

# FOCUS

ON

## Personal Injury



ANDREW MEDICHINI / THE CANADIAN PRESS  
Pope Benedict XVI celebrates mass in St. Peter's Basilica at the Vatican.

# The Catholic Church and sexual abuse

*Is the church's response real action — or window dressing?*

Sexual abuse compensation claims have been filed against the Catholic Church in almost every province in Canada — and similar lawsuits are being filed in other countries around the world. But has the Catholic Church, as an institution, taken reasonable steps to address the problem of sexual abuse by priests?

### Background

Before he became the current Pope, Bishop Joseph Ratzinger was Prefect of the Congregation for the Doctrine of the Faith for more than 20 years. The role of the Congregation for the Doctrine of the Faith is to "safeguard the doctrine on the faith and morals throughout the Catholic world" and deals with,



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among other things, priests accused of pedophilia.

### Casting blame

In the recent past, officials in the Catholic Church, including Pope Benedict XVI, have stated that the Catholic sexual abuse crisis was the responsibility of the media, homosexual priests, pornography and even the devil.

### Reporting of sexual abuse

Sexual abuse litigation in the U.S. has uncovered a letter pur-

portedly from the Vatican's Cardinal Silvio Angelo Pio to Bishop Moreno of Tucson Arizona, which says in part:

"To the second question (Should we allow or disallow civil lawyers from obtaining Father's personnel records from our Chancery files?) we reply that *under no condition whatever* ought the afore-mentioned files be surrendered to any lawyer or judge whatsoever."

The letter goes on to say: "Your Excellency should therefore make known immediately and with clarity that no priest's files will be sent to any lawyer or judge whatever."

Last year, the Vatican asked a court in Kentucky to strike a See Abuse Page 13

# Guidelines are 'simply a public relations exercise'

## Abuse

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lawsuit that claimed Catholic bishops are employees or officials of the Church. Counsel for the Vatican denied the Pope has control over bishops, saying: "The pope is not a five-star general ordering his troops around."

## Liability in Canada

The liability of the Vatican has yet to be determined by a court in Canada. But based on existing case law, there is an argument to be made that, at least in Canada, the Pope would be found vicariously liable for the actions of Catholic bishops.

## Supreme authority

Canon law establishes the Pope as the supreme leader of the Catholic Church, responsible for prescribing what rules are to be followed by the faithful and to take what measures he deems necessary for the preservation and the propagation of the Catholic faith. Under Canon Law, bishops are appointed by the Pope. The Pope is the sole authority over bishops and the only person who has the power to assign bishops to a diocese, remove bishops from a diocese and discipline bishops for misconduct.

In *Doe v. Bennett*, [2004] S.C.J. No. 17, the Supreme Court of Canada found the Catholic Diocese of St. George's vicariously liable for sexual abuse by one of its priests, stating:

"The relationship between the bishop and the priest in the Diocese is not only spiritual but temporal. First, the Bishop pro-

vided Bennett with the opportunity to abuse his power. Second, Bennett's wrongful acts were strongly related to the psychological intimacy inherent in his role as priest. Third, the Bishop conferred an enormous degree of power on Bennett relative to his victims."

One would think that the same reasoning would apply to hold the Pope responsible for the acts of bishops, because the Pope grants bishops "an enormous degree of power" over Catholics throughout the world.

## Recent developments

Two recent developments raise questions about whether the Catholic Church is prepared to accept responsibility for acts of sexual abuse by its priests.

## Jay Report

The U.S. Conference of Catholic Bishops recently commissioned a report from the John Jay College of Criminology. The report, "The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010" is almost Orwellian in the lengths it goes to direct attention away from the Catholic Church's responsibility to abuse survivors.

## Redefining pedophilia

One of the most appalling examples of the report's manipulation of facts is the researchers' conclusion that it is inaccurate to describe sexually abusive priests as pedophiles because, according to the report, only 22 per cent of reported victims were under the age of 10. The problem is that according to the

American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM), the definition of a pedophile is someone who is sexually attracted to children under the age of 14.

According to statistics published in the John Jay report, if the authors used the medically accepted DSM definition of pedophilia, the percentage of so-called "pedophile priests" would increase from 22 per cent to almost 73 per cent of reported cases.

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## Vatican's guidelines

Last month, the Vatican released guidelines to bishops for dealing with claims of priest sexual abuse. Cardinal William Joseph Levada, Prefect of the Congregation for the Doctrine of the Faith, said the guidelines were drafted to "facilitate the correct application" of the

Pope's instructions.

The idea that individuals are responsible before their god for their sins and before the law for their crimes is something that is universally accepted — except, it seems, by the Catholic Church. The Vatican stops short of ordering the bishops to comply with laws requiring the reporting of sexual abuse of minors.

The guidelines state:

"Specifically, without prejudice to the sacramental internal forum, the prescriptions of civil

report fails to explore what responsibility the hierarchy of the church has in the priest abuse crisis.

The Vatican's guidelines recognize that child abuse is a crime. But the Vatican won't order bishops to report crimes of sexual abuse. By recommending that bishops *should* comply with laws requiring reporting of crimes against children, instead of emphatically stating that bishops *must* comply with the law, the Vatican shows that the guidelines are simply a public relations exercise, rather than a legitimate attempt to address sexual abuse by priests.

The Vatican and the Pope have an enormous degree of power over every bishop, priest and Catholic parishioner in the world. Perhaps it is time the Pope accepts the responsibility that comes with that power. ■

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