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Human Rights Council

Sixteenth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Child abuse and the Holy See**

Our written statement on this dated 28 August 2009 [A/HRC/12/NGO/25] notes the accession of the Holy See to the UN Convention on the Rights of the Child (CRC); the extent and effects of the abuse of children by priests of the Roman Catholic Church; the reaction of the Church to the abuses. We noted the failure of the Holy See to honour its obligations under the UNCRC, including its failure to submit quinquennial reports for 13 years.

We regretted that the Holy See had escaped the level of scrutiny normally applied under the CRC, possibly as a result of the ambiguous nature of the Holy See's responsibility for those working under the Church's authority.

We referred to the above statement in oral interventions in Human Rights Council debates on 22 September 2009 and 16 March 2010.

Clerical abuse is being revealed in more and more countries, often with senior clerics being guilty themselves or concealing the guilty. Links to reports of the most serious to emerge so far can be found at:

<http://www.secularism.org.uk/unhrc-holy-see-child-abuse-ref1.html>

Reaction of the Holy See

The distinguished delegate of the Holy See exercised the Right of Reply to our oral intervention of 22 September 2009 to say (in summary):

1. In the upcoming report of the Holy See to the Committee on the Rights of the Child, which is finalized "as we speak", a paragraph will be dedicated to the problem of child abuse by catholic clergy. (But despite a reminder in our intervention in March 2010, this has still not been filed.)

2. He did not deny our assertions but noted that:

(a) as many as 5% of catholic clergy could be involved. (If true that would equate to approximately 20,000 clergy involved in child abuse).

(b) offenders can be dismissed under Canon Law (but no mention was made of the necessity of reporting suspected abuse to secular authorities).

Legal Commentary by Geoffrey Robertson QC¹

In 2010, Geoffrey Robertson QC published the Case of the Pope². He notes that the following Articles of the CRC are likely to have been breached (all noted in our previous written statement, plus Articles 6 and 39):

** National Secular Society (UK), an NGO without consultative status, also shares the views expressed in this statement.

¹ Geoffrey Robertson QC, Distinguished Jurist and Member, United Nations Internal Justice Council, 2008-2012

² The Case of the Pope. Vatican Accountability for Human Rights Abuse. Geoffrey Robertson, QC. ISBN: 9780241953846

- Article 3(1)³: “The evidence shows that the primary consideration in dealing with children’s allegations has been the good name and reputation of the Catholic church and the protection of the priesthood from scandal. The best interests of the child requires the church to act immediately to stop the abuse and protect other children by precluding any prospect of re-offending. That meant calling in the police and social welfare services and providing counselling to the child and the family - steps the Vatican resolutely refused to envision when it published its new Canon Law norms in July 2010.”
- Article 6⁴: “Article 6 of the Protocol obliges state parties to assist each other with providing all the evidence at their disposal - an obligation which the Vatican continues to evade.”
- Article 19(1)⁵: “This placed an international law duty on the Holy See to make arrangements for reporting child sex abuse to law enforcement authorities - a duty that has been blatantly breached from the outset by subjecting all allegations to the ‘pontifical secret’ procedures of Crimen, and then of the 2001 apostolic letter, and most recently of the July 2010 decree, which insists on Canon Law jurisdiction over abusive priests.”
- Article 34⁶: “The Holy See, through its responsible agency the CDF (the Congregation of the Doctrine of the Faith), took no ‘national, bilateral or multi-national measures’ other than by issuing the 2001 Ratzinger letter, which served to delay investigations of accused priests and failed to require notification to law enforcement agencies. The Holy See has most scandalously breached its obligations under Article 34, and remains in breach through its 2010 insistence on Canon Law process and ‘pontifical secrecy’.”
- Article 39⁷: “It is also relevant to note the Holy See’s unwillingness to afford ‘measures to promote physical and psychological recovery and social reintegration’ to victims, as required by Article 39 ...”,
- Articles 3, 19 and 34 – Re Canon Law⁸: “Vatican diplomats may have prepared a devious defence for the Holy See by entering a ‘reservation that it will only apply the Convention’ when it is compatible with Canon Law. The sections of the Convention dealing with child sex abuse are irrevocably incompatible with Canon Law, which favours the priest at the expense of the best interests of the child (a breach of Article 3(1)); which does not provide effective procedures for investigation, reporting, referral or judicial involvement (a breach of article 19(2)), and has secrecy provisions that preclude national, bilateral and multi-national measures (a breach of article 34).”
- Article 44⁹: “The Holy See was next due to report on 1 September 1997 and then again on 1 September 2002: it did not do so on either occasion and indeed has never submitted another report, a complete abdication of its duties under the Convention.”

³ [Ibid ¶163 page 113-4]

⁴ [Ibid ¶167 page 117]

⁵ [Ibid ¶163 page 113-4]

⁶ [Ibid ¶163 page 113-4]

⁷ [Ibid ¶ 164 page 115]

⁸ [Ibid ¶ 166 page 115]

⁹ [Ibid ¶ 163 page 113]

Robertson concludes:

“It is plain from ... the new Canon Law norms laid down in July 2010 ... that the Vatican will not, under this Pope, yield in its claim that the church is entitled to shelter suspected criminals in its midst from police investigation, public trial and any punishment that they deserve.¹⁰

- “...the scourge of child abuse within the church itself had for many years gone unpunished as a result of the procedural deficiencies of Canon Law, the selfish desire to protect the church from scandal by harbouring and trafficking paedophile priests, and the negligent supervision of bishops by the Holy See through its CDF office, headed for the previous two decades by Cardinal Ratzinger.”¹¹
- “It is a serious reflection on the competence and resolve of the ‘eighteen experts of high moral standing’ who have been elected to the Committee on the Rights of the Child that they have done and said nothing about the Vatican’s thirteen-year failure to deliver a report, during the period when widespread child abuse by its priests has been extensively publicized.
- “The Holy See’s grave and extensive breaches of the Convention on the Rights of the Child, and its contempt for its reporting obligations over the past thirteen years, should - if the other parties care – justify its expulsion. The other parties, and the UN itself, should care very much, because this is the one and only human rights convention that has near universal support.”¹²

Complicity of the Holy See

Subsequently, two relevant letters have come to light:

1. Letter dated January 31 1984 to Bishop Moreno of Tucson from Sacra Congregazione per Il Clero, Roma (PROT. 172621/1)¹³ It contains the following compromising paragraph:

“To the second question (“Should we allow or disallow civil lawyers from obtaining Father’s personnel records from our Chancery files”) we reply that under no condition whatever ought the afore-mentioned files be surrendered to any lawyer or judge whatsoever. ...we suggest that both the office of the Apostolic Delegate and the legal department of the United States Catholic Conference be informed of the request for Father [redacted]’s files so that all may begin preparing whatever resistance to this request may be necessary.”

2. Letter dated 31 January 1997 to Irish bishops from the Irish Papal Nuncio (N. 808/97), which is considered to have “apparently instructed Irish bishops not to cooperate with civil authorities who were probing reported incidents of sexual abuse by priests”¹⁴ (extracts):

- “The Congregation for the Clergy has attentively studied the complex question of sexual abuse of minors by clerics and the document entitled ‘Child Sexual Abuse:

¹⁰ [Ibid ¶ 170 page 119]

¹¹ [Ibid ¶ 173 page 120]

¹² [Ibid ¶ 165 page 115]

¹³ <http://www.ibtimes.com/articles/103256/20110120/vatican-letter-to-tucson-reveals-cover-up-mentality.htm>

¹⁴ <http://www.guardian.co.uk/world/2011/jan/18/vatican-irish-bishops-child-abuse>

Framework for a Church Response’, published by the Irish Catholic Bishops’ Advisory Committee.

- “The text, however, contains “procedures and dispositions which appear contrary to canonical discipline and which, if applied, could invalidate the acts of the same Bishops who are attempting to put a stop to these problems. If such procedures were to be followed by the Bishops and there were cases of eventual hierarchical recourse lodged at the Holy See, the results could be highly embarrassing and detrimental to those same Diocesan authorities.
- “In particular, the situation of ‘mandatory reporting’ gives rise to serious reservations of both a moral and a canonical nature.
- “ ... I am directed to inform the individual Bishops of Ireland of the preoccupations of the Congregation in its regard, underlining that in the sad cases of accusations of sexual abuse by clerics, the procedures established by the Code of Canon Law must be meticulously followed under pain of invalidity of the acts involved if the priest so punished were to make hierarchical recourse against his Bishop.”

Conclusion

We call upon the Human Rights Council and the Committee on the Rights of the Child to hold the Holy See to account for:

- its breach of its obligations under the CRC;
 - its disregard for its duty of care to the abused children;
 - its systematic cover-up of thousands of cases of abuse.
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