

# Pope's Retirement Raises Immunity Questions

[By Donald Scarinci](#)

The retirement of Pope Benedict XVI has many Catholics discussing the religious significance of a Church with two living Popes. However, there are [legal implications](#) as well. Can the retired Pope now be subject to subpoena by litigants?

Pope Benedict is the first Pope to retire in nearly six centuries. Thus, his decision certainly puts the [Vatican in legal uncharted waters](#), particularly given the ongoing clergy sexual abuse scandal. Theoretically, the retired Pope can no longer assert diplomatic immunity in law suits seeking to hold him accountable for sexual abuse in the Catholic Church.

While most church abuse lawsuits target the offending priest and/or his parish, several have sought to hold the Vatican accountable. The Center for Constitutional Rights in New York even filed complaint asking the International Criminal Court to investigate the Vatican's alleged failure to remove abusive clergy as a crime against humanity.

The decision for Pope Benedict to spend his retirement in the confines of Vatican suggests that the Catholic Church isn't taking any chances. While Pope Benedict is no longer protected by diplomatic immunity as the sovereign monarch of the State of Vatican City, he will retain his Vatican citizenship by spending his final days there.

Under the Lateran Pacts executed between Italy and the Holy See in 1929, Vatican City was recognized as a sovereign state. The agreement guaranteed that the Holy See in the State of Vatican City would be "invariably and in every event considered as neutral and inviolable territory."

However, should Pope Benedict travel outside of the Vatican, his immunity is less clear. While Jeffrey Lena, a U.S. attorney for the Vatican, is confident in Pope Benedict's continued immunity. Other legal scholars have raised concerns.

Duquesne law professor Nicholas Cafardi, a canon lawyer, told the [Associated Press](#) that Pope Benedict could be vulnerable, particularly inside Europe, where magistrates can arrest and detain officials prior to trial. "Americans don't appreciate the vast powers that investigating magistrates have in Europe," Cafardi stated. "It only takes one who wants to make a name for him or herself to issue an arrest warrant for the former pope."