

**Submission to the U. N. Committee on the Rights of the Child
Pertaining to Its Review of the Holy See during Its 65th Session**

By BishopAccountability.org

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Introduction

This report is respectfully submitted to the Committee to assist in its review of the Holy See during its 65th session. It has been prepared by BishopAccountability.org , an archival and research organization focused on the worldwide problem of child sexual abuse within the Roman Catholic Church. The points raised in this report pertain to Part I, Issue 11 in the Committee’s July 2013 List of Issues to the Holy See (CRC/C/VAT/Q/2). We provide factual information about the child protection records of two Holy See officials – Pope Francis and Archbishop Gerhard Ludwig Müller, the Prefect of the Congregation for the Doctrine of the Faith, a Holy See dicastery. This information is responsive to the Committee’s interest in detailed accounts of:

- “[T]he cases where [accused] priests were transferred to other parishes or to other States where they continued to have access to and abuse children” [Issue 11a]
- “[T]he cases where instructions were given not to report such offenses [to national competent authorities]” [Issue 11b]
- “The type of support and protection provided by the Holy See to child victims of sexual abuse party [sic] testifying against their sexual abusers and the cases where children were silenced ...” [Issue 11c]
- “[T]he cooperation provided by the State party proceedings engaged in countries where the abuses were committed’ [Issue 11d]

About BishopAccountability.org

Founded in 2003 by lay Catholics and based in Waltham, Massachusetts, USA, BishopAccountability.org is the world’s largest public information resource about the Catholic abuse crisis. Our online library provides 250,000 pages of church documents, court files, and reports. Our site’s most visited feature is a database of nearly 4,000 Catholic clerics in the US who have been accused publicly of child sexual abuse. This year, we compiled for the first time databases of accused clergy in countries outside the US – Argentina, Belgium, Brazil, Chile, Ireland, and the Philippines. Our Argentina database will go live shortly, with information about the Pope’s record of response to child sexual abuse by clergy.

In 2013, our online library served 1.3 million unique visitors. Our library and research are relied upon by prosecutors, investigators, children's advocates, victims, church officials, journalists, film producers, scholars, and attorneys.

BishopAccountability.org is a non-profit organization and is not affiliated with any governmental, religious, political, or interest group of any kind. We are not an advocacy group. Our purpose is to advance transparency in the Catholic Church. We can be reached at staff@bishop-accountability.org.

Key points

1. In its recent submission to the Committee, the Holy See asserts that it is powerless to enforce the CRC treaty outside the territorial boundaries of the Vatican City State. Evidence contradicting this assertion abounds, including a Holy See official's statement that from 2002 to 2012, the Holy See issued rulings on 4,000 cases of accused priests from around the world.
2. The chief of the Congregation for the Doctrine of the Faith, an archbishop recently re-appointed by Pope Francis, is unfit to hold this crucial office: he is known in his native Germany for having deliberately re-assigned a convicted pedophile priest to run a parish, violating the German version of the Guidelines, as discussed in the Holy See's Replies of December 2, 2013.¹
3. In his papacy to date, Pope Francis has avoided addressing the topic of sexual abuse of children by Catholic clergy. More importantly, he has taken no decisive action to ensure that children attending Catholic schools and parishes worldwide are protected from sexual exploitation and violence. His silence about the issue as pope continues a strategy of avoidance he employed as archbishop. In a recent book, he denies ever having dealt with an abusive priest in Buenos Aires; in the case of Argentina's most notorious pedophile priest, however, he reportedly worked behind the scenes to discredit young victims after their abuser was convicted.

* * *

1. The Holy See has the power to prevent worldwide child sexual abuse by clergy: it previously has admitted to ruling on thousands of cases of child sexual abuse

In its December 2013 submission to this Committee, the Holy See disclaimed responsibility for the hundreds of thousands of crimes of sexual violence against children by priests that have occurred throughout the world and suggested that its influence over the child-protection practices of Catholic bishops, religious superiors, and clerics is limited to 'encouragement' and 'promotion.' This assertion is not true: since 2001, every bishop and religious superior has been required by canon law to notify the

¹ Replies of the Holy See to the List of Issues, December 2, 2013, paragraph 45, page 16. See: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fVAT%2fQ%2f2%2fAdd.1&Lang=en

Congregation for the Doctrine of the Faith (CDF) of every credible case of child sexual abuse by clergy.² In February 2012, at the Vatican-sponsored Symposium on the Sexual Abuse of Minors, Cardinal William Levada, Prefect of the CDF, stated, “More than four thousand cases of sexual abuse of minors have been reported to the CDF in the past decade.”³ In 2010, then-Msgr. Charles Scicluna, who served as Promoter of Justice for the CDF for years, said in an interview that the CDF from 2001 to 2010 had adjudicated canonically “around 3,000” cases of alleged child abuse by diocesan and religious priests from countries throughout the world.⁴

In the unusually informative 2010 interview, Scicluna is clear about the CDF’s central role in managing cases of sexual violence perpetrated by clergy around the world. In all cases reported to the CDF, Scicluna explains, “there is an examination of the guilt or innocence of the accused priest,” as well as “a discernment as to his fitness for public ministry.” He provides a breakdown of how the cases are resolved: 20% of cases result in a full church trial, normally in the diocese of origin, but “always under our [the CDF’s] supervision;” in 60% of the cases, the priest is disciplined – e.g., assigned a life of prayer and penance -- rather than brought to trial; in ten percent of the cases, the priest is dismissed by the Pope from the clerical state; and in the final ten percent, the priest is granted voluntary dismissal from the clerical state.⁵

Further, in the same interview, Scicluna made the disturbing admission that the Holy See does not require bishops to report sexually violent priests to civil authorities:

Interviewer: A recurring accusation made against the ecclesiastical hierarchy is that of not reporting to the civil authorities when crimes of paedophilia come to their attention.

Scicluna: In some English-speaking countries, but also in France, if bishops become aware of crimes committed by their priests outside the sacramental seal of Confession, they are obliged to report them to the judicial authorities. This is an onerous duty because the bishops are forced to make a gesture comparable to that of a father denouncing his own son. Nonetheless, our guidance in these cases is to respect the law.

Interviewer: And what about countries where bishops do not have this legal obligation?

² *Sacramentorum Sanctitatis Tutela*, promulgated by Pope John Paul II, April 30, 2001. See: <http://www.bishop-accountability.org/resources/resource-files/churchdocs/SacramentorumAndNormaeEnglish.htm>

³ (Charles Scicluna, Hans Zollner, and David John Ayotte, eds. *Toward Healing and Renewal: The 2012 Symposium on the Sexual Abuse of Minors Held at the Pontifical Gregorial University*. Paulist Press: 2012) p. 5.

⁴ Published in *Avvenire*, March 13, 2010: http://www.vatican.va/resources/resources_mons-sciicluna-2010_en.html

⁵ *Ibid.*

*Scicluna: In these cases we do not force bishops to denounce their own priests, but encourage them to contact the victims and invite them to denounce the priests by whom they have been abused.*⁶

The Holy See's policy of allowing bishops to **not** inform civil authorities of crimes against children has had devastating results. It has caused abusers to stay in ministry and children to be raped and sodomized. In August 2013, a criminal court in Argentina had to dismiss a case against a priest who had abused up to 50 boys; the statute of limitations had expired because his archbishop, Cardinal Estanislao Esteban Karlic of the Parana archdiocese, had refused to report the priest's crimes in 1995. The cardinal instead allowed the priest to move to another Argentine diocese, where he became pastor of a parish. The cardinal's lawyer applauded the dismissal of the case, saying, "Parents should have made the complaint."⁷

The Holy See has been deceptive about its policy of non-reporting. In its December 2013 Replies, it responds vaguely and misleadingly to the Committee's request for information on the Holy See's reporting policies: "[R]espect should be shown ... for civil laws, such as reporting obligations ..."⁸

2. In his papacy to date, Francis has taken only one significant action in response to the abuse crisis, and it is highly problematic: he re-appointed a known enabler of a convicted pedophile priest to lead the Holy See's office with sole responsibility for abuse cases.

This Committee requested that the Holy See provide detailed information on cases where priest-perpetrators were transferred to other parishes (Issue 11a) and where measures were taken to prevent further sexual violence from taking place in institutions run by the Catholic Church (Issue 11f).

The record of the archbishop who directs the Holy See's central prosecutorial office bears on both of these concerns.

On September 21, 2013, Pope Francis approved Archbishop Gerhard Ludwig Müller as Prefect of the Congregation for the Doctrine of the Faith (CDF), the office of the Holy See that has dealt with all sexual abuse cases since Pope John Paul II consolidated its role on April 30, 2001. Müller had been appointed to the position by Pope Benedict XVI on July 2, 2012, replacing U.S. Cardinal William J. Levada, who had himself replaced Cardinal Joseph Ratzinger when he became Pope Benedict.

⁶ Published in *Avvenire*, March 13, 2010: http://www.vatican.va/resources/resources_mons-scicluna-2010_en.html

⁷ "Apelarán el fallo que sobreseyó al cura, Justo José Illarraz, acusado de violar a 50 niños," Primera Fuente, August 8, 2013. See: <http://www.primerafuente.com.ar/noticia/911638-apelaran-el-fallo-que-sobreseyo-al-cura-justo-jose-illarraz-acusado-de-violar-a-50-ninos>

⁸ Replies of the Holy See to the List of Issues, December 2, 2013, paragraph 48, page 16.

Pope Francis made a grave error when he approved Müller, whose performance as bishop of Regensburg (2002-2012) disqualifies him from working on abuse cases, and certainly from heading the department with sole responsibility for those cases. Attention has focused on Müller's role in the disciplining of U.S. nuns; his friendship with mentor Gustavo Gutiérrez, with whom he wrote a book on liberation theology; and his vigorous defense of orthodoxy in Regensburg. But his extremely poor performance in a sexual abuse case in Regensburg demonstrates that he does not belong at the CDF and should not have been approved by Pope Francis.

When Müller was appointed bishop of Regensburg in 2002, he inherited the case of Fr. Peter Kramer, who had been convicted in 2000 of sexually abusing two boys, ages nine and twelve, in the village church of Viechtach in 1999. Kramer was sentenced to three years probation on July 7, 2000, on condition that he not work with children. But when Müller became bishop, Kramer was already working with children in the parish of Riekhofen, and when Kramer's probation expired, Müller named him pastor, in violation of the German bishops' 2002 "binding" guidelines, which forbid appointments to ministry of a priest who has been convicted of abusing a child.⁹ Müller concealed Kramer's conviction from his parishioners.¹⁰

When the father of the Viechtach victims learned of Kramer's new assignment, he objected; Kramer was removed, additional victims came forward from Riekhofen, and Kramer was again convicted of child abuse.¹¹ Müller combatively disclaimed responsibility for the children who had been abused because of his decision, and even threatened legal action against his critics.¹² When the bishop of Fulda, Heinz J. Algermissen, affirmed the bishops' guidelines, that a priest who has abused children must not be permitted further contact with children¹³, Müller countered that "there is no space free of children and youth."¹⁴

⁹ "Zum Vorgehen bei sexuellen Missbrauch Minderjähriger durch Geistliche im Bereich der Deutschen Bischofskonferenz: Leitlinien mit Erläuterungen" [Approach by the German Bishops' Conference to Sexual Abuse of Minors by Clergy: Guidelines with Annotations], September 27, 2002, art. 12.

¹⁰ Conny Neumann and Peter Wensierski, "Schweigen gegen Geld" [Silence vs. Money], *Der Spiegel*, September 17, 2007.

¹¹ Christian Gressner, "Drei Jahre Haft und Psychiatrie für Pfarrer" [Three Years in Prison and Therapy for Pastor], *Stern*, March 13, 2008.

¹² Karl Birkensee, "Bischof sieht sich als Ziel einer Kampagne" [Bishop Finds Himself the Target of a Campaign], *Passauer Neue Presse*, September 10, 2007.

¹³ Martin Gehlen, "Bischöfe diskutieren Missbrauchsfall" [Bishops Discuss Abuse Case], *Tagespiegel*, September 24, 2007.

¹⁴ "Missbrauchsfall überschattet Bischofskonferenz" [Abuse Case Overshadows Bishops' Conference], *netzzeitung.de*, September 24, 2007.

Müller demonstrated in Regensburg a terrible carelessness for the welfare of children and an unwillingness to take responsibility when his decisions harmed children. He violated the guidelines of his own bishops' conference, and threatened constructive critics with legal action, claiming that he had been defamed. Müller should not be heading the Holy See's department dealing with the abuse crisis worldwide.

It should be emphasized that Müller and his Congregation for the Doctrine of the Faith have full responsibility under the Holy See's Substantive Norms¹⁵ for alleged sexual abuse of children by priests and religious in every country, not only within the Vatican City State. Müller and the CDF are not merely responsible for "the provision of Guidelines to assist Episcopal Conferences throughout the world" (the Guidelines Müller himself violated), as the Holy See's Replies would suggest. The CDF has handled thousands of child abuse cases in the last decade, removing some men from the priesthood, allowing others to return to ministry, and restricting the ministry of others. It has sole responsibility within the Holy See for these cases, and its decisions have a significant impact on the safety of children wherever the accused priests and religious reside and work.

3. The Pope to date has managed the abuse crisis through silence and denial

Given the Holy See's assertion that the Holy See consists of "the Roman Pontiff, in the narrow sense,"¹⁶ the child protection record of the Pontiff obviously is of direct relevance to the question of whether the Holy See will comply with its obligations under the Convention.

Francis has said little about clergy sexual abuse in his ten months as pope. Given his openness about other controversial topics and his passionate devotion to the marginalized and powerless, it is notable that he chooses to stay silent about the plight of children sexually abused by Catholic priests. His recently announced child protection commission, with a sprawling mandate that promises only study and discussion, actually seems a step backward from the Holy See's modest but discernible progress at the end of Benedict's pontificate: its May 2011 "Circular Letter" urging bishops' conferences worldwide to establish guidelines for removing abusers¹⁷, and its February 2012 conference on sex abuse that acknowledged 100,000 victims in the US alone.¹⁸

¹⁵ Substantive Norms, http://www.vatican.va/resources/resources_norme_en.html.

¹⁶ Replies of the Holy See to the List of Issues, December 2, 2013, paragraph 6, page 3.

¹⁷ William Cardinal Levada, "Circular letter to assist Episcopal Conferences in developing guidelines for cases of sexual abuse of minors perpetrated by clerics," May 3, 2011. [See: http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html]

¹⁸ John L. Allen Jr., "Vatican Abuse Summit: \$2.2 Billion and 100,000 Victims in U.S. Alone," *National Catholic Reporter*, February 8, 2012. [See: <http://ncronline.org/blogs/ncr-today/vatican-abuse-summit-22-billion-and-100000-victims-us-alone>]

Silence has been the pope's pattern. Jorge Mario Bergoglio, s.j., was Archbishop of Buenos Aires from 1998 to 2013, a period of worldwide revelations about child sexual abuse in the Church. As his brother bishops in the US and Europe began addressing the problem and promising reform – and even as Popes John Paul II and Benedict made public statements – Bergoglio disclosed nothing and said nothing. He released no documents, no names of accused priests, no tallies of accused priests, not even an apology to victims. In his many homilies and statements (archived on the Buenos Aires archdiocesan website¹⁹), he attacked government corruption, wealth inequities, and human sex trafficking, but he said nothing about sexual violence by priests.

In *On Heaven and Earth* (first published in Spanish in 2010), a wide-ranging collection of conversations with Argentine rabbi Abraham Skorka, he suggests that the problem did not exist in his archdiocese (bold face added):

In my diocese it never happened to me, but a bishop called me once by phone to ask me what to do in a situation like this and I told him to take away the priest's faculties, not to permit him to exercise his priestly ministry again, and to initiate a canonical trial.²⁰

Given many data – including the Holy See's recent admission of 4,000 reports of sexual abuse in ten years -- Bergoglio's assertion of no abusive priests during his 15-year tenure as archbishop of Buenos Aires is implausible. Buenos Aires is Argentina's largest diocese, and Bergoglio managed it during a period when tens of thousands of victims were reporting their abuse to the Church.

We estimate conservatively that more than 100 predatory priests were known or reported to Bergoglio and other top Buenos Aires church officials. We derive this estimate from data that has been disclosed in Catholic dioceses in the US and Europe.

- In the tiny diocese of Manchester, New Hampshire, USA, with less than one half the priests of Buenos Aires,²¹ the Attorney General's office documented alleged abuse by 98 Catholic clerics from 1950 to 2009; most of these clerics were reported after 2002.²²
- In the Providence, Rhode Island, USA diocese, which has had on average one half the number of priests as Buenos Aires, a bishop admitted to 125 accused priests since 1971.²³

¹⁹ <http://www.arzbaires.org.ar/inicio/homiliasbergoglio.html>

²⁰ *On Heaven and Earth*, by Jorge Mario Bergoglio and Abraham Skorka, English translation by Image, a division of Random House, 2013. Originally published in Spanish as *Sobre el cielo y la tierra* by Editorial Sudamericana S.A., a division of Random House, Mondadori, Argentina, in 2010.

²¹ Average numbers of priests for Buenos Aires, Manchester, Providence, Dublin, and Los Angeles dioceses derived from statistics found at catholic-hierarchy.org.

²² BishopAccountability.org, "Accused Priests Who Have Worked in the Manchester Diocese." See: http://www.bishop-accountability.org/NH-Manchester/2009_03_07_Audit_Records/#accused_nh_priests

- In the Los Angeles CA archdiocese, about 1.5 times larger than Buenos Aires (measured by number of priests), 265 clerics have been accused publicly.²⁴

Pope Francis's involvement in the case of Father Julio César Grassi

In 2009 and 2010, when Pope Francis was president of the Argentine bishops' conference, he intervened behind the scenes in the case of a priest convicted for child molestation, according to reports by Argentine news outlets²⁵ and the *Washington Post*²⁶. The Pope's advocacy for Father Julio César Grassi, a convicted sex offender, and his effort to discredit young victims raise fundamental questions about the Holy See's current willingness to protect children, punish predators, and support victims who testify against their abusers (Issue 11c).

Father Grassi is founder of a charity that still operates homes for street children. He was arrested for child molestation in October 2002, the day after the broadcast of a TV exposé of his alleged abuse of five boys. In June 2009, he was convicted of the sexual abuse of a 13-year-old boy, "Gabriel."

Following Grassi's conviction, Cardinal Bergoglio, in his capacity as president of the Argentine bishops' conference, secretly authorized an extensive critical examination of Grassi's prosecution and of the three victims who originally brought charges. Bergoglio approved the hiring of a leading criminal defense lawyer and legal scholar, Marcelo Sancinetti, to do the private investigation.²⁷

The resulting study vigorously asserted Grassi's innocence and reportedly denied even the prevalence of child sexual abuse itself. It reportedly was circulated to judges who had yet to make determinations in the case. The first volume, with 423 pages, impugned the credibility of "Ezequiel," of whose abuse Grassi was acquitted; volume two, with 646 pages, attacked the credibility of "Gabriel," of whose abuse Grassi was convicted.²⁸ As of spring 2013, a third volume had been produced, and a fourth and final volume was expected.

²³ http://www.bishop-accountability.org/docs/providence/2007_01_09_Young_v_Gelineau_Tobin_Petition_Certiorari/Tobin_01.htm

²⁴ BishopAccountability.org, "Database of Priests Accused of Sexual Abuse," Viewed 1/11/2014. See: <http://bishop-accountability.org/priestdb/PriestDBbydiocese.html#CA>

²⁵ http://www.bishop-accountability.org/Argentina/Detailed_Grassi_Summary.htm

²⁶ Nick Miroff, "Pope Francis Was Often Quiet on Argentine Sex Abuse Cases As Archbishop," *Washington Post*, March 18, 2013.

²⁷ John L. Allen Jr., "Hard Questions about Francis in Argentina and a Lesson from Chile," *National Catholic Reporter*, April 13, 2013.

²⁸ Carlos Rodríguez, "El cura condenado tiene quien le escriba [Convicted priest has a penpal]" *Página 12*, December 17, 2011.

The bishops' commissioned exoneration of Grassi was revealed in December 2011 by Juan Pablo Gallego, an attorney for the Comité Argentino de Seguimiento y Aplicación de la Convención Internacional de los Derechos del Niño (CASACIDN), the Argentine committee charged with overseeing the country's implementation of the Convention on the Rights of the Child. Gallego had represented the victims at the trial. Gallego called the study a "scandalous instance of lobbying and exerting pressure on the Court" and accused the bishops of "further hindering a process that has outrageously granted the condemned priest a situation of almost unthinkable freedom."²⁹

Perhaps because of this intervention by Cardinal Bergoglio and the Argentine bishops' conference, Grassi remained free, a potential danger to children, until September 2013, when the Buenos Aires provincial Supreme Court rejected his appeal. He was ordered to immediately begin serving his 15-year sentence. He is still a Catholic priest.

Conclusion

With its long experience with abuse cases and its massive abuse archive, the Holy See could have responded fully to the Committee's requests for detailed information. It chose to withhold this information instead. Contrary to popular impression, the Holy See continues to condone the practice of not reporting abusive priests to law enforcement. With the authority and power it exercises over all Catholic dioceses and religious orders, the Holy See could protect children in every country from sexual exploitation and sexual abuse by Catholic clergy. It instead continues to prioritize the rights of accused clergy over the rights of children – as shown in its refusal last week to extradite Archbishop Jozef Wesolowski to the Dominican Republic to face charges of sexual abuse by five boys. The Committee is the first international entity to hold the Holy See publicly accountable for its obligations to keep children safe from sexual violence. This inquiry is profoundly constructive and urgently needed. We hope it leads to more responsible practices by the Holy See and to more scrutiny of the Holy See by other international bodies.

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²⁹ Rodríguez, op. cit.