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Human rights situations that require the Council's attention

Written statement* submitted by National Secular Society, 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.

[21 August 2019]

* Issued as received, in the language(s) of submission only.

Recommendation shown in bold. Underlined emphasis is added.

SUMMARY

The Concluding Observations note the Holy See's "*second periodic report was submitted with a considerable delay, which prevented the Committee from reviewing the implementation of the Convention by the Holy See for 14 years.*"

"The Committee invites the State party to submit its combined third to sixth periodic report by 1 September 2017 ..."

Two years later, it has still not been submitted.¹

Geoffrey Robertson QC considers the Holy See is in breach of CRC Articles 3(1), 19(1), 19(2) and 34.²

In the interests of conformity to its obligations to the CRC, the victims of clerical abuse and justice for alleged perpetrators, we respectfully request the HRC and member states to strongly encourage the Holy See to submit its overdue Periodic Report.

CRITICAL REPORT AND CONTINUING CONCERNS

The Committee for the Rights of the Child's Concluding Observations on the Holy See's second periodic report (2014)³, are highly critical.

Extracts are quoted below in italics.

"The Committee ... expresses its deepest concern about child sexual abuse committed by members of the Catholic churches who operate under the authority of the Holy See, with clerics having been involved in the sexual abuse of tens of thousands of children worldwide. The Committee is gravely concerned that the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators."⁴

¹https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=VAT&Lang=EN

² *The Case of the Pope*, Chapter 7

³ CRC/C/VAT/CO/2

⁴ CRC/C/VAT/CO/2 para 43

These risks to tens of thousands of children and the impunity of the perpetrators largely remain because:

- The Holy See declines to exert control over the worldwide Church to uphold the Convention
- Little evidence of implementation of Concluding Observations
- The Holy See/Vatican is disinclined to fully assist trials or investigations into clerical abuse
- Abuse settlements are still being obstructed or minimised
- Numerous formal independent inquiries continue to expose problems identified by CRC as detailed further below:

THE HOLY SEE DECLINES TO EXERT CONTROL OVER THE WORLDWIDE CHURCH TO UPHOLD TO CONVENTION

The Holy See's comments to the Concluding Observations dated 22/09/14 note "The Holy See does not have the capacity or legal obligation to impose the [principles recognized in the CRC] upon the local Catholic churches and institutions present on the territory of other States" ... [but claims to] "disseminate [such] principles ... to various local Catholic churches and institutions".⁵

Conversely, per the addendum to Holy See's initial report⁶ "The Holy See wishes to draw the attention of the Committee on the Rights of the Child ... [a]s the highest organ of government of the Catholic Church ...".

Similarly, per Concluding Observations para 43: "*the Holy See has established its full jurisdiction over child sexual abuse cases in 1962 and placed them in 2001 under the exclusive competence of the Congregation for the Doctrine of the Faith*"(CDF).

In 2018, the Vatican has overruled national governance, but against the interests of abused children to prevent bishops' conferences taking steps which could have improved child protection "U.S Bishops had a plan to curb sex abuse. Rome ordered them to wait"⁷.

LITTLE EVIDENCE OF IMPLEMENTATION OF CONCLUDING OBSERVATIONS

We see no evidence of, for example, as recommended in para 44:

"Ensuring that the Commission created in December 2013 will investigate independently all cases of child sexual abuse as well as the conduct of the Catholic hierarchy in dealing with them".

There is no evidence of this recommended investigation⁸. The only victims on the Commission have resigned, calling for "bishops [to be] made more accountable over cover-ups of rampant sexual abuse or failing to prevent it."⁹

5 https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/VAT/INT_CRC_COB_VAT_18491_E.pdf para 3

6 CRC/C/3/Add.27 (28 March 1994)

7 <https://www.nytimes.com/2018/11/12/us/us-bishops-sex-abuse-vatican.html>

8 <https://www.ncronline.org/news/quick-reads/papal-commission-protection-minors-meets-rome>

9 <https://www.reuters.com/article/us-pope-abuse-resignation-idUSKBN1684GI>

“Immediately remov[ing] all known and suspected child sexual abusers from assignment and refer[ing] the matter to the relevant law enforcement authorities for investigation and prosecution purposes;”

In 2019 the Pope issued a decree¹⁰ requiring mandatory reporting of abuse but only to the Church.

In 2017 Ordained Catholic academics in Australia analysing 16 reports of such abuse from around the world referred to “the well-documented failure to regard child sex abuse as a crime ... and to refer matters to the police. ... The failure was particularly acute in papal and Roman Curial circles where canon law seems to have been weighted towards protecting the rights of the offender and to have been seen as above the civil and criminal law of nation states.”¹¹

“Ensuring a transparent sharing of all archives which can be used to hold the abusers accountable as well as all those who concealed their crimes and knowingly placed offenders in contact with children”

The Australian Commission “confirmed the Vatican had refused a request to provide files of all Australian church abuse cases referred to the Holy See”¹², albeit it provided some.

THE HOLY SEE’S DISINCLINATION TO FULLY ASSIST TRIALS OR INVESTIGATIONS OF ABUSE

“Establish clear rules, mechanisms and procedures for the mandatory reporting of all suspected cases of child sexual abuse and exploitation to law enforcement authorities.”

In countries where reporting of abuse is mandatory, the Vatican claimed in 2010 “guidance is to respect the law”¹³. Nevertheless, the Pope supported the most senior Catholic in France, Cardinal Barbarin¹⁴ (“CB”), when he was accused of, and admitted to, failure to report (“he had heard about [the abuser’s] activities ‘around 2007-2008’”¹⁵). A private prosecution against CB resulted in his conviction in 2019 by a secular court, but the Pope refused to accept his resignation¹⁶.

CB’s defence included his reliance on advice to “avoid public scandal” (i.e. ignore the Mandatory Reporting law), given in 2015 by Vatican Cardinal Luis Ladaria Ferrer, then Prefect of the CDF.

10 http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html

11 <https://www.rmit.edu.au/content/dam/rmit/documents/news/church-abuse/child-sex-abuse-and-the-catholic-church.pdf> page 96 (Prof Des Cahill, RMIT, Melbourne)

12 <https://www.newcastleherald.com.au/story/4477315/calls-for-vatican-diplomatic-recognition-to-end/> and <https://www.commonwealmagazine.org/putting-church-above-children>

13 <https://www.ncronline.org/news/accountability/cdf-official-details-response-sex-abuse>

14 <https://news.abs-cbn.com/global-filipino/world/05/21/16/pope-under-fire-for-meeting-french-cardinal-accused-of-sex-abuse-cover-up> (AFP “Pope under fire for meeting French cardinal accused of sex abuse cover-up”)

15 <https://www.ncronline.org/news/accountability/french-cardinal-under-fire-dealings-priest-charged-abuse>

16 <https://www.theguardian.com/world/2019/mar/19/cardinal-philippe-barbarin-says-pope-has-refused-his-resignation>

The Vatican's "failure to respond to a summons issued to Cardinal Ladaria"¹⁷ nearly curtailed the trial, and CB nearly escaped justice. He has lodged an appeal.

Of countries where there is no legal obligation to report sex abuse accusations, the Vatican said in 2010 "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."¹⁸

We have not found any revision of the policy referred to above.

CONTINUED OBSTRUCTION OR MINIMISATION OF ABUSE SETTLEMENTS AND EVEN LOBBYING AGAINST RELAXATION OF STATUTES OF LIMITATIONS

61(c) Ensure that child victims and witnesses of crimes are provided with psycho-social support for their rehabilitation and reintegration and that such measures are not made conditional on confidential settlement preventing children from reporting to national law enforcement authorities;

(d) Provide compensation to victims of sexual abuse committed by individuals and institutions under the Holy See's authority without imposing any obligation of confidentiality on the victims and establish a compensation scheme for victims in this respect;

(e) Promote the reform of statute of limitations in countries where they impede victims of child sexual abuse from seeking justice and redress;

Richard Scorer¹⁹, a prominent child abuse lawyer who has represented numerous victims at the England & Wales Independent Inquiry asked us to report that: "Some Catholic dioceses around the world operate voluntary schemes providing compensation, but many settlements have been pitifully small. The schemes were largely set up to save the Church money and its reputation. Most dioceses do not offer such schemes. Compensation and the release of information continues to be fiercely resisted in an adversarial process. Psycho-social support is rarely offered. All of these factors compound the abuse."

Bishops' lobbying groups are fighting, without Holy See censure, efforts to liberalise statutes of limitations, e.g. "... in the District of Columbia, Maryland, and Iowa. New York bishops since 2006 have been fighting a bill that would eliminate both civil and criminal statute of limitations for past cases of child sex abuse"²⁰.

This is despite the Australian Commission establishing that "average time between the first alleged incident date and the date the claim was received by a relevant Catholic Church authority was 33 years"²¹.

17 <https://www.thetablet.co.uk/news/9722/barbarin-trial-to-go-ahead-without-accused-cdf-prefect>

18 <https://www.ncronline.org/news/accountability/cdf-official-details-response-sex-abuse>

19 <https://www.slatergordon.co.uk/our-experts/richard-scorer/>

20 <https://www.businessinsider.com/r-as-pope-visit-nears-us-sex-victims-say-church-remains-obstacle-to-justice-2015-9?r=US&IR=T>

21 https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_4_identifying_and_disclosing_child_sexual_abuse.pdf page 34

NUMEROUS FORMAL INDEPENDENT INQUIRIES CONTINUE TO EXPOSE PROBLEMS IDENTIFIED BY CRC

Since the Concluding Observations in 2014 there have been inquiries worldwide into Catholic abuse including Australia²², England & Wales²³, Germany²⁴, USA - Pennsylvania²⁵. All are disturbingly consistent with each other and reflect the Committee's concerns above:

- The scale of abuse is huge.
- Suspected perpetrators are not reported to civil authorities, allowing abuse to continue.
- Compensation and rehabilitation problems

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22 https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_2.pdf

23 <https://www.iicsa.org.uk/document/roman-catholic-church-archdiocese-birmingham-case-study-investigation-report> and <https://www.iicsa.org.uk/key-documents/6583/download/ampleforth-downside-investigation-report-august-2018.pdf>

24 <https://www.irishtimes.com/news/world/europe/german-investigators-left-shaken-by-scale-of-child-abuse-in-catholic-church-1.3641288>

25 <https://www.courthousenews.com/wp-content/uploads/2018/08/pa-abuse-report.pdf>