rome and the successor of Saint Peter, and the Roman Curia, bodies, offices, and people who help the Pope in governing the Universal Church. The holder of the Secretariat of State is equivalent to a prime minister and his second section to a ministry of foreign affairs.

**Ruda Santolaria, Juan José. “La Iglesia Católica y el Estado Vaticano como sujetos de derecho internacional.” *Archivum Historiae Pontificiae* 35 (1997): 297–302.**

The Roman Catholic Church is a universal community of believers provided with a central governmental organ: the Holy See or Apostolic See, constituted by the Pope and the Roman Curia. Within this last one, the Secretariat of State is equivalent to the office of the prime minister and the ministry of foreign affairs (second section).

---

## Legal Nature of the Holy See

The assumed position of diverse authors is that the Catholic Church is a subject of international law, while its supreme organ of government, on which falls its representation in the international arena, is the Holy See. These criteria are shared by Armas Pfirter, et al. 1998; Cardinale 1976; Dias 2001; Fontau 2011; Irigoin Barrenne 1988; and Ruda Santolaria 1995. For others, such as Kunz 1952, the Holy See is a subject of international law that does not of the status of statehood, but celebrates treaties and exercises the right of legation.

**Armas Pfirter, Frida, Julio A. Barberis, and María Querol. *Sujetos del derecho de gentes*. Buenos Aires, Argentina: Editorial Ábaco de Rodolfo Depalma, 1998.**

The Catholic Church is the international subject, the Holy See is its governmental organ.

**Brunner, Helmut. "La Santa Sede y el derecho internacional: El amparo moral en el tratado de paz y amistad chileno-argentino." In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 49–54. Santiago, Chile: Editorial Universitaria, 1988.**

Until 1870, the Pope was subject to international law as Head of the Pontifical State and Head of the Catholic Church. Then, maintaining the status of Head of the Church, he practices the right of legation and celebrates concordats. With the Lateran Pacts, he once again has a double responsibility.

**Cardinale, Hyginus Eugene. *The Holy See and the International Order*. Gerrards Cross, UK: Colin Smythe, 1976.**

The Catholic Church and the Holy See are two distinct entities. The Holy See is the supreme organ of the Church; it is this one to it, as government is to the State. As subject of international law, the Church is an atypical organism; its condition is analogous to but not the same as that of a State.

**Dias, Noel. "Roman Church & International Law." *Sri Lanka Journal of International Law* 13 (2001): 107–135.**

The Catholic Church, the Holy See, the Vatican: distinct persons unquestionably united in the person of the Pope. The Church is an atypical international subject, where the Holy See is like a government in a State.

**Fontau, James. "Rethinking the Sovereign Status of the Holy See: Towards a Greater Equality of States and Greater Protection of Citizens in United States Courts." *Cardozo Journal of International and Comparative Law* 19 (2011): 487–524.**

The Holy See is the government of the Catholic Church, while the Vatican State is the sovereign territory under the authority of the Pope. The Holy See maintains its uninterrupted unique and international personality, which derives from its religious and spiritual authority and not from the Vatican territory.

**Irigoin Barrenne, Jeannette. "El tratado de paz y amistad y el amparo moral de la Santa Sede." In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 55–72. Santiago, Chile: Editorial Universitaria, 1988.**

The Catholic Church is a subject of international law. The Holy See is a regular governmental organ that represents the Church internationally.

**Kunz, Josef L. "The Status of the Holy See in International Law." *The American Journal of International Law* 46.2 (April 1952): 308–314.**

Historically, the original members of the international community were the Christian States of Europe and the Holy See. As of the Lateran Treaty, the Pope is sovereign of the Vatican State. The Holy See is a subject of international law, celebrates treaties, and practices the right of legation. It has no State status.

**Rodríguez Ruiz, Juan Roger. *La relevancia jurídica del acuerdo entre la Santa Sede y el Perú: La personalidad jurídica de la Iglesia en el Perú y sus implicancias en el ordenamiento jurídico peruano*. Lima, Peru: Editorial Roel, 2006.**

The Holy See is the supreme instrument of the Church; both form an inseparable union. The Holy See has international legal capacity, with its own organization—primary, autonomous, independent—and possesses sovereignty.

**Ruda Santolaria, Juan José. *Los sujetos de derecho internacional: El caso de la Iglesia Católica y del Estado de la Ciudad del Vaticano*. Lima, Peru: Fondo Editorial de la Pontificia Universidad Católica del Perú, 1995.**

The Catholic Church is a universal community of believers with a centralized structure that has the Pope as its spiritual head. He and the Roman Curia form the Holy See, central governmental organ of the Catholic Church, a subject of international law, and in whose name it performs in international affairs.

**Seyersted, Finn. "Jurisdiction over Organs and Officials of States, the Holy See and Intergovernmental Organisations." *The International and Comparative Law Quarterly* 14.1 (January 1965): 31–82.**

The Holy See practices jurisdiction over its organs the same as a State. Its diplomats have the same prerogatives and immunities as States. Many States, Catholic and some non-Catholic, have as an international obligation to allow for the jurisdiction of the Catholic Church in the concordat framework.

---

## General Aspects of the International Performance of the Holy See

The Holy See acts in the international arena in representation of the Catholic Church, through the exercising of its passive and active right to legation, the celebration of bilateral (such as concordats) and multilateral treaties, the participation in international organizations through delegates or observers, and in the solution of international controversies. For Ciprotti 1970, the Holy See personifies the international subjectivity of the Catholic Church, while Jiménez García 2006 sustains that the subject of international law is the Holy See and García Martín 1998 emphasizes that other religious confessions lack a single hierarchical central structure. Harris 1991 points out that the Holy See, a non-territorial entity, has an international personality different from that of the Vatican State; at the same time, the *Codex Iuris Canonici*—*Código de Derecho Canónico* 1990 (1983) and Jong 1970 emphasize the importance of the agreements that the Holy See has with States; in addition, the *Codex Iuris Canonici*—*Código de Derecho Canónico* 1990, along with Reese 1996, Ruda Santolaria 1995, and Ruda Santolaria 1997, alludes to the representatives of the Holy See (nuncios) and other manifestations of its international performance.

**Barberis, Julio A. *Los sujetos del derecho internacional actual*. Madrid: Tecnos, 1984.**

The Church is governed by international law. The Holy See acts as a governmental organ of the Catholic Church, the latter being the subject of international law.

**Ciprotti, Pío. "Santa Sede: Su función, figura y valor en el derecho internacional." *Revista Concilium, Revista Internacional de Teología* 58 (1970): 207–217.**

The Holy See has international sovereignty; it personifies the international subjectivity of the Catholic Church.

***Codex Iuris Canonici—Código de Derecho Canónico.* Madrid: Biblioteca de Autores Cristianos, 1990.**

The dispositions of the Code, applicable to the Latin Church (Canon 1), do not derogate the agreements of the Holy See with those of the States (Canon 3). The Pope has the personal and independent right to name legates to the local churches and the States, according to international law. Delegates or observers also represent the Holy See before organizations and conferences (Canons 362 and 363). Promulgated in 1983.

**García Martín, Carlos. “El estatuto jurídico de la Santa Sede en las Naciones Unidas.” *Ius Canonicum* XXXVIII.75 (1998): 247–289.**

The Holy See practices international subjectivity in a similar manner to that of States: the right of legation, treaties, and the solution of controversies. It has a non-member state status in the United Nations. In contrast, other confessions lack a central unitary and hierarchical structure.

**Harris, D. J. *Cases and Materials on International Law.* London: Sweet & Maxwell, 1991.**

The Holy See has an international personality different from that of the Vatican State: one is a non-territorial entity and the other is a State. The Papacy is an international subject that pacts agreements (concordats) and practices the right of active and passive legation.

**Jiménez García, Francisco. *La internacionalidad de la Santa Sede y la constitucionalidad de sus acuerdos con España.* Madrid: Editorial Dilex, 2006.**

The Catholic Church, the Holy See, the Vatican: three moral persons. The Church lacks international subjectivity; the international subject is the Holy See, governmental organ of the Church and government of the Vatican. The Pope, the common superior authority, acts internationally because he is the Head of the Church.

**Jong, A. de “Los concordatos y el derecho internacional: Valor e influjo.” *Revista Concilium, Revista Internacional de Teología* 58 (1970): 242–250.**

The Catholic Church has specialized in seeking the recognition of its independence in an official treaty. The concordat is in parity with an international treaty; it issues to canon law as an original legal order.

**Reese, Thomas J. *Inside the Vatican.* London: Harvard University Press, 1996.**

The nuncios are the representatives of the Pope before the governments of the States and churches, accredited as ambassadors and who in various countries occupy the deanship of the diplomatic corps. The nuncios represent the Holy See and not the State of Vatican City.

**Ruda Santolaria, Juan José. *Los sujetos de derecho internacional: El caso de la Iglesia Católica y del Estado de la Ciudad del Vaticano.* Lima, Peru: Fondo Editorial de la Pontificia Universidad Católica del Perú, 1995.**

The Holy See exercises the right of active and passive legation with an abundant number of international law subjects. It also celebrates bilateral (concordats) and multilateral treaties, takes part in conferences and international organizations, and acts in the solution of controversies; its mediation led to the Argentine–Chilean Treaty of 1984.

**Ruda Santolaria, Juan José. "La Iglesia Católica y el Estado Vaticano como sujetos de derecho internacional." *Archivum Historiae Pontificiae* 35 (1997): 297–302.**

The Holy See acts in the international arena by exercising its right of legation. At the same time it participates in conferences, and also in international organizations through delegates and observers; it has the capacity to celebrate treaties with other international law subjects (concordats); and it intervenes in matters of peaceful solutions of controversies (for example, mediation between Spain and Germany and between Argentina and Chile).

---

## **Peace Mission and Spiritual Character of the Holy See**

The Catholic Church is the only religious confession whose central governmental structure does not depend on a State, as pointed out by Solier 1997. The international performance of the Holy See is intrinsically linked to its spiritual and universal nature through, for example, the celebration of agreements with States (concordats); Abdullah 1996, Brière 1930, Chevalier 1971, the *Codex Canonum Ecclesiarum Orientalium—Código de Cánones de las Iglesias Orientales* 1994 (1990), Corral 2009, Dias 2001, Fenwick 1929, and Ryngaert 2011 highlight this latter aspect. At the same time, the peace mission of the Holy See, which is mentioned in Article 24 of the Lateran Treaty, also serves as a base for the presence of the Holy See in multilateral diplomacy, participating with delegates and observers in international organizations and intervening in the solution of controversies, such as in the case of the Caroline Islands and Palaos and in the southern dispute between Argentina and Chile, which is broached by Brière 1930, Chevalier 1971, Riedmatten 1970, and Ryngaert 2011.

**Abdullah, Yasmin. "The Holy See at the United Nations Conferences: State or Church?" *Columbia Law Review* 96.7 (November 1996): 1835–1875.**

Because of its status within the organization, the Holy See has a quasi veto in United Nations conferences. Its performance is vested with spiritual character. At the same time the participation of the representatives under the title of Vatican State is only for the temporal aspects of papal sovereignty. The Holy See/Vatican lacks a permanent population.

**Brière, Yves. "La condition juridique de la Cité du Vatican." In *Recueil des Cours*. Vol. 33. 113–165. The Hague: Académie de Droit International de La Haye, 1930.**

The diplomatic performance of the Holy See responds to the spiritual and universal power of the Pope, not to being the sovereign of the Vatican. Article 24 of the Lateran Treaty excludes temporal disputes between states; it leaves the Church's mission of peace safe (as in the mediation for the Caroline and Palaos Islands).

**Chevalier, Jean. *La política del Vaticano*. Barcelona: Editora Aymá, 1971.**

The supremacy of the spiritual mission of the Papacy is reflected in the accreditation of the foreign diplomats before the Holy See. Article 24 of the Lateran Treaty excludes the intervention of the Holy See only in purely political controversies.

***Codex Canonum Ecclesiarum Orientalium—Código de Cánones de las Iglesias Orientales*. Madrid: Biblioteca de Autores Cristianos, 1994.**

The Code canons or dispositions, applicable only to the Oriental Rite Catholic churches (Canon 1), do not derogate the Holy See agreements with the States and other political societies. The prevalence of the concordats and agreements of that nature are codified in the Code dispositions (Canon 4). Promulgated in 1990.



**Corral, Carlos. *Derecho internacional concordatario*. Madrid: Biblioteca de Autores Cristianos, 2009.**

The Holy See is the supreme organ of direction and international representation of the Catholic Church and of the Vatican State. Concordats are treaties with some particularities because, for one side, they rule matters related to the Catholic Church as a non-territorial spiritual subject, and for the other, they are applied to people who simultaneously integrate the State population and the Church.

**Dias, Noel. "Roman Church & International Law." *Sri Lanka Journal of International Law* 13 (2001): 107–135.**

In contrast with non-centralized confessions, the Holy See is recognized as an international person in: (i) concordats and other agreements; (ii) the right of active and passive legation, evidenced by the Vienna Protocol of 1815 and the deanship of diplomatic corps; (iii) arbitration and mediation; (iv) the reputing of its actions as from a sovereign power.

**Fenwick, C. G. "The New City of the Vatican." *The American Journal of International Law* 23.2 (April 1929): 371–374.**

In practicing his spiritual function, the Pope continued celebrating concordats after 1870. The 1929 solution consecrated an independent state, Vatican City, under property and the sovereign jurisdiction of the Holy See; the Italian police being able to exercise its power only in Saint Peter's Square.

**Riedmatten, Henri de. "Presencia de la Santa Sede en los organismos internacionales." *Revista Concilium, Revista Internacional de Teología* 58 (1970): 218–232.**

In 1951 and 1964, the Holy See was a member of the UNHCR Executive Committee and an observer at the headquarters of the United Nations. In 1956, the Holy See became a founding member of IAEA. From notes written in 1957, it is determined that the relations between the Secretariat of State with the Secretariat of the United Nations are between the organization and the Holy See.

**Ryngaert, Cedric. "The Legal Status of the Holy See." *Goettingen Journal of International Law* 3 (2011): 829–859.**

The Holy See, center of the Catholic Church, is a unique entity with its own international personality. It represents the Church and the Vatican, even though the diplomatic relations (even between 1870 and 1929) are in the name of the first. It acts in the solution of controversies such as between Argentina and Chile.

**Solier, Carlos. "La Santa Sede y la comunidad internacional durante el siglo XX." In *Cien años de Pontificado Romano, de León XIII a Juan Pablo II*. Edited by Josep-Ignasi Saranyana, 245–255. Pamplona, Spain: Ediciones Universidad de Navarra, 1997.**

At present the presence of the Holy See stands out in multilateral diplomacy, the increase in its diplomatic representations, and the Beagle mediation. The Catholic Church is the only religion with a centralized regime whose supreme authority does not depend on any State. The Holy See practices territorial sovereignty over the Vatican.

---

## The International Presence of the Holy See throughout Time

Martín 1970 highlights that the international performance of the Holy See dates back to the Byzantine Empire but was consolidated in the 16th century. At the same time, this work agrees with Cardinale 1976, Crawford 2006, Corral 2003, Cumbo 1948–1949, Fontau 2011, Ireland 1933, Kunz 1952, and Maresca 1974 that while the Pontifical States existed, said performance was in the name of these and in that of the Holy See, as government of the Church. However, after the Pontifical States' disappearance with the Italian conquest of Rome in 1870, the Holy See continued its uninterrupted performance at an international level through the right of legation, the celebrating of agreements with States (concordats), and the solution of controversies. For Cumbo 1948–1949, the Lateran Treaty of 1929 would be the same as a peace treaty, while Martín 1970 highlights that the pontifical representation is fundamentally based on the sovereignty of the Pope as Head of the Church.

**Cardinale, Hyginus Eugene. *The Holy See and the International Order*. Gerrards Cross, UK: Colin Smythe, 1976.**

The Holy See, an international person before the Lateran Treaty, has seen the number of States with which it has agreements (concordats) and diplomatic relations incremented. It practiced the consular law in reference to the Pontifical States; it participated in the negotiation and is party of the Vienna Conventions on Diplomatic and Consular Relations.

**Corral, Carlos. *La relación entre la Iglesia y la comunidad política*. Madrid: Biblioteca de Autores Cristianos, 2003.**

The Holy See practices the right of legation uninterruptedly, celebrates concordats and conventions, and acts in the solution of controversies (Caroline and Beagle).

**Crawford, James. *The Creation of States in International Law*. New York: Oxford University Press, 2006.**

Until 1870, the Holy See was associated with the Pontifical States. Later, it continued to practice the right of legation and that of celebrating concordats. Its international position was independent from territory. With the Lateran Pacts, Italy recognized the international sovereignty of the Holy See and that of the Vatican under its sovereignty.

**Cumbo, Horace F. "The Holy See and International Law." *The International Law Quarterly* 2.4 (1948–1949): 603–620.**

The Holy See, not the Catholic Church, has international personality. Its independence was recognized by Victor Manuel II of Italy in a letter to the Pope (September 8, 1870), by the Portuguese Supreme Court (January 13, 1928), but especially with the concordats. The Lateran Treaty is equivalent to a peace treaty, in which the territorial sovereignty of the Holy See is recognized.

**Fontau, James. "Rethinking the Sovereign Status of the Holy See: Towards a Greater Equality of States and Greater Protection of Citizens in United States Courts." *Cardozo Journal of International and Comparative Law* 19 (2011): 487–524.**

Regarding lawsuits before American courts, applying the federal law about sovereign immunities to the Holy See was proposed. It practiced diplomatic relations between 1870 and 1929; at present it has the status of a non-member observer State in the United Nations. The US State Department distinguishes between the Holy See and the Vatican State with different definitions.

**Ireland, Gordon. "The State of the City of the Vatican." *The American Journal of International Law* 27 (January 1933): 271–289.**

Since 1870, the Pope has celebrated concordats and has exercised the right of legation. He does not participate in conferences (The Hague, 1899, 1907; Paris, 1919) but he does intervene solving differences (Spain–Germany, 1885; Haiti–Dominican Republic, 1895). Ambassadors to the Holy See from countries at war with Italy moved to Switzerland (1915), and the Austrian Embassy was occupied (1916).

**Kunz, Josef L. "The Status of the Holy See in International Law." *The American Journal of International Law* 46.2 (April 1952): 308–314.**

Until 1870, there was a personal union with two subjects of international law, the Pontifical States and the Holy See. This latter one kept its condition of international subject celebrating concordats, accrediting and receiving representatives, and participating in the solution of differences (Spain-Germany, Haiti–Dominican Republic). The Lateran Treaty does not modify said condition.

**Maresca, Adolfo. *Las relaciones consulares*. Translated by Herminio Morales. Madrid: Ediciones Aguilar, 1974.**

The Holy See practiced consular law until 1870 in relation to the Pontifical States. There would be no inconvenience for the Holy See today—party of the Vienna Convention on Consular Relations of 1963—to practice said law for itself without tying it to the Vatican State.

**Martín, Isidoro. "Presencia de la Iglesia cerca de los estados." *Revista Concilium, Revista Internacional de Teología* 58 (1970): 233–241.**

The representations of the Holy See go back to the Byzantine Empire and to the Middle Ages. They have been permanent since the end of the 15th century and were configured in the 16th century. Between 1870 and 1929, the Holy See continued accrediting and receiving representatives. The pontifical representation is fundamentally based on the sovereignty of the Pope as Head of the Church.

---

## The Role of the Holy See in the Matter of the Peaceful Solution of Disputes

The Holy See has historically acted in different cases of controversy solution. Representative examples of said performance in the last centuries are as follows: (i) the mediation of 1885 during the pontificate of Leo XIII regarding the controversy between Spain and Germany over the Caroline Islands, as broached by Corral and Díaz de Cerio 1995; (ii) the attempts of Pope Benedict XV to end the First World War, highlighted by Goyau 1925; and (iii) the good offices (December 1978–January 1979) and the mediation (1979–1984) in the southern dispute between Argentina and Chile during the pontificate of John Paul II, which not only avoided a war but led to the treaty between both countries in 1984, under the moral protection of the very Holy See, as explained by Benadava 1999, Bernstein Carabantes 1989, Brunner 1988, Irigoien Barrenne 1988, Lagos Carmona 1985, Moncayo 1993, and Passarelli 1998.

**Benadava, Santiago. *Recuerdos de la mediación pontificia entre Chile y Argentina (1978–1985)*. Santiago, Chile: Editorial Universitaria, 1999.**

The Holy See prevented a war between Argentina and Chile. The 1979 Montevideo agreements comprise the submitting of the austral dispute to the Pope's mediation and the commitment to not use force. Among the process stages, the mediator proposal and the Benadava-Barberis negotiation were prominent.

**Bernstein Carabantes, Enrique. *Recuerdos de un diplomático: Representante ante el Papa Mediador 1979–1982*. Vol. 4. Santiago, Chile: Editorial Andrés Bello, 1989.**

At the end of 1978 there was a real risk of war between Argentina and Chile, which was avoided due to the mission of Cardinal Antonio Samoré, which was conducive to the 1979 Montevideo agreements. The mediating Pope put forth a proposal to the parties

in 1980, which brought about different reactions. The process had difficulties.

**Brunner, Helmut.** “La Santa Sede y el derecho internacional: El amparo moral en el tratado de paz y amistad chileno-argentino.” In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 49–54. Santiago, Chile: Editorial Universitaria, 1988.

The Holy See made use of its moral power to mediate between Argentina and Chile through the austral dispute. The 1984 Treaty that ended this was under the moral protection of the Holy See, the figure suggested in the mediator proposal of 1980.

**Corral, Carlos, and Francisco Díaz de Cerio.** *La mediación de León XIII en el conflicto de las Islas Carolinas*. Madrid: Editorial Complutense, 1995.

In 1885, a grave situation between Spain and Germany over the Caroline Islands was resolved with the mediation of Pope Leon XIII. Based on his proposal, a protocol recognized Spanish jurisdiction and at the same time German commercial economic rights.

**Goyau, Georges.** “L’Eglise catholique et le droit des gens.” In *Recueil des Cours*. Vol. 6. 123–239. The Hague: Académie de Droit International de La Haye, 1925.

Highlighted: (i) papal mediation of 1885 between Spain and Germany over the Caroline Islands; (ii) a papal arbitration proposition by President Cleveland in 1894 between England and Venezuela over the Guyana frontiers; (iii) the papal arbitration between Haiti and Santo Domingo over the delimitation of frontiers; (iv) the intents made by Benedict XV to end the First World War.

**Irigoin Barrenne, Jeannette.** “El tratado de paz y amistad y el amparo moral de la Santa Sede.” In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 55–72. Santiago, Chile: Editorial Universitaria, 1988.

The Holy See first realized good offices between Argentina and Chile. The mediation began with the 1979 Montevideo agreements and ended with the 1984 Treaty. This was under the moral protection of the Holy See; the president of the conciliation commission may also be designated in future cases.

**Lagos Carmona, Guillermo.** *La delimitación marítima austral y el tratado de paz y amistad entre Chile y Argentina*. Santiago, Chile: Editorial Jurídica de Chile, 1985.

The 1980 papal proposal regarding Argentina and Chile, inspired by Cardinal Samoré, contemplated a common zone of activities for the exploration and exploitation of resources. The 1984 Treaty was a transaction based on said proposal, under the protection of the Holy See.

**Moncayo, Guillermo R.** “La mediación pontificale dans l’affaire du Canal Beagle.” In *Recueil des Cours*. Vol. 242. 197–434. The Hague: Académie de Droit International de La Haye, 1993.

The mediating activity of the Holy See, the oldest in the world, was practiced between Spain and Germany over the Caroline Islands (1885), and between Argentina and Chile over the Beagle, presided by good offices (“preliminary mediation”), started by agreements of Montevideo (1979) and finalized with the 1984 Treaty.

**Passarelli, Bruno.** *El Delirio Armado: Argentina–Chile, la guerra que evitó el Papa*. Buenos Aires, Argentina: Editorial

### **Sudamericana, 1998.**

After Argentina declared the 1977 British award over the Beagle null, a war with Chile was avoided in December of 1978 due to the good offices of the Pope. The 1979 Montevideo agreements initiated the papal mediation, which was conducive to the 1984 Treaty and which included complex stages.

---

## **Particularities of the Sovereignty of the Holy See over Vatican City**

The Vatican State is under the sovereignty and property of the Holy See, serving as a medium or instrument of guarantee of the freedom and independence of the latter in the exercise of its spiritual mission. Said singular aspect of Vatican City is highlighted by Brunner 1988, Cardinale 1976, Chevalier 1971, Ciprotti 1970, Corral 2003, Fenwick 1929, Fontau 2011, Orlandis 1996, and Ruda Santolaria 1997. Chevalier 1971 points out that even if the Holy See were to be established somewhere else on Earth, the Vatican State would cease to exist, whereas in the opinion of Fontau 2011, the Vatican State is a vassal of the Holy See as a medium, not indispensable, for its full autonomy and stability.

**Brunner, Helmut.** “La Santa Sede y el derecho internacional: El amparo moral en el tratado de paz y amistad chileno-argentino.” In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 49–54. Santiago, Chile: Editorial Universitaria, 1988.

The Lateran Treaty created Vatican City as a subject of international law, under the sovereignty and jurisdiction of the Holy See; this does not pass on to be a State, but rather it has double legal personality. The object of Vatican City is to ensure the independence of the Holy See.

**Cardinale, Hyginus Eugene.** *The Holy See and the International Order*. Gerrards Cross, UK: Colin Smythe, 1976.

The Vatican State was created to ensure the liberty and independence of the Holy See.

**Chevalier, Jean.** *La política del Vaticano*. Barcelona: Editora Aymá, 1971.

The Vatican exists only as a means of support for the performance of the Holy See. If this were affixed in another place on earth, the Vatican State would cease to exist.

**Ciprotti, Pío.** “Santa Sede: Su función, figura y valor en el derecho internacional.” *Revista Concilium, Revista Internacional de Teología* 58 (1970): 207–217.

The Vatican ensures the liberty and independence of the Holy See.

**Corral, Carlos.** *La relación entre la Iglesia y la comunidad política*. Madrid: Biblioteca de Autores Cristianos, 2003.

The Vatican: a unique State under the sovereignty of the Holy See, whose independence it guarantees.

**Fenwick, C. G.** “The New City of the Vatican.” *The American Journal of International Law* 23.2 (April 1929): 371–374.

The purpose of the Vatican with its reduced territory is purely spiritual, in terms of the religious interests of the members of the

Church.

**Fontau, James.** “Rethinking the Sovereign Status of the Holy See: Towards a Greater Equality of States and Greater Protection of Citizens in United States Courts.” *Cardozo Journal of International and Comparative Law* 19 (2011): 487–524.

The Vatican State, the smallest in the world, is a vassal of the Holy See, which sustains its power over the Vatican as a medium that ensures, but is not indispensable, for its full autonomy and stability. The Vatican State, as such, and not the Holy See, is party of some treaties.

**Orlandis, José.** *El Pontificado Romano en la historia*. Madrid: Ediciones Palabra, 1996.

The Roman question ended with the Lateran Treaty in 1929, through which the Vatican State was created according to the wishes of Pius XI; it consisted of reduced dimensions, but it was enough as the sovereign and independent territorial seat of the Papacy.

**Ruda Santolaria, Juan José.** “La Iglesia Católica y el Estado Vaticano como sujetos de derecho internacional.” *Archivum Historiae Pontificiae* 35 (1997): 297–302.

Vatican City is a State under the temporal sovereignty of the Roman Pontiff. At the same time it has an atypical nature derived from its medium State character, in that it does not constitute an end in and of itself, but rather serves as a guarantee in the temporal plane for the exercise of the spiritual mission of the Holy See.

---

## The Statehood of Vatican City

The State of Vatican City is created by the Lateran Treaty to guarantee the liberty and independence of the Holy See, the Pope becoming, according to Reese 1996 and Ruda Santolaria 1995, the Head of said State as soon as he is elected as Head of the Catholic Church. For Brière 1930, Dias 2001, García Martín 1998, Reese 1996, and Ruda Santolaria 1995, Vatican City is a sovereign State that has the presuppositions to be considered as such; Kunz 1952 proposes, on the other hand, that the Holy See is a subject of international law but not a sovereign State, because it is a State that is a vassal of the Holy See. Meanwhile, Barberis 1981 and Irigoien Barrenne 1988 agree that Vatican City has its own legal ordering and governmental organization, while García Martín 1998 highlights its neutrality and that it has international subjectivity, being a member of some international organizations of technical character. At the same time, Dias 2001 and Irigoien Barrenne 1988 pinpoint that Vatican City acts internationally through the Holy See.

**Barberis, Julio.** “Sujetos del derecho internacional vinculados a la actividad religiosa.” In *Anuario de Derecho Internacional*. Vol. 1. 18–33. Buenos Aires, Argentina: Instituto de Derecho Internacional Público de la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires, 1981.

Because of the Lateran Pacts, the Roman question was ended. The Lateran Treaty created Vatican City to ensure the absolute independence of the Catholic Church. The Vatican has its own legal order and governmental organization, even though some organs, including its sovereign, are in common with the Church.

**Brière, Yves.** “La condition juridique de la Cité du Vatican.” In *Recueil des Cours*. Vol. 33. 113–165. The Hague: Académie de Droit International de La Haye, 1930.

The Vatican unites all the prerequisites for a State, even though it is unique due to the tiny size of its territory and population. It has symbolic character; it is the guarantee of the independence of the Holy See.

**Dias, Noel. "Roman Church & International Law." *Sri Lanka Journal of International Law* 13 (2001): 107–135.**

The Vatican has the prerequisites of the Montevideo Convention. It is created by the Lateran Treaty to ensure the liberty and freedom of the Holy See. There is no nationality, but rather Vatican citizenship. The Vatican acts through the Holy See, but by way of it in organizations and agreements open only to States.

**García Martín, Carlos. "El estatuto jurídico de la Santa Sede en las Naciones Unidas." *Ius Canonicum* XXXVIII.75 (1998): 247–289.**

The Vatican: instrumental and neutralized State. It is a State entity under the territorial sovereignty of the Holy See, which guarantees its independence. It has international subjectivity, including membership in organizations, in technical temporal matters pertaining to a State.

**Ireland, Gordon. "The State of the City of the Vatican." *The American Journal of International Law* 27 (January 1933): 271–289.**

The Vatican is the smallest State to which people are bound who hold a permanent resident status. Flying over the Vatican is forbidden; agreements between this and Italy rule the transit of vehicles and monetary matters. In terms of penal matters, there are Vatican courts, although trials can be delegated to the judgment of the Italians.

**Irigoin Barrenne, Jeannette. "El tratado de paz y amistad y el amparo moral de la Santa Sede." In *El tratado de paz y amistad entre Chile y Argentina*. Edited by Rodrigo Díaz Albónico, 55–72. Santiago, Chile: Editorial Universitaria, 1988.**

Vatican City was created through the Lateran Pacts to ensure the independence of the Church and to guarantee its inarguable international sovereignty. The Vatican has its own governmental organization and legal order; its international representation belongs to the Pope, with diplomatic relations falling to the Holy See.

**Kunz, Josef L. "The Status of the Holy See in International Law." *The American Journal of International Law* 46.2 (April 1952): 308–314.**

The Lateran Treaty establishes the prerequisites for the existence of the Vatican State, by a territorial transference on the part of Italy. The Vatican State is a subject of international law of the Holy See; it is not a sovereign State, even though it is a member of UPU, because it is a vassal State of the Holy See.

**Reese, Thomas J. *Inside the Vatican*. London: Harvard University Press, 1996.**

When the Pope is elected, he automatically becomes Head of the Vatican State. The Vatican is a sovereign State; its purpose is to provide liberty to the Holy See. The Vatican has its laws and citizens. It can delegate to Italy to judge crimes such as the 1981 attempt on John Paul II.

**Ruda Santolaria, Juan José. *Los sujetos de derecho internacional: El caso de la Iglesia Católica y del Estado de la Ciudad***

**del Vaticano. Lima, Peru: Fondo Editorial de la Pontificia Universidad Católica del Perú, 1995.**

The Vatican is a State with the prerequisites to be one and serves as a reinforcement of the independence of the Pope, elected as Head of the Catholic Church, and automatically Head of said State. This last condition is in addition to his function as spiritual authority of a universal community of believers.

---

## The Vatican State in the International Arena

The majority opinion is that Vatican City is a subject of international law with a State character; this opinion is shared, for example, by Ciprotti 1970, Corral 2003, Crawford 2006, and Ryngaert 2011. At the same time, Brière 1930, Cardinale 1976, Corral 2003, Reese 1996, and Ruda Santolaria 1995 highlight that in spite of this, the Secretariat of State of the Holy See acts in its representation and that the diplomatic relations fall fundamentally on the Holy See. However, Vatican City, in its own right, is a member of technical international organizations and is party of some treaties; Cardinale 1976, Corral 2003, Ruda Santolaria 1995, and Ryngaert 2011 highlight the latter. At the same time, Brière 1930 and Ruda Santolaria 1995 call attention to the neutrality of Vatican City according to Article 24 of the Lateran Treaty with Italy, while Cardinale 1976 and Wright 1944 emphasize that said neutrality was respected during Second World War.

**Brière, Yves. "La condition juridique de la Cité du Vatican." In *Recueil des Cours*. Vol. 33. 113–165. The Hague: Académie de Droit International de La Haye, 1930.**

The treaties in the name of the Vatican are celebrated by the Secretariat of State of the Holy See. The Vatican is a neutral and inviolable territory as seen in Article 24 of the Lateran Treaty.

**Cardinale, Hyginus Eugene. *The Holy See and the International Order*. Gerrards Cross, UK: Colin Smythe, 1976.**

The Vatican State was created by the Lateran Pacts. It has a functional citizenship; it operates as an "active citizenship," for it supersedes the person's nationality. During the Second World War, the Vatican's neutrality was respected. Depending on the circumstances, the Holy See sends its representatives either in its own name or in that of the Vatican.

**Ciprotti, Pío. "Santa Sede: Su función, figura y valor en el derecho internacional." *Revista Concilium, Revista Internacional de Teología* 58 (1970): 207–217.**

The Vatican is a State with peculiarities, such as its neutrality according to the Lateran Treaty.

**Corral, Carlos. *La relación entre la Iglesia y la comunidad política*. Madrid: Biblioteca de Autores Cristianos, 2003.**

The Vatican has its own personality even though the Holy See represents it. It is party of some treaties and a member of international organizations in its own right.

**Crawford, James. *The Creation of States in International Law*. New York: Oxford University Press, 2006.**

While Vatican City serves as a base for the central administration of the Catholic Church, a non-state entity, it is a State in terms of international law.



**Fenwick, C. G. "The New City of the Vatican." *The American Journal of International Law* 23.2 (April 1929): 371–374.**

The Vatican is apart from the temporal rivalries of other States. Consequently, the Vatican territory is neutral and inviolable. Due to a legal fiction, the periods 1798–1814 and 1870–1929 were of military conquest, by which Vatican City is the successor of the Pontifical States.

**Reese, Thomas J. *Inside the Vatican*. London: Harvard University Press, 1996.**

The Secretariat of State leads the foreign affairs of the Vatican State, whose agenda concentrates on arrangements with Italy such as those pertaining to water and electricity. In his condition as Head of the Catholic Church, the Pope has diplomatic representatives; the foreign ambassadors are accredited before the Holy See, not before the Vatican.

**Ruda Santolaria, Juan José. *Los sujetos de derecho internacional: El caso de la Iglesia Católica y del Estado de la Ciudad del Vaticano*. Lima, Peru: Fondo Editorial de la Pontificia Universidad Católica del Perú, 1995.**

In certain international treaties of specific character and international organizations of technical nature, the Holy See acts in the name of Vatican City. Because of its condition of a "medium State," its international position, including its permanent neutrality according to the Lateran Treaty, is tied to the Holy See.

**Ryngaert, Cedric. "The Legal Status of the Holy See." *Goettingen Journal of International Law* 3 (2011): 829–859.**

Vatican City is a mini-State with a separate status in international law; it exists as a territorial base to guarantee the independence of the Holy See. For certain technical questions, the international performance is in the name of Vatican City.

**Wright, Herbert. "The Status of the Vatican City." *The American Journal of International Law* 38.3 (July 1944): 452–457.**

In February of 1944, during the German occupation of Rome, sixty-four people were arrested and incarcerated in buildings adjacent to the Basilica of Saint Paul. On July 10, 1943, President Roosevelt communicated that he would respect Vatican neutrality and the Papal State; the exception was the Allied bombing of a property adjacent to Castelgandolfo in February 1944, which also affected Holy See immunities.

---

## **The Relationship between the Catholic Church and the Vatican State**

There are authors who propose the existence of two subjects of international law that have the Holy See as a common organ, which acts in the name of one or the other or of both. For some, such as the authors of Cardinale 1976, Ciprotti 1970, García Martín 1998, Ruda Santolaria 1995, and Ruda Santolaria 1997, such subjects are the Roman Catholic Church and the State of Vatican City, the Holy See being the governmental organ of the two. In the opinion of Crawford 2006, the subjects are the Holy See and the Vatican State, with the particularity that there are some occasions in which the Holy See acts in representation of itself and others in which it acts in name of the Vatican State. In everyone's point of view, the fundamental weight of the performance of the Holy See is in relation to spiritual matters. Cardinale 1976, Ruda Santolaria 1995, and Ruda Santolaria 1997 sustain the existence of a real union between the Catholic Church and Vatican City, considering that the Pope is Head of both; the Holy See is a common governmental organ to both subjects and represents them internationally. At the same time, Cumbo 1948–1949 also states that the relation between the Holy See and Vatican State is similar to that of a vassal State and the real union.

**Armas Pfirter, Frida, Julio A. Barberis, and María Querol. *Sujetos del derecho de gentes*. Buenos Aires, Argentina: Editorial Ábaco de Rodolfo Depalma, 1998.**

Given fundamentally by Articles 3, 4, and 26 of the Lateran Treaty.

**Barberis, Julio. "Sujetos de derecho internacional vinculados a la actividad religiosa." In *Anuario de Derecho Internacional*. Vol. 1. 18–33. Buenos Aires, Argentina: Instituto de Derecho Internacional Público de la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires, 1981.**

The content of the relationship is given by the Lateran Treaty. For the monistic current, there is only one international subject, the Catholic Church or the Vatican State. For the dualist current, they are two distinct subjects, linked by a personal union, a real union, or a specific relationship.

**Cardinale, Hyginus Eugene. *The Holy See and the International Order*. Gerrards Cross, UK: Colin Smythe, 1976.**

The Vatican guarantees the independence of the Holy See. It is not conceived separate from the Pope, the Holy See, or the Church. The Church and the Vatican are persons of international law bound by a real union in the person of the Pope and represented internationally by the Holy See.

**Ciprotti, Pío. "Santa Sede: Su función, figura y valor en el derecho internacional." *Revista Concilium, Revista Internacional de Teología* 58 (1970): 207–217.**

The Church and the Vatican can be two international subjects; the Holy See is an organ that acts in the name of one or the other or of both, although spiritual sovereignty is foremost.

**Crawford, James. *The Creation of States in International Law*. New York: Oxford University Press, 2006.**

The Vatican and the Holy See are two distinct subjects of international law; individually they are party of diverse multilateral treaties. The Holy See acts in two aspects: (i) the most important, as a legal international person in regards to its mission in the world, and (ii) as the government of Vatican State.

**Cumbo, Horace F. "The Holy See and International Law." *The International Law Quarterly* 2.4 (1948–1949): 603–620.**

The Vatican State is a distinct body from the Holy See; its relationship is similar to that of vassal State and the real union. It has its own laws; it celebrates treaties with Italy and with other States. The Holy See acts internationally for spiritual purposes; the Vatican State for legal reasons (Article 24 of the Lateran Treaty).

**Fontau, James. "Rethinking the Sovereign Status of the Holy See: Towards a Greater Equality of States and Greater Protection of Citizens in United States Courts." *Cardozo Journal of International and Comparative Law* 19 (2011): 487–524.**

The Vatican State has never had a foreign affairs ministry different from the Holy See, which is an agency or organ of that. In international law and in that of the United States, they are two separate entities.

**García Martín, Carlos. "El estatuto jurídico de la Santa Sede en las Naciones Unidas." *Ius Canonicum* XXXVIII.75 (1998): 247–289.**

The Catholic Church and Vatican State are two distinct subjects of international law, but find themselves linked through the Roman Pontiff.

**Ruda Santolaria, Juan José. *Los sujetos de derecho internacional: El caso de la Iglesia Católica y del Estado de la Ciudad del Vaticano*. Lima, Peru: Fondo Editorial de la Pontificia Universidad Católica del Perú, 1995.**

The Catholic Church and the Vatican State are two distinct subjects, linked by a “real union,” with equal succeeding norms for the leadership of said State falls automatically on the Pope. This State is under the sovereignty and property of the Holy See, which represents it internationally through the Secretariat of State.

**Ruda Santolaria, Juan José. “La Iglesia Católica y el Estado Vaticano como sujetos de derecho internacional.” *Archivum Historiae Pontificiae* 35 (1997): 297–302.**

On the Pontiff fall two sovereign titles: (i) one of a spiritual nature, for being Head of the Universal Church, and (ii) a temporal one, derived from the first, in being the Head of State of Vatican City. This last one supports the hypothesis in that both subjects under papal sovereignty find themselves linked through a “real union.”

[back to top](#)

Copyright © 2024. All rights reserved.