



FAQS SEEKING JUSTICE IN THE INTERNATIONAL CRIMINAL COURT: HOLDING VATICAN OFFICIALS RESPONSIBLE FOR RAPE AND SEXUAL VIOLENCE AS CRIMES AGAINST HUMANITY

Q. What is this case about?

On September 13, 2011, the Center for Constitutional Rights (CCR), on behalf of the Survivor's Network for those Abused by Priests (SNAP) and five individual complainants, submitted a detailed communication to the Prosecutor of the International Criminal Court (ICC) requesting the investigation and prosecution of high-level Vatican officials, including Pope Benedict XVI, for their role in facilitating, aiding and abetting, failing to prevent and punish, and for covering up widespread and systematic rape and other forms of sexual violence and torture of children across the globe. We submit that these criminal acts constitute crimes against humanity, as outlined by the Rome Statute of the ICC.

SNAP is a survivor-led organization, and its mission is to protect children and bring perpetrators and those who shield them to justice, in order to stop them from hurting children in the future. CCR is representing SNAP in its efforts to seek accountability for these crimes through mechanisms of international justice.

Q. What is the goal of this effort?

The goal of this effort is to ensure individual accountability, which will greatly contribute to ending on-going crimes and deterring future criminal acts, exposing and preventing clergy sex crimes and cover-ups in the Catholic Church, and holding those who commit, ignore, conceal, facilitate, and otherwise aid and abet them responsible. This effort seeks to achieve a global response to the crimes which have been committed by members of the Catholic clergy on a global scale by holding those high-level Vatican officials who bear the greatest responsibility individually criminally liable.

Q: What is the International Criminal Court (ICC)?

The ICC is the first permanent international court with jurisdiction to prosecute individuals responsible for the most serious crimes of international concern. The Court officially came into existence on July 1, 2002, when the Rome Statute, the treaty creating the Court, entered into force. The ICC is based in The Hague, Netherlands and is an independent body that is not part of the United Nations. The court consists of 18 elected judges and an elected prosecutor, who leads investigations and tries cases. The current Prosecutor, Luis Moreno Ocampo (Argentina), is the first Prosecutor and his term expires in June 2012. The judges and prosecutors of the Court are elected by the States that have ratified the treaty; these State representatives comprise the Assembly of States Parties, which is the management oversight and legislative body of the ICC.

Q: *Why is CCR filing this submission with the ICC?*

The ICC is the appropriate forum to ensure accountability given the magnitude, scope, and global reach of the pervasive system of sexual violence within the Catholic Church, as well as the nature and depth of the physical and mental harm caused by crimes committed by religious authorities. Further, the ICC is able to address the systemic underpinnings of this crime, which domestic prosecutions often cannot or do not address. Additionally, the ICC is an ideal forum for this case, because the Court's statute and rules provide explicit guidelines for the effective investigation and prosecution of crimes of sexual violence.

Q: *What is the jurisdiction of the ICC? What types of crimes can it try? & Who can it try?*

The ICC has jurisdiction over (1) genocide, (2) crimes against humanity, (3) war crimes, and (4) crimes of aggression (jurisdiction for the crime of aggression will commence no earlier than 2017) committed after July 1, 2002. The ICC prosecutes individuals, not States. It has jurisdiction over crimes committed by nationals of States that have ratified the ICC statute, as well as over crimes committed on the territory of States that have ratified the treaty. (As of September 2011, the Rome Statute has 139 Signatories and 120 Ratifications; the US has signed but not ratified the treaty.) The Court is designed to complement national courts and cannot act unless countries themselves are unable or unwilling to genuinely investigate or prosecute. Individuals are not immune from criminal responsibility based on their official status, meaning the ICC can bring to trial an individual regardless of whether they were acting in an official capacity as head of state or other official position.

Q: *How are cases initiated by the ICC?*

There are three ways: 1) by a State Party referral; 2) by the Prosecutor acting on his own authority, with approval of a pre-trial chamber of the Court; and 3) by referral of the United Nations Security Council. SNAP and CCR are asking the Prosecutor to invoke his authority to initiate an investigation into this case.

Q. *Isn't the ICC a court set up to deal only with war crimes?*

The ICC was set up to address the core crimes of genocide, crimes against humanity, war crimes and aggression. The Court is not limited to addressing crimes committed during armed conflict. Crimes against humanity can occur in times of peace; for example, when a government or organization follows a course of conduct involving acts like torture or rape and other forms of sexual violence against its own people on a widespread or systematic basis. The Court is not limited to addressing crimes committed during armed conflict, such criminal acts can constitute a crime against humanity. In fact the underlying concept or origin of crimes against humanity was an attempt to describe violations that occur on a widespread or systematic basis against people/civilians in non-conflict situations where war crimes would not apply. Some historic examples are widespread human rights violations against the Jewish population in pre-war Germany; human rights violations committed under Pinochet regime in Chile – i.e. non-conflict situation where the government or leadership is allowing violations against its own people, in the form of disappearances, repression, etc.

Q. *Why does the ICC have jurisdiction over crimes committed within and by church officials?*

These are crimes against humanity because they occur on a widespread or systematic basis and affect a civilian population. The court has jurisdiction over citizens and territories of countries that have ratified the Rome Statute of the ICC—the statute which established the court. Many of the acts set forth in the communication occurred in countries that are a party to the ICC, including Ireland, Germany, Belgium, and the Democratic Republic of the Congo. Furthermore, many of the individuals responsible for church policy and practices regarding preventing and punishing the commission of sexual offenses by priests are from ICC signatory states, including Joseph Ratzinger, a German citizen, who was head of the Congregation of the Doctrine of the Faith until 2005, before becoming Pope Benedict XVI.

Q. Isn't the ICC supposed to address truly systematic and heinous violence, like genocide and torture?

The Court does address the most serious criminal acts. Raping and sexually assaulting children and vulnerable adults, for decades, across the globe, while supervisors enable and/or conceal the crimes, further devastates and alienates victims, constitutes “systematic” and heinous violence, and constitutes the crime against humanity of torture. Acts of torture are those acts which cause serious physical or mental harm: the mental suffering that accompanies the rape and other forms of sexual violence of children by members of the clergy, which entails a deep level of betrayal of trust and psychological harm, clearly rises to the level of torture.

Q. Isn't a case like this beyond the purview or outside the mandate of the ICC?

No. The ICC was created, in large part, to help provide legal remedies for crimes of universal concern, such as the crimes against humanity at issue here. Rape and other forms of sexual violence are clearly defined in international law, and when committed on a widespread or systematic basis or as part of a widespread or systematic attack against victims such as children and vulnerable adults, are crimes against humanity. The on-going crimes committed by clergy, as well as the crimes that have been covered up, must be brought before a court of law, and the individuals responsible for these acts held criminally accountable.

Q. Didn't most of these crimes occur years/decades ago?

Many did. But victims in these kinds of cases often come forward years or decades later. That has generally been the case given the nature of sexual violence against children and vulnerable adults, particularly in church settings. It is extremely likely that there have been just as many clergy sex crimes in recent years which have not been reported yet. And given that there has been so little Vatican action to address this crisis, it is virtually certain that hundreds, perhaps thousands, of such crimes and cover-ups are happening right now and will continue to happen.

Q. What is command or superior responsibility?

Command or superior responsibility is a concept that describes the responsibility of commanders (if a military organization) or superiors (if a civilian organization) to prevent or punish crimes committed by their subordinates and is the basis of legal accountability if they fail to do so. It is often referred to as a crime of omission, although it is important to note that in the case of the defendants named in this submission, it is alleged they also took steps that served to conceal such violence and enable it to continue, and thus also aided and abetted the crimes. High-level Vatican officials are being named for their individual and superior responsibility in their ongoing refusal to take actions to prevent and/or punish the commission of these acts. The church hierarchy is a clear, rigid, ancient hierarchy with the Pope at the top and the unquestioned and long-standing authority to hire and fire bishops and Vatican officials and to set the policies followed within the Church.

Q. Who are the persons identified in the submission?

Cardinal Joseph Ratzinger / Pope Benedict XVI

Cardinal Ratzinger served as Dean of the College of Cardinals as well as head of the Congregation for the Doctrine of the Faith (CDF) from 1981-2005, which is the entity formerly known as “the Inquisition” and which was largely responsible for enforcing Canon law relating to sexual ‘abuse’ by clergy. In 2001, Ratzinger’s oversight over sexual assault by clergy was expanded and made more explicit by Pope John Paul II when he issued new norms for dealing with such acts. As prefect of the CDF, Ratzinger continued to implement the longstanding policy of the church, which prioritized secrecy and concealment even at the risk of exposing others to harm.

As pope, he wields supreme and sole authority over all entities and persons within the Church, including the CDF, and is ultimately responsible for policies and practices of the Church as a whole. Canon law provides that he “not only possesses power [over] the universal Church but also obtains the primacy of ordinary power [over] all particular churches and groups of them.” Bishops and Cardinals, according to Canon law, assist the pontiff in exercising his power in performing their functions as defined by the law and norms over which the Pope has sole authority to determine.

Cardinal Angelo Sodano

Angelo Sodano currently serves as Dean of the College of Cardinals, having replaced Joseph Ratzinger upon his appointment as Pope. Prior to that, from 1990-2006, Sodano served as the Vatican’s Secretary of State, which is often described as being more akin to a Prime Minister in terms of the significance, power, and prestige of that office. As Secretary of State, Sodano was tasked with helping the pope, first John Paul II then Benedict XVI, to implement and oversee the Pope’s, and Church’s, policies, practices, canon law and procedure. In these roles, Sodano was in a position to prevent and punish crimes of rape and sexual violence, which he has referred to as “petty gossip,” but instead furthered the Church’s practice of concealment and protecting predator priests.

Cardinal Tarcisio Bertone

Tarcisio Bertone serves as Sodano’s successor as Vatican Secretary of State and also serves as the Camerlengo. He previously served as Secretary for the Congregation for the Doctrine of the Faith under Joseph Ratzinger. In each of these positions, he has had authority to help oversee and implement church policy with respect to sexual violence by priests. He has openly rejected the notion that “a bishop be obligated to contact police to denounce a priest who has admitted pedophilia.”

Cardinal William Levada

In 2005, William Levada was named Prefect for the CDF and as such has been in the position tasked with overseeing the handling of allegations of sexual assault by priests. Prior to that, he served as Archbishop of Portland, Oregon, from 1986-1995 and then as Archbishop of San Francisco from 1995-2005. From 1976-1982, he served as a secretary at the CDF and for part of that time served under Joseph Ratzinger. He was then named Executive Director of the California Catholic Conference of Bishops. During his tenure in both Portland and San Francisco, Levada oversaw the handling of numerous cases of sexual assault by priests.

Q. Why are these particular individuals as persons of interest?

These four men have been identified as persons for the Prosecutor to investigate because, through their roles and responsibilities and acts and omissions, they bear the greatest responsibility for the system of sexual violence in the church. Evidence shows that they had the authority to prevent, stop and expose child sex crimes by clerics but did nothing or actively worked to keep those crimes under wraps.

Q. Hasn’t the Church hierarchy already fixed most of this?

No. In a handful of Western nations, under tremendous public pressure, bishops have in recent years adopted written policies on clergy abuse. Without exception, these policies are weak, vague, and at best, only sporadically implemented or enforced. In fact, Vatican officials have been responsible for weakening the policies developed by bishops, such as those initially put forward by the U.S. Conference of Catholic Bishops in 2002. Often referred to as the U.S.C.C.B.’s ‘zero tolerance’ policy and held out as a model, not a single person or diocese has ever been found in violation of that policy – and yet, there continue to be victims whose perpetrators go unpunished or are “shifted” to a new parish or country, thereby evading justice. Church officials continue to withhold information from civil authorities and place the reputation of the church ahead of the safety of children. In all but a few countries, no real steps have been taken by the church hierarchy to genuinely protect the wounded, heal the wounded, or discover and disclose the truth about clergy sex crimes and cover ups.

Q. *Couldn't prosecutors in individual nations also pursue similar criminal charges against Vatican officials?*

In some nations, particularly those with “universal jurisdiction” laws, that is possible, and in fact, desirable. But given the size, scope, and global reach of the Catholic Church and scale of the crimes and harm done to victims, and strong evidence that its employees are committing, ignoring and concealing child sex crimes across the globe, the ICC is the most logical, appropriate and effective place to expose and prevent these egregious assaults and this stunning complicity to ensure global justice and accountability for the survivors and victims.

What you can do:

Ensure accountability for sexual violence and the system of cover ups within the Catholic Church. Specifically, you can:

1. Join SNAP as a survivor, supporter, or whistle-blower: <http://www.snapnetwork.org/>
2. One of the most effective ways to take action is to raise awareness—tell your friends, forward to your list-servs, post it on Facebook. We need to hold the Catholic Church hierarchy accountable!
3. [Tweet the ICC @IntlCrimCourt](#) to ask the Prosecutor to commence a preliminary investigation into these offenses and seek authorization to conduct a full-scale investigation

For more information on CCR and SNAP's action against the Catholic Church hierarchy, please visit:
<http://www.ccrjustice.org/iccvaticanprosecution>