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UFFICIO DEL LAVORO DELLA SEDE APOSTOLICA

Intervento dell'Assessore alla Presidenza ULSA, Avv. Giovanni Giustiniani, al Convegno dell'Associazione Internazionale degli Avvocati (IBA) del 10 aprile 2015

A look at labour in the Vatican:

the nature and meaning of work for the Holy See

In international law the Holy See is recognized as a sovereign subject to the same extent as States, as it enjoys like these an innate, underived, legal personality.

In the Canon Law of the Catholic Church the term Holy See applies to the Pope and the bodies of the central government of the Catholic Church reporting to him.

The Holy See embodies and guarantees the autonomy of the religious community formed by the Catholics of the entire world a sovereign society within the religious sphere.

In the exercise of her mission, the Holy See has always and according to her proper nature given special attention to safeguarding the rights and duties of those who--whether men or women, priest, religious or lay--on a daily basis work in various offices and dicasteries in service of the universal Church. Albeit covering an array of different functions, they form a particular and unique community of work.

Such a community includes not only personnel working directly for Vatican City State, but also those who, whatever their titles may be, collaborate with other entities of the Holy See, entities directed by the Holy See and dicasteries of the Roman Curia. They assist the Roman Pontiff in his ministry as pastor of the universal Church.

Currently, the personnel of the Roman Curia, and administration of the Holy See in whatever way connected to it (i.e. Vatican Radio, Vatican Printing Press, etc.) and Vatican City State number around 4,700 individuals (approximately 20% women and 20% religious and clerics). The majority of employees are Italian by nationality, even though in light of the logic of universality of the Holy See there are also many citizens of other countries.

The nature of work in the Vatican cannot be severed from the particular task held in common by all personnel. This same task is the undercurrent of their status and facilitates an understanding of some of the aspects of this line of work. This relationship is one of a kind, which - as Roman Pontiff John Paul II noted in his famous letter of 1982 on the meaning of work inside the Holy See and which I will discuss later - also bears with it a responsibility of an ecclesiastical nature.

In terms of its normative profile or basic identity, the historical-judicial framework of ordering in the Vatican is, as we noted, the Lateran Treaty established between the Holy See and the Kingdom of Italy on February 11, 1929.

With this Treaty, the Holy See and Italy agreed to the creation of the Vatican City State. Article 2 of the Treaty expresses it thus: "Italy recognizes the sovereignty of the Holy See in the international field as an inherent attribute of its nature, in conformity with its tradition and the exigencies of its mission in the world".

The Pope is also the Sovereign of the Vatican City State which is the territorial support of the inherent independence and sovereignty of the Holy See. The Vatican City State is an "atypical" State, in as much as its main purpose is to guarantee and manifest the independence of the Holy See and to facilitate the mission of the personnel who are temporarily working for it.

The Holy See has never been confused historically with the territories over which it exercised stately sovereignty, beginning with the so-called Patrimony of St Peter, later known as the Papal States (754-1870), up to the present and the Vatican City State (1929 onwards).

The Holy See, according to Article 24 §2 of the Lateran Treaty, does not wish to take part in "temporal disputes between States" while declaring its availability when parties in a dispute make a joint "appeal to its mission of peace" being safe its right to exercise in all circumstances its moral and spiritual competences.

The sovereignty of the Holy See is prior to any territorial sovereignty, as proven during the years from 1870 to 1929 (from the end of the era of the Papal States to the creation of the Vatican City State). Throughout those sixty years, the Holy See continued, as before, to act as a subject of international law: concluding concordats, which are true international treaties; taking part in international conferences; undertaking missions of mediation and arbitration; maintaining diplomatic relations, both active and passive, with States.

Holy See became a Permanent Observer State at the United Nations on 6 April 1964, and since then has always been invited to participate in the meetings of all the sessions of the General Assembly.

The Holy See actively participates as an observer in many of the specialized agencies, such as the Food and Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the United Nations Industrial Development Organization, the International Fund for Agricultural Development and the World Tourism Organization, as well as in the World Trade Organization, that it is a full member of the Organization for Security and Cooperation in Europe and a Guest of Honour in its Parliamentary Assembly, and that it participates as an observer in various other regional intergovernmental organizations, including the Council of Europe, the Organization of American States and the African Union, and is regularly invited to take part in the main meetings of the Asian-African Legal Consultative Organization.

The Holy See was hereby acknowledged as having full territorial sovereignty with all the indelible guarantees and prerogatives of freedom that come with public juridical personality in international law, albeit something already possessed as it was encapsulated in legislative and jurisdictional immunity.

The jurisdictional authority of the Holy See derives from it's being an international, sovereign and independent subject.

Regarding the active jurisdictional immunity in controversial issues in matters pertaining to relationships of work in the Vatican, Italian jurisprudence has in time conformed to principles set down by international law, which holds that the immunity of the State persists when the ruling is directed at engaging itself through the exercise of public functions and the sovereign power of the State, among which certainly include the power to regulate, govern and organize. And vice versa, the orientation of reserving for itself jurisdiction in controversies that hinge on acts carried out *iure gestionis* is not univocal. This also applies to questions of a merely private nature, issues that have nothing to do with the exercise of public power and hence not *de quo* relevant to these matters.

The Vatican legal structure furthermore guarantees all workers the protection of their rights in conformity with the norms of the public order, which include: the right to defense, the right to cross-examination, and the right to appeal and a just process, all required by international law upon recognition of immunity.

Vatican jurisdiction can also be established through the free agreement of parties when active immunity or territories are not acknowledged; Here, instead, guarantees of impartiality are offered in addition to the full safeguarding of the rights to cross-examination and defense.

In configuring and regulating the internal ordering, the first six laws promulgated by Pope Pius XI - by way of the *motu proprio* issued on the same day the Lateran Pacts were ratified (7 June 1929) - did not contain specific norms regarding the rights of work. Yet he did expressly deny, except in certain delineated circumstances, deferment to Italian legislation relevant to the worker (*guislaboristica*). This was an articulation of the desire and intention to autonomously govern the juridical and economic reality of Vatican personnel, as stated by the law of the sources of legislation and the rights it promulgates in Vatican City State, n. 71 of 2008. This same law also states in article 1 that, "juridical ordering in the Vatican acknowledges the canonical ordering as the foremost source of norms and the first criterion of reference in interpretation." And later it reads: "The juridical ordering in the Vatican is in conformity with the norms of general international law and those laws which derive from treaties and other accords in which the Holy See participates, when not in violation of the prescriptions of n. 1."

Such cardinal points of interpretation make up a legal regime of flexible and creative work oriented toward equity and the reality of things. Even though in the past systems of regulating the inherent rights and duties of employees of the Holy See have never been lacking, each curial organism governing according to individualized rules, it was the desire of the Roman Pontiff John Paul II that beginning in the 1980s a systematic process of reform be initiated. It is still on-going and seeks to harmonize to the greatest extent possible the treatment of all employees of the organs directly administrated by the Apostolic See, and to fulfill what is expected of them, improving the general conditions of each one. Today, the principles that regulate work in the Apostolic See, consonant with the contents of the social doctrine of the Church, are above all advanced in Leo XIII's Encyclical *Rerum novarum*, which later have maximum illustration in John Paul II's Encyclical *Laborem exercens* in 1981. They are also read in the Holy Father John Paul II's *Letter to Cardinal Agostino Casaroli, Secretary of State, Regarding the Meaning of Work in the Apostolic See*, issued November 20, 1982.

In this letter, in emphasizing the oneness of the working community in the Apostolic See, the Holy Father highlights that all those who are part of this whole must conform their lives to the truth of the "Gospel of work" and Catholic doctrine, striving to achieve mutual respect based on human and Christian brotherhood, and with a spirit that animated the service of the Apostles who were already pillars of the Church.

With the awareness of the limited resources to sustain the Apostolic See - which come from the spontaneous offerings of various parts of the world - it is moreover acknowledged that for all mechanisms and personnel, that work there is the need to manage the goods at its disposal with prudence and sobriety and a sense of responsibility. They must distinguish themselves by a kind of spirit of thriftiness. Such caution in implementing the universal tasks undertaken by the Apostolic See should be evermore increasing in its systematic character. Work is hereby considered to be a personal responsibility as if it were *in proprii* work. Compensation for employees must be given in proportion to the activity performed, and must keep in mind the respective duties of the state and the fundamental guidelines set forth in Catholic doctrine regarding the compensation for work and the practical nature of these matters as they relate to the conditions of life in society.

Everyone must unfailingly strive to accomplish an organization of the work dealt to him or her, on the one hand according to a respect of persons and the contribution that each can offer on the basis of his or her competency, and on the other hand utilizing all technical means possible that might render one's activity in the service of the Holy See more productive. It is, moreover, acknowledged that the role played by hired workers and related associations is an important one. They represent as well all those who take part in the work community, such as the *Associazione Dipendenti Laici Vaticani*, as fitting instruments in guaranteeing social justice between employer and employee.

These mentioned principles, even if they do not always lend themselves to exact juridical-administrative decisions, must guide those decisions pertaining to work and workers in the Apostolic See as one seeks to actualize the true spirit of work, as was given witness to in the earthly life of Christ-work is understood to be an instrument that reinforces the human person as a fundamental juridical value.

Indeed, work and the dignity of the person represent an indelible binomial and priority for the Magisterium of the Church. This was restated recently on many occasions by the current Pontiff, Francis, who has spoken of the crisis of work and the many difficulties that young people face while seeking occupation. On this point, the social doctrine of the Church teaches: "Work is a fundamental right and a good for mankind, a useful good, worthy of man because it is an appropriate way for him to give expression to and enhance his human dignity" (cf. *Compendium of the Social Doctrine of the Church*, n. 287).

Regulations for personnel of individual entities and organisms (for example, the *Regolamento generale della Curia Romana* and *Regolamento del governatorato*) in applying such principles especially consider the dignity of the person and approve mechanisms of equity that operate, so to speak, according to a system of deontology. They are, then, the very same principles that provide the basis for work in the Vatican and are inspired by the substance of the social doctrine of the Church, which holds every office, organism and erected body that collaborates with the Petrine ministry to an ethical code of conduct.

These ethical norms of conduct are infused into the regulations of personnel that dictate the selection of personnel, the organization of individual offices, promotions, transfers, all with mechanisms aimed at safeguarding transparency and impartiality, outlining the precise obligations of personnel, even at the executive level, so as to guarantee respect for the person, as well as for the professional quality and responsibility of shared work. In matters of details inherent to the duties of personnel, one might reference the main *Regolamenti*, wherein there is an exposition of the required fidelity, professionalism, dedication, identification and integral development of one's own person through the work required by the Pontifical magisterium, freely accepted upon employment (see the section in the *Regolamenti* that discusses the Roman Curia, artt. 32-40, and the formula for oaths of fidelity in the Appendix, *Governatorato SCV*, artt. 18-21, and the declaration of moral responsibility in the Appendix, and also at www.ulsava.va).

In addition to these normative duties, emerge *latu sensu* recent regulations that call for prudence and caution in the prevention of corruption, financial crimes and suchlike offences, regulations which the Holy See has seen fit to contribute both for the sake of internal commitments as well as a part of its cooperation in the international common good. To this end, the *motu proprio Ai nostri giorni* of 11 July 2013 defines stable Vatican employees as public officials.

The status of Vatican employees is furthermore colored by the *animus conciliandi* which compels them, according to the teachings of Pope Benedict XVI, to strive to achieve peace, to with patience seek agreement whenever possible, and likewise do all that is necessary for one to understand the position, the language, of others.

Conciliation is also written into ULSA's statutes (www.ulsava.va) as an instrument that illustrates possible future controversies in the workplace that the worker has the capacity to bring to the attention of a director instead of to Vatican judicial authority, and then to the decision of a collegial decision-making body, the *Collegio di Conciliazione ed Arbitrato*, that issues a decision - that cannot be appealed - in full respect for cross-examination and guarantees of defense.

This, too, is a demonstration of the special attention given by Vatican regulations to the safeguarding of the dignity and claims to justice of each and every worker, who are through expedient measures given a sure response in critical situations that may arise. It is indeed the task of ULSA to protect and honor the dignity of work in all its many forms, acknowledging and promoting the economic and social rights of each one of its collaborators. This is accomplished through initiatives of on-going professional, spiritual, and social

formation, and doing so in a manner that respective duties are carried out and the sense of responsibility and belonging to one's own community of work are enhanced. Here there is also the scope of improving service and increasing personal gratification in the worker for the contribution he or she renders.

The growth and enrichment of persons is promoted as well through provisions that favor the family, consonant with the social doctrine of the Church, as the family is the original unit of natural society as desired by God from the very beginning of the world, and for the good of both the person and society. The provisions in favor of the family which are promulgated in the approved *Testo Unico* of 2009 and subsequent modifications give witness to the Holy See's concern for protecting the family. Herein one reads a kind of significant system of norms: allowances for the birth and adoption of children (with a view even to allowances for preliminary procedures prior to adoption abroad), maternity benefits, and benefits that favor employees with handicapped dependents, and furthermore provisions for costs incurred by the education of the children of employees.

I therefore feel permitted to say that with respect to the norms pertaining to work, the Holy See demonstrates itself to be on equal footing with the times and attune to social, cultural and technological changes in the modern world that in altering life habits inevitably touch upon labor structures.

For the realization of the mentioned principles of solidarity and protection of persons and employees, the Holy See has implemented a well organized system of safeguarding.

As time is short, I will mention the main institutions: the FAS, the convention of social security and against accidents at work, which prove the attention of the Holy See to the many aspects of every person.

The autonomy and sovereignty of the Holy See and the Vatican City State have enabled such a complex system of protection.