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DEDICATION TO ROBERT ARAUJO, S.J.

ROBERT ARAUJO – INTERNATIONAL LEGAL SCHOLAR AND MENTOR

Jane Adolphe[†]

Over the course of his academic career spanning twenty-two years or so, Robert John Araujo, S.J. has authored numerous law review articles and book chapters on various topics within the area of public international law. His most recent contributions are a series of books that he co-authored with the late Fr. John A. Lucal, S.J. on papal diplomacy and international organizations.¹

But, perhaps Robert Araujo's most substantial contribution to public international law is his careful study of "The International Personality and Sovereignty of the Holy See."² He wrote this article during a vigorous campaign against the Holy See initiated by "Catholics for a Free Choice", now "Catholics for Choice" (CFC). This non-governmental organization (NGO) has presented itself as promoting "*an expression of Catholicism . . . [that] disagrees with the dictates of the Vatican on matters related to sex, marriage, family life and motherhood.*"³ Through its unsuccessful "See Change Campaign"⁴ it has sought to influence member States to modify the status of the Holy See at the United Nations from a unique sovereign and

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1. ROBERT JOHN ARAUJO, S.J. JOHN LUCAL, S.J., *PAPAL DIPLOMACY AND INTERNATIONAL ORGANIZATIONS: THE QUEST FOR PEACE AT THE UNITED NATIONS—FROM PIUS XII TO PAUL VI*, St. Joseph's University Press: 2010; ROBERT JOHN ARAUJO, S.J. JOHN LUCAL, S.J. *PAPAL DIPLOMACY AND INTERNATIONAL ORGANIZATIONS: THE QUEST FOR PEACE AT THE LEAGUE OF NATIONS*, Sapientia Press: 2004.

2. Robert John Araujo, S.J., *The International Personality and Sovereignty of the Holy See*, 50 *CATH. U. L. REV.* 291 (2001), also in book form.

3. Catholics for Choice, "About Our Work" available at <http://www.catholicsforchoice.org/about/ourwork/default.asp> (last accessed October 7, 2011).

4. Catholics for Choice, "See Change Campaign" available at <http://www.seechange.org/> (last accessed October 7, 2011).

subject of international law, enjoying and exercising international personality to that of a mere religious NGO or lobbying group. According to CFC, such a change was needed to combat “*The Vatican’s attempts to obstruct general agreement on matters relating to reproductive health and choices*” within the *United Nations system*.⁵ This claim, of course, is tainted as there is no common understanding of the meaning of “reproductive health” and choices that may be associated with this nebulous phrase. The CFC had hoped to capitalize on the fact that the nature and identity of the Holy See was often misunderstood because it did not neatly fall within traditional explanations of statehood, international personality and sovereignty.

In response, Robert Araujo has carefully described the different entities that one has to consider (the Holy See, the Pope, the Vatican City State) and the relationships between and among them and the Church as a whole. The term “see” derives from “*sedes*,” a Latin word that refers to the chair or seat of Saint Peter, which all subsequent Popes occupy, as successors of Peter. Within canon law, “Holy See” is defined, in the narrow sense, as the Pope or in a broader sense, as the Pope and the Roman Curia. Since 1929 and the finalization of the Lateran Treaty, the Holy See has exercised sovereignty over the small territory of Vatican City State (VCS) to ensure the Holy See’s absolute independence and sovereignty for the accomplishment of its essentially religious and moral mission, universal in scope. Accordingly, the Holy See is not synonymous with Vatican City State, nor Rome or the Vatican. Robert Araujo ultimately concludes that the Holy See is not simply a religion but a subject of international law possessing international personality and exercising sovereignty within the international community.

He fleshes out his thesis with reference to the historical background of the Holy See in international affairs and diplomatic relations - presently with 179 States and participation in a wide assortment of regional and international organizations. Commencing with scripture and the origins of the apostolic mission terminating with the contemporary era, he considers the nature and longevity of the Holy See’s participation as a sovereign with international personality. On the question of international personality and sovereignty, he carefully makes his case that the Holy See successfully meets the relevant criteria, although its statehood-like status is unique. He then demonstrates how the sovereignty and personality of the Holy See have been treated in state practice, custom and treaty law. In specific regard to treaties,

5. Frances Kissling, “See Change Campaign gathers Support; Urks Vatican” in CHOICES, Vol. 18, no. 1, available on the Catholics for Choice website at <http://www.catholicsforchoice.org/news/ops/2000/2000choiceseechangecampaigngathersupport.asp> (last accessed October 7, 2011).

the Holy See has negotiated and entered into both bilateral and multilateral conventions on a number of topics as well as concordats, which specifically address Church-State issues. Treaty law, in turn, has directly addressed the status of the Holy See. But he does not finish there. He turns to a study of the Holy See's participation in matters regarding the United Nations from its very beginnings and then as a Permanent Observer Status since 1964. He then concludes by demolishing each and every argument put forth by CFC through its "See Change Campaign."

In this inaugural issue, he has agreed to submit another version of this powerful article to include, among other things, the 2004 Resolution of the General Assembly on the "Participation of the Holy See in the work of the United Nations."⁶ This important article, "The Holy See: International Person and Sovereign," provides an important backdrop to his second submission on "Foreign Sovereign Immunity and the Holy See," wherein he explores the legal position of the Holy See concerning law suits filed by plaintiffs against Catholic Institutions at the local level, namely in the United States. In such cases, the plaintiffs are seeking remedies for sexual abuse alleged to have been committed by those working for Catholic institutions, including clerics, religious, and laity. Certainly, the sexual abuse of children is abhorrent, especially in such circumstances, but the legal issue is whether the Holy See, as an international sovereign, should be rendered a defendant in such proceedings in accordance with the Foreign Sovereign Immunities Act (FSIA), the only legal mechanism by which a foreign sovereign may be sued in American courts. In arguing that the tort exception under the FSIA cannot be applied to the Holy See, he once again must wade into issues concerning the International Personality and Sovereignty of the Holy See. In addition, he must address other questions pertaining to the relationship between Catholic bishops and priests in the United States, and the Holy See and whether the same are employees or officials of the Holy See – something that can only be answered with reference to the internal legal system of the Catholic Church. Needless to say, Robert Araujo has again taken on a monumental task and has rightly pointed out that the question has international ramifications: if the Holy See's "sovereign immunity is to be challenged, the precedent will raise questions about the limitations of other sovereigns and their immunity in tribunals around the world."

In closing, few law professors would disagree that a law review article entails perseverance and hard work, however, anyone familiar with the

6. General Assembly Resolution on the Participation of the Holy See in the work of the United Nations, A/RES/58/314 16 July 2004.

writings of Robert Araujo would recognize that his articles are real labour of love, with a greater purpose than simply educating judges.

He shall see the fruit of the travail of his soul and shall be satisfied.
(Isaiah 53)