



Al et écle

## The International Responsibility of the Holy See for Human Rights Violations

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Abstract: In recent years, the Holy See has been accused of violating its human rights obligations because of acts of sex abuse by the Catholic clergy. Such accusations are based, in various ways, on the authority of the Holy See over the clergy. The Holy See is often referred to as a state and its obligations as state obligations. UN treaty bodies understand that the human rights obligations of the Holy See, as a treaty party, are of a legal—not moral—nature and apply extraterritorially, i.e., beyond the territory of the Vatican City State. The notion of state jurisdiction is, therefore, applied to the Holy See in the same way as to any other state. UN treaty bodies implicitly conclude that, for the purpose of human rights responsibility, the crimes of the clergy must be attributed to the Holy See and that anyone under the religious authority of the Holy See is under its state jurisdiction. However, a closer examination of the nature of the Holy See and its authority under international law, church doctrine, and church law paints a more complex and manaed picture, where it is hard to describe the clergy as state organs or religious authority as state jurisdiction. Still, there are reasons to understand that certain acts and omissions of the Holy See in the context of the sex abuse crisis can be characterized as violations of its positive obligations of conduct.

Keywords: Holy See; Vatican City State; sex abuse; human rights; international responsibility



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#### 1. Introduction: Religious Authority and Accountability for Sex Abuse by the Clergy

The perception of religious authority has been essential in findings of civil liability against religious organizations for acts of sex abuse committed by their ministers. Manifestations of such authority can be the appointing, training, and supervisory functions of bishops or superiors of religious orders or the alleged authority of the clergy over laypersons.

One underlying rationale for the attribution of liability is that religious organizations could have avoided sex abuse with better use of their appointing or supervisory authority or simply by not vesting clergy with an authority over the lay faithful that could facilitate or be a precursor to acts of sex abuse.

In the case of most religious groups, municipal courts have only had to deal with two levels of religious authority: clergy-laity and clergy-organization. However, some see a third level of authority in Catholicism, i.e., the Pope or the Holy See, to be held accountable. Claims that the Holy See is directly responsible for the acts or omissions of the Pope and/or Vatican officials are accompanied by claims that it is also indirectly responsible for the wrongful acts of Catholic clergy, given its alleged control over them. The fact that the Holy See is a sovereign subject of international law, recognized as a state, and is a party to several human rights treaties, expands the discussion about its liability under municipal law to its responsibility under the international law of human rights.

A cursory meading of those canon law norms describing the authority of the Pope has given claimants in civil lawsuits, as well as international institutions, arguments to accuse the Pope of being the appointer of appointers and the supervisor of supervisors. However, the history and doctrine of Papal authority are much more complex and nuanced. The Holy See is actually not a state, and its responsibilities under international law depend on its specific nature and capacity, in the same way that the responsibilities of international

# **Religion And International Responsibility**

**Lydia Dotto** 

## **Religion And International Responsibility:**

Religion and International Responsibility Robert Gordis, Council on Religion and International Affairs, 1969 Good Faith in International Law Robert Kolb, 2017-07-13 There is a great degree of controversy on the proper complexion and role of general principles of law in the international legal order Opinions range from total rejection of some types of principles to the most enthusiastic endorsement of principles as the necessary oil for the many complex wheels of the legal order In this book one of the leading public lawyers of his generation explores the concept of good faith and its role in international law Rather than offer a detailed comprehensive examination Kolb aims to map the true points of gravity of the principle of good faith in the international legal order In so doing he illustrates how the various legal institutions who operate in the sphere of public international law allow the principle of good faith to unfold The Law of International Responsibility James Crawford, Alain Pellet, Simon Olleson, Dr Kate Parlett, 2010-05-20 The law of international responsibility is one of international law s core foundational topics Written by international experts this book provides an overview of the modern law of international responsibility both as it applies to states and to international organizations with a focus on the ILC s work

Human Rights and Responsibilities in the World Religions Joseph Runzo, Arvind Sharma, Nancy M. Martin, 2014-10-01 This volume outlines the approaches to human rights and responsibilities within the different world religions Featuring contributions from over 15 scholars the book covers such key issues as women s rights the role of international law and responsibility for the environment It also includes a Universal Declaration of Human Rights by the World's Religions presented at the third Parliament of the World Religions Theory of Obligations in International Law Cezary Mik, 2024-05-07 Examining the fulfilment of international obligations by subjects of this law this book explores the normative and functional links between the sources and rules of international law on the one hand and the responsibility for violating international law on the other In the sphere of law making the theory of obligations allows for a more precise and considered formulation of international obligations It has the potential to enable subjects of international law to behave more rationally allowing deeper reflection on whether to take on obligations and how to properly perform them This book proposes a new approach to the issue of the proper operation of international law with the theory of obligations at its heart Linking the institutions and concepts of international law into a rational whole the book offers an analysis of the operation of international law and the behaviour of its subjects to develop a framework for ensuring the ultimate effectiveness of international law Analysing sources of law including treaties and common law alongside the resolutions of international organisations this book demonstrates the practical application of the subject with reference to the jurisprudence of international courts and other bodies The volume will be of interest to scholars students and practitioners concerned with international law its creation performance application compliance and enforcement Allocating International Responsibility Between Member States and International Organisations Nikolaos Voulgaris, 2019-05-16 The ever growing

interaction between member States and international organisations results all too often in situations of non conformity with international law eg peacekeeping operations international economic adjustment programmes counter terrorism sanctions Seven years after the finalisation of the International Law Commission's Articles on the Responsibility of International Organisations ARIO international law on the allocation of international responsibility between these actors still remains unsettled The confusion around the nature and normative calibre of the relevant rules the paucity of relevant international practice supporting them and the lack of a clear and principled framework for their elaboration impairs their application and restricts their ability to act as effective regulatory formulas This study aims to offer doctrinal clarity in this area of law and purports to serve as a point of reference for all those with a vested interest in the topic For the first time since the publication of the ARIO all international responsibility issues dealing with interactions between member States and international organisations are put together in one book under a common approach Structured around a systematisation of the interactions between these actors the study provides an analytical framework for the regulation of indirect responsibility scenarios Based on the ideas of the intellectual fathers of international law such as Scelle's d doublement fonctionnel theory and Ago's derivative responsibility model the book employs old ideas to add original argumentation to a topic that has been dealt with extensively by recent commentators Issues of State Responsibility Before International Judicial Institutions M. Fitzmaurice, Malgosia Fitzmaurice, Dan Sarooshi, 2004-06 The book contains papers presented at a conference which cover issues of State Responsibility before various international judicial institutions Good Faith and International Economic <u>Law</u> Andrew D. Mitchell, M Sornarajah, Tania Voon, 2015-05-21 The past two decades have seen a significant proliferation of trade and investment treaties around the world States are increasingly negotiating agreements that regulate both trade and investment such as the Trans Pacific Partnership Agreement and the Transatlantic Trade and Investment Partnership The number of investor state dispute settlement cases is rapidly accumulating each year yet states enthusiasm for investor state arbitration has become more qualified as concern has intensified that the system can be abused by foreign investors Good faith is therefore becoming increasingly important as a principle particularly in the investment context due to disputes about investor conduct such as corporate restructuring in order to gain the protection of a particular investment treaty regarding an existing or foreseeable dispute and States responses to public policy concerns through attempts to modify or terminate investment treaties in the face of ongoing or expected claims Tribunals adjudicating investment disputes have used the principle of good faith in a haphazard and uncoordinated manner causing serious problems of uncertainty and inconsistency In response to these developments this book contains the first comprehensive and integrated analysis of the treatment of good faith in international investment law noting the broader implications of good faith in public international law and international trade law The Right to Life Under International Law Stuart Casey-Maslen, Christof Heyns, 2021-09-23 Offers the first ever comprehensive treatment under international law of the foundational human right to life **Ethical Choices** 

and Global Greenhouse Warming Lydia Dotto, 2010-10-30 There are many things we can choose to do about climate change including doing nothing at all All of them have consequences many of which will be unforeseen If we could foretell more accurately what would happen to the climate in the future our choices might be clearer if not necessarily easier to make Unfortunately predicting future climate change is fraught with uncertainty and we will be forced to make choices in the face of that uncertainty To what extent are we motivated in this difficult process by a desire to do the right thing And how do we decide what is the right thing to do The answer to these questions depends on whose ethical interests are considered What is best for a Canadian living in the last decade of the twentieth century even supposing we could discover what that is might not be best for a Somali or for our great grandchildren or for the rain forest of the Amazon or the kangaroos of Australia Decisions about what to do about global warming will therefore be influenced by how much relative weight we give to the ethical interests of Canadians Somalis grandchildren rain forests kangaroos and a host of other variables Weighing these competing interests is an exercise in applied ethics. This book examines the role that ethics can and should play in our decisions about how to deal with global warming International Law Malcolm N. Shaw, 2008-11-13 Malcolm Shaw s engaging and authoritative International Law has become the definitive textbook for instructors and students alike in this increasingly popular field of academic study. The hallmark writing style provides a stimulating account motivating students to explore the subject more fully while maintaining detail and academic rigour The analysis integrated in the textbook challenges students to develop critical thinking skills The sixth edition is comprehensively updated throughout and is carefully constructed to reflect current teaching trends and course coverage The International Court of Justice is now examined in a separate dedicated chapter and there is a new chapter on international criminal law The detailed references and reliable consistent commentary which distinguished previous editions remain making this essential reading for all students of international law whether they be at undergraduate level postgraduate level or professional lawyers Handbook on Not-For-Profit Law Matthew Harding, 2018-12-28 This Research Handbook provides a comprehensive overview of scholarship on not for profit law The chapters written by world leading experts explore key ideas and debates in relation to theories of the not for profit sector the composition and scope of that sector not for profit organisations and the constitution the legal conception of charity the tax treatment of not for profit organisations and the regulation of not for profits The book serves to represent not for profit law as a field of academic inquiry and to point the way to future research in that field

Constitutionalism and Religion Francois Venter, 2015-10-30 This topical book examines how the goals of constitutionalism good and fair government are addressed at a time when the multi religious composition of countries populations has never before been so pronounced How should governments courts and officials deal with this diversity. The widely accepted principle of treating others as you wish them to treat you and the universal recognition of human dignity speak against preferential treatment of any religion Faced with severe challenges this leads many authorities to seek refuge in secular

neutrality Set against the backdrop of globalized constitutionalism in a post secular era Francois Venter proposes engaged objectivity as an alternative to unachievable neutrality Bringing together the history of church and state the emergence of contemporary constitutionalism constitutional comparison and the realities of globalization this book offers a fresh perspective on the direction in which solutions to difficulties brought about by religious pluralism might be sought Its wide ranging comparative analyses and perspectives based on materials published in various languages provide a clear exposition of the range of religious issues with which the contemporary state is increasingly being confronted Providing a compact but thorough historical and theoretical exposition this book is an invaluable resource for students constitutional scholars judges and legal practitioners Religious Diversity in Canadian Public Schools Dia Dabby, 2022-02-01 Canadian public schools have long been entrusted with the mandate of socializing children Yet this duty can rest uneasily alongside religious diversity questions Grounding its analysis in three seminal Supreme Court cases involving religion in schools Religious Diversity in Canadian Public Schools reveals legal processes that are unduly linear compressing multidimensional conversations into an oppositional format and stripping away the voices of children themselves Dia Dabby contends that schools are in fact microsystems worthy of their own consideration and with the power to construct their own rules and relationships This compelling work connects many of the themes that have animated public discourse since multiculturalism was officially enacted in Canada Situating its analysis in relation to concepts of nation education and diversity Religious Diversity in Canadian Public Schools encourages a deeper conversation about how religion is mediated through public schools and invites a critical reassessment of the role of law in education Globalization and Common Responsibilities of States Koen De Feyter, 2017-05-15 There is a growing awareness that international law insufficiently protects common global interests and that States and non State actors need to work together to protect global aims The focus of this book is on the different fields of international law where there is a need for global cooperation to achieve common aims for example the law of the sea protection of world cultural heritage sustainable development biological diversity and climate change human rights and international crimes The volume also identifies the legal developments which have taken place for example treaties which use the language of common heritage of mankind or common concern of humanity thereby identifying global concerns and reflecting a global set of values and interests independent of the interests of States The Collective Dimension of **Freedom of Religion** Mine Yıldırım, 2017-01-20 The right to freedom of religion or belief as enshrined in international human rights documents is unique in its formulation in that it provides protection for the enjoyment of the rights in community with others This book explores the notion of the collective dimension of freedom of religion or belief with a view to advance the protection of this right The book considers Turkey which provides a useful test case where both the domestic legislation can be assessed against international standards while at the same time lessons can be drawn for the improvement of the standard of international review of the protection of the collective dimension of freedom of religion or belief The book

asks two main questions what is the scope and nature of protection afforded to the collective dimension of freedom of religion or belief in international law and secondly how does the protection of the collective dimension of freedom of religion or belief in Turkey compare and contrast to international standards In doing so it seeks to identify how the standard of international review of the collective dimension of freedom of religion can be improved **Library of Congress Subject Headings** Library of Congress, Library of Congress. Subject Cataloging Division, Library of Congress. Office for Subject Cataloging Policy, 2013 **Library of Congress Subject Headings** Library of Congress. Office for Subject Cataloging Policy, 1991

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The International Law Commission's Draft Articles on State Responsibility United Nations. International Law Commission,1991-05-29 This volume contains a consolidated reproduction of Part One articles 1 to 35 of the Draft Article on State Responsibility and their important Commentaries prepared by the International Law Commission in the period ending in 1980 These articles deal with the origin of international responsibility including general principles the act of State breach of an international obligation and circumstances precluding wrongfulness They were drawn up on the basis of eight reports submitted by the Special Rapporteur Professor now Judge Roberto Ago An introduction written by Shabtai Rosenne traces the history of the official codification of the topic of State Responsibility since the League of Nations first broached the matter in 1924 State Responsibility is central to the daily practice of international law and its systematic treatment is central to the codification process The International Law Commission is continuing work on the topic In the meantime the articles of Part One now concentrated for the first time in a single volume are the major starting point for this work This volume will be of great value to practitioners teachers and students of international law Shabtai Rosenne was a member of the International Law Commission from 1962 to 1971 when the basic decisions regarding the approach to the current phase of the work were taken

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