



THE CATHOLIC UNION
of Great Britain

Telephone: 020 8749 1321 Mobile: 07773 818394 Email: info@catholicunion.org Web: www.catholicunion.org

THOMAS MORE LEGAL CENTRE

Tel: 07970981352 Email: Centre@thomasmorelegal.org Web: www.ThomasMoreLegal.org

MEDIA RELEASE - IMMEDIATE

Catholic organisations question the judgment of those seeking to indict the Pope

Recent news reports and an article have suggested that his Holiness Pope Benedict XVI might be arrested on his forthcoming state visit to Britain at the invitation of the Prime Minister, Gordon Brown, and indicted at the International Criminal Court (ICC) for (unspecified) “crimes against humanity”.

News reports seem to have completely misrepresented the law.

The enforcement of criminal law is a duty of the state and is not the job of private vigilantes pursuing a personal ideological agenda.

There is not a single criminal offence under British law which could conceivably be alleged against Pope Benedict but by invoking the name of the ICC there is a serious misrepresentation of the role of that Court¹.

The ICC was created in order to deal with what the Rome Statute (the international treaty establishing the ICC) refers to as the “most serious crimes of concern to the international community as a whole”: the crime of genocide, crimes against humanity, war crimes, and the crime of aggression. The Rome Statute makes it clear that the purpose of the ICC is in situations (such as that obtaining in the Congo) where normal government and the rule of law has broken down leading to the urgent need for an impartial international court.

“Crimes against humanity” only arise “*when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack*”². There is no foundation for such a claim against the Pope and it is risible.

The power exercised by Roman Catholic bishops in law relates to their position as employers, school governors, trustees etc under English law. None of these offices are held by the Pope. His influence is exercised through the purely voluntary obedience of Catholics. Without direct legal power no duty in law can be justly implied. Even the appointment of bishops is not always recognised by some countries.

Moreover, the Pope is visiting the UK in his capacity as a head of state and spiritual leader by invitation of the Crown, at the behest of the Prime Minister, Gordon Brown, and the First

¹ <http://www.icc-cpi.int/Menus/ICC/About+the+Court/>;

<http://www.icc-cpi.int/Menus/ICC/Legal+Texts+and+Tools/Official+Journal/Rome+Statute.htm>

² Article 7 Rome Statute - Schedule 8 International Criminal Court Act 2001



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Minister of the Scottish Parliament. As such he enjoys immunity from arrest and prosecution in the UK Courts³.

The status of the Pope as a head of state, and indeed the status of the Vatican City State itself, cannot be challenged in the UK Courts or the European Court of Human Rights. Sovereignty and statehood are matters of fact in international law and under UK Law the decision of the Government to recognise a foreign state is conclusive⁴.

The European Court of Human Rights has no power to determine whether the Vatican City State is, or is not, a state. It only has jurisdiction to determine whether the European Convention on Human Rights has, or has not, been breached by the member states of the Council of Europe. This is elementary legal knowledge.

The independence and statehood of the Vatican City State and of the Holy See are recognised diplomatically by a majority of countries including the UK, the USA, all the member countries of the European Union and members of the Council of Europe. The UK maintains an embassy and ambassador to the Holy See⁵ as do 177 other countries including the Republic of Italy, which in its Constitution specifically recognises the independence of the Vatican City State⁶.

Anyone is, of course, entitled to disagree with Gordon Brown's decision to invite the Pope to Britain. Nevertheless, responsible commentators ought to weigh carefully the possible consequences of this campaign of vilification against Pope Benedict XVI.

An attempt was made on the life of Pope John Paul II by an assassin in 1982. Many public figures face dangers of this sort in today's world.

If a protester is incited to perform a publicity stunt such as a citizen's arrest of the Pope, then police officers will be put in a difficult position.

Faced with having to make a swift decision as to whether a situation is a publicity stunt, a lawful protest or an attempt on the life or limb of the Pope, the consequences of any such decision might be serious and involve innocent bystanders. Some attempts to detain suspected terrorists have gone wrong in recent times. Moreover, there was a recent assault attempt against the Pope in St. Peter's Basilica.

³ Lord Browne Wilkinson: *Ex Parte Pinochet*, R v. [1999] UKHL 17, <http://www.bailii.org/uk/cases/UKHL/1999/17.html>; Schedule 1, Article 29, Diplomatic Privileges Act 1964.

⁴ S.4 Diplomatic Privileges Act 1964, s.21 State Immunity Act 1978

⁵ <http://ukinholysee.fco.gov.uk/en/>

⁶ Article 7 Constitution of Italy



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Incitement to religious hatred is a criminal offence and has public order ramifications. Moreover, religious vilification against the Pope may ultimately result in the same happening to innocent British Catholics.

Pope Benedict XVI is visiting Britain at the invitation of the British government. He is entitled, whilst in Britain, to the protection of the law and to be treated as a visiting Head of State and a guest and not to be placed in danger by foolish publicity stunts orchestrated by those with an ulterior motive and ideological agenda.

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FOR MORE INFORMATION:

JAMES BOGLE (Barrister), Chairman, the Catholic Union of Great Britain – 07773 818394
NEIL ADDISON (Barrister), Director, the Thomas More Legal Centre – 07970 981352

Note: Article 7 of the Rome Statute defines "crimes against humanity" to include (our emphasis)

"any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;*
- (b) Extermination;*
- (c) Enslavement;*
- (d) Deportation or forcible transfer of population;*
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;*
- (f) Torture;*
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;*
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;*
- (i) Enforced disappearance of persons;*
- (j) The crime of apartheid;*
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health."*