



International Humanist and Ethical Union

*The world union of Humanist organisations*

## **Submission to the United Nations Committee on the Rights of the Child concerning its examination of the Holy See (2<sup>nd</sup> periodic report)**

March 2013

### ***Recommendations shown in bold***

Our Submission refers to the Holy See's Reports to the CRC: the Second Periodic Report under the Convention, and the Initial Report under one of the Optional Protocols (OPSC).

### **SCALE OF ABUSE**

Clerical Child abuse has reportedly spread to 65 countries<sup>1</sup>; over \$2 billion has been paid out in abuse settlement in the USA<sup>2</sup>, and approx. €1.4 billion in the Republic of Ireland<sup>34</sup>. Particularly serious reports have also been widely reported concerning Australia, Canada (incl. indigenous peoples), Germany, and the Netherlands where there were "tens of thousands of children abused in Dutch Catholic institutions"<sup>5</sup>. One international abuse survivors' network has 12,000 members<sup>6</sup>. Space constraints preclude more detail.

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<sup>1</sup> <http://www.guardian.co.uk/commentisfree/2013/feb/15/pope-benedict-inaction-child-abuse>

<sup>2</sup> [http://topics.nytimes.com/top/reference/timestopics/organizations/r/roman\\_catholic\\_church\\_sex\\_abuse\\_cases/index.html](http://topics.nytimes.com/top/reference/timestopics/organizations/r/roman_catholic_church_sex_abuse_cases/index.html)

<sup>3</sup> <http://www.guardian.co.uk/world/2009/may/20/irish-catholic-schools-child-abuse-claims>

<sup>4</sup> <http://www.bloomberg.com/news/2010-04-16/ireland-asks-catholic-church-to-pay-half-1-8-billion-bill-for-child-abuse.html>

<sup>5</sup> <http://www.guardian.co.uk/world/2011/dec/16/children-dutch-catholic-institutions-abused?newsfeed=true>

<sup>6</sup> <http://www.ekklesia.co.uk/node/17980>

## **RESERVATIONS**

We regret that the “Holy See has reviewed and will maintain its three Reservations and Interpretative Declaration to the Convention on the Rights of the Child” (para 7). The third reservation in particular, states: “The Holy See declares that ... the application of the [CRC] be compatible in practice with the particular nature of [VCS] and of the sources of its objective law”<sup>7</sup>. We understand that any reservation to a Convention which effectively denies the purpose is inadmissible in international law. We also regret paragraph 17, which states: “and the Holy See would, as a result, be permitted to invoke such a fundamental change of circumstances as a ground for ‘terminating or withdrawing’ from the treaty or from ‘suspending the operation’ of the same”<sup>8</sup>.

**We invite the Committee to (1) express in the strongest terms dissatisfaction with the Holy See’s refusal to withdraw its reservations to the Convention, especially its third one.**

## **SECRECY**

The silencing of victims is plainly incompatible with the object and purpose of the Convention and shields priests and religious from secular justice. Moreover, secrecy enables the Church to move those who have abused to new areas, where they are likely to reoffend, particularly as there is generally no warning given to those in the new area.

The silence of victims is almost invariably imposed as a precondition of financial settlements in civil actions,<sup>9</sup> in which the alleged perpetrators’ actions are not acknowledged and agreements of varying formality with victims. The Church also generally imposes as a condition of compensation that it does not concede guilt.

We have reluctantly stopped short of inviting the Committee to recommend that the Vatican announce that it will take no action against those breaking *existing* confidentiality/“gagging” agreements. This is because often guilt was not conceded and insurance companies may object. But because this secrecy undermines the operation of the Convention and the Church ultimately determines whether or not secrecy is imposed, we call on the Church *from now on* to live up to its responsibilities in this respect under the

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<sup>7</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11&chapter=4&lang=en#EndDec)

<sup>8</sup> [https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CC0QFjAA&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbodies%2Fcrcc%2Fdocs%2FCRC.C.VAT.2\\_en.doc&ei=2JLnUvLBDfCV7Ab90oHgAg&usg=AFQjCNH4B7QmKHJgPSuOO8JT3EVEOvoQQ&sig2=b7NK1ZmsGETrd5kHrIhCEg&bvm=bv.59930103,d.ZGU](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CC0QFjAA&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbodies%2Fcrcc%2Fdocs%2FCRC.C.VAT.2_en.doc&ei=2JLnUvLBDfCV7Ab90oHgAg&usg=AFQjCNH4B7QmKHJgPSuOO8JT3EVEOvoQQ&sig2=b7NK1ZmsGETrd5kHrIhCEg&bvm=bv.59930103,d.ZGU)

<sup>9</sup> <http://www.guardian.co.uk/world/feedarticle/10192884>

Convention.

**We invite the Committee to (2) recommend that the Vatican issue and publicise Church-wide instructions forbidding the imposition of silence on both victims and those who the Church has chosen to compensate in respect of abuse allegations (those claiming to be victims but where guilt is not conceded).**

**Latest Vatican decree is incompatible with the Convention** The 2010 decree *De delictis gravioribus*, requires the relevant senior local cleric to consult the CDF (at the Vatican) “on the manner in which his own tribunal is to proceed”. This prevents local bishops from reporting to local justice agencies promptly (if at all), when to report would be in the spirit of the Convention.

**We invite the Committee to (3) ask the Holy See (a) the reasons for the centralisation of control in the Vatican set down in *De delictis gravioribus* (2010), and (b) what, if any, steps it has taken to require local bishops and religious to promptly contact secular law enforcement authorities with credible child abuse allegations, and by doing so improve measures called for by the Convention.**

## **OTHER**

**Child Protection** – our examination of child protection measures in the Church has found them to be (a) confusingly complicated, (b) unwisely and unnecessarily permitting church officials to be child protection officers and (c) giving leeway about reporting externally, allowing pressure to be applied to complainers not to insist e.g. to protect the reputation of the Church.

**We invite the Committee to (4) ask the Vatican, as a minimum, to publicly instruct all dioceses and orders:**

- (i) to instigate child protection measures that require, without exception, that credible allegations of abuse to be reported to secular enforcement agencies, and post notices in all establishments giving contact details of external child support agencies.**
- (ii) to make the failure to report to secular enforcement authorities reasonable suspicions of abuse by other priests or religious a disciplinary offence likely to lead to dismissal.**

**Destruction of records** – In Philadelphia USA, Cardinal Bevilacqua “shredded a list of 35 active priests accused of molesting children”<sup>10</sup> after 1993 (this emerged in the Msgr William

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<sup>10</sup> <http://www.bostonglobe.com/news/nation/2012/04/12/trial-expert-church-could-have-gone-police/VMbmBH24U5sxkKKpcropkJ/story.html> 13 April 2012 PHILADELPHIA - A trial expert witness angrily

Lynn trial in Philadelphia, the only church official so far we are aware of to have been convicted (and jailed for 3 – 6 years) for endangering children by moving offenders from parish to parish). We also understand that all files are destroyed after a canonical trial where no guilt was found. We do not accept that such trials constitute fair trails.

**We invite the Committee to ask the Holy See to (5) publicly issue instructions forbidding the destruction of any files or other records concerning suspected abuse or credible allegations of abuse of minors (including those relating to a canonical trial) before 30 years after the death of the person against whom allegations are made, and that those doing so or those aware of such actions but not reporting them face dismissal.**

**Clerics under suspicion banished abroad** – A CBS News piece headed “Predator Priests Shuffled around Globe”, said: “In an investigation spanning 21 countries across six continents, the [USA based] Associated Press found 30 cases of priests accused of abuse who were transferred or moved abroad. Some escaped police investigations. Many had access to children in another country, and some abused again”<sup>11</sup>. This was also reported in *USA Today*<sup>12</sup>. One of the worst clerical paedophiles in Ireland was paid to leave the Church, and his criminal convictions did not prevent him having access to children after he moved to Scotland<sup>13</sup>.

We anticipate many more revelations about priests and religious banished to, for example Africa, South America and Asia, because they were uncontrollable in the West, but have continued to abuse, probably unsupervised.

**We invite the Committee to ask the Holy See to (6) submit a list of all priests or religious moved to different countries as a result of accusations or concerns about abuse of minors since its accession to the Convention, and showing names, dates, countries and, in each case, the measures taken (if any) to ensure them being prohibited from having access to minors or the process by which the accusations or concerns were found to be unfounded.**

**Clerics with adverse histories** – It is beyond contention that if many of the worst clerical abusers of minors are never brought to (secular) justice and either moved to another country or dismissed, they are, in either case, likely to continue abusing. We are also aware of a priest in Ealing Abbey (UK) who, despite a referral to social services for abuse, remains on the staff, and there are others in the UK forbidden contact with minors.

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called it “obstruction of justice, cubed” for a Roman Catholic archbishop to have shredded a list of 35 active priests accused of molesting children (post 1993)

<sup>11</sup> <http://www.nbcnews.com/id/36523444/#.UqXdotJSiNl>

<sup>12</sup> [http://www.cbsnews.com/2100-202\\_162-6397279.html](http://www.cbsnews.com/2100-202_162-6397279.html) covering abuse over many recent decades. And [http://usatoday30.usatoday.com/news/religion/2010-04-14-moving-clergy-abuse\\_N.htm](http://usatoday30.usatoday.com/news/religion/2010-04-14-moving-clergy-abuse_N.htm)

<sup>13</sup> <http://news.bbc.co.uk/1/hi/programmes/newsnight/8556659.stm>

**We invite the Committee to ask the Holy See to (7) submit a list of all priests or religious still active in the Church who, since its accession to the Convention, have been convicted of offences against children (whether or not they have received custodial sentences), or reported to secular authorities with the date(s) convictions(s)/reporting and any restrictions placed upon them initially and currently.**

**Bankruptcy** - We note approaching twenty dioceses and possibly religious orders have either gone bankrupt or sought protection from their creditors in the USA alone.

**We invite the Committee to (8) ask the Vatican to submit a report on all dioceses and orders declaring bankruptcy or creditor protection, quantifying the extent to which abuse victim compensation has been reduced by this, and whether the Vatican would be prepared to make up these shortfalls and if not, why.**

**Reporting** - The Holy See appears to us to not to have complied with paragraph 17 in the latest (2010) reporting guidelines. That is, the requirement to indicate “challenges in achieving full respect for the provisions of the Convention and Optional Protocols”, particularly given the report covers a period of nearly twenty years, rather than five.

We note the fourteen- and six-year, respectively, delays in reporting, during a period when child abuse by clerics and religious (whose orders and institutions are directly accountable to the Vatican/Holy See) were the subject of high-profile and repeated media coverage, because of the large scale of abuse, both numerically and in its geographical extent.

**We invite the Committee to (9) ask the Holy See to submit addenda to the reports submitted, and include in all future reports, giving comprehensive details of “challenges in achieving full respect for the provisions of the Convention and Optional Protocols” in respect of clerical abuse of minors, whether sexual or not.**

### **Holy See's disingenuous response to criticism, and our rebuttals**

Our organisation drew attention to the delays by the Holy See at plenary sessions in 2009, 2010 and 2011 of the Human Rights Council. The Holy See’s Right of Reply, delivered in the plenary on 22 September 2009, was evasive<sup>14</sup> and it did not deny our allegation that the Holy See had breached multiple Articles of the CRC. Its Right of Reply was dismissed by the world's media and we rebutted it<sup>15</sup>.

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<sup>14</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=114> (both criticism and response (summary rather than transcript))

<sup>15</sup> <http://www.secularism.org.uk/uploads/unhrc-holy-see-pack.pdf> (pages 12-15)

## **About IHEU**

*Founded in Amsterdam in 1952, International Humanist and Ethical Union (IHEU) is the sole world umbrella organisation embracing Humanist, atheist, rationalist, secularist, skeptic, laique, ethical cultural, freethought and similar organisations world-wide. Based in London, IHEU is an international NGO with Special Consultative Status with the UN (New York, Geneva, Vienna), General Consultative Status at UNICEF (New York) and other international bodies.*

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