



Fighting for the Future

Adult Survivors Work to Protect Children
& End the Culture of Clergy Sexual Abuse

An NGO Report

The Holy See

- The Convention on the Rights of the Child
- The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

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Submitted by

The Center for Constitutional Rights
a Member of the International Federation for Human Rights

on behalf of

The Survivors Network
of Those Abused by Priests

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Cover Photos: The photos on the cover are of members of the Survivors Network of Those Abused by Priests at the age that they were sexually abused. They have consented to the use of their photos to help raise awareness and call attention to this crisis.

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Foreword

This report is submitted by the Center for Constitutional Rights (CCR) on behalf of the Survivors Network of Those Abused by Priests (SNAP). CCR is a non-profit legal and educational organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. SNAP is a non-profit organization that was founded over 20 years ago by a small group of survivors of rape and sexual violence committed by priests. Today, the Network has over 12,000 members in the United States and members in 64 countries with chapters in Australia, Canada, Chile, Germany, Mexico, Peru and the United States.¹

This report responds to the Holy See's Second Interim Report on the Convention of the Rights of the Child, CRC/C/VAT/2 (2011) ("Holy See Second Report"), and the Holy See's Initial Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, CRC/C/OPSC/VAT/1 (2010) ("Holy See Initial Report on OPSC").²

CCR and SNAP welcome the opportunity to submit this report, which details the failure of the Holy See to uphold core principles enshrined in the Convention on the Rights of the Child ("Convention" or "CRC"), including ensuring that the best interests of the child be the primary consideration in all actions concerning children (CRC, Art. 3), that any child who is a victim of neglect, exploitation, abuse or torture shall recover in an environment which fosters the health, self-respect and dignity of the child (CRC, Arts. 4 and 39), that the survival and development of all children are ensured to the maximum extent possible (CRC, Art. 6), and that children should be protected from sexual exploitation and abuse (CRC, Arts. 19 and 34), and acts of torture or cruel, inhuman or degrading treatment or punishment (CRC, Art. 37). The policies and practices of the Holy See have not only tolerated and concealed but enabled widespread acts of sexual violence, including rape, committed against children. When forced to confront these actions, the Holy See has put its interests ahead of its child-victims and survivors, furthering their harm and increasing the risk to others.

Recognizing that this is the first time that the Holy See's record on this most vital issue regarding the dignity and well-being of the child is being surfaced at the Committee despite that fact that much of what is set forth below was already known to the Holy See when it filed its Initial CRC Report in 1994, SNAP and its global members stand ready to assist the Committee in conducting a thorough review of the Holy See's adherence to the CRC and the OPSC.

*“We feel as if we’ve lost our grounding on Earth.
The church requires repentance from us, but not from itself.”*

Wlademar Maziejuk
Poland³

I. General Considerations: Overview

As a result of the efforts of survivors and advocates who have come forward in different countries over the past few decades, often with considerable personal sacrifice and risk, the widespread and systemic rape and sexual violence of children by priests and others associated with the Roman Catholic Church is now well-documented and incontrovertible.⁴ The revelations of sexual violence by clergy arising in recent years in Austria, Australia, Belgium, Canada, Chile, France, Germany, Ireland, Italy, Kenya, Malta, Mexico, the Netherlands, Poland, the United States and elsewhere demonstrate that the rates of abuse in any one country or diocese are not an anomaly but part of a much larger pattern and practice. In light of these revelations, some observers have estimated that the number of victims of sexual violence occurring between the years 1981-2005 is likely approaching 100,000, and will likely be far greater as more situations continue to come to light in Latin America and Africa.⁵

Commissions of inquiry and grand juries have been convened in Canada,⁶ Australia,⁷ and Germany,⁸ as well as the United States, some of which will be discussed below. Ireland has seen a number of inquiries, resulting in the Ferns Report,⁹ the Ryan Report,¹⁰ the Murphy Report,¹¹ and the Cloyne Report.¹² There have also been Church-appointed commissions, as well as non-governmental reports setting forth widespread and systematic sexual violence within the Catholic church, in Belgium,¹³ Germany,¹⁴ The Netherlands,¹⁵ and the United States. In September 2011, Amnesty International issued a report finding that the abused of children in Catholic-run institutions in Ireland amounted to torture and cruel, inhuman and degrading treatment.¹⁶

Every investigative body that has studied these situations has identified the same policies and practices that allowed the sexual violence to proliferate and that furthered the harm to the direct victims. Without exception, each of these inquiries has reached the same inevitable conclusion: The primary concern of Church officials in these cases has been to protect the reputation of the Church and its priests – not the best interest of the child. This conclusion was perhaps most succinctly expressed by a grand jury in the United States when it observed that Church authorities “continued and/or established policies that made the protection of the Church from ‘scandal’ more important than the protection of children from sexual predators.”¹⁷ Similarly, the Ryan Commission in Ireland found that:

Cases of sexual abuse were managed with a view to minimizing the risk of public disclosure and consequent damage to the institution and the Congregation. *This policy resulted in the protection of the perpetrator.* When lay people were discovered to have sexually abused, they were generally reported to the Gardai. When a member of a Congregation was found to be abusing, it was dealt with internally and was not reported to the Gardai. *The damage to the children affected and the danger to others were disregarded. [...] The desire to protect the reputation of the Congregation and institution was paramount.*¹⁸ (emphasis added)

Moreover, these crimes are not a problem confined to the past. The period the Cloyne report from Ireland covers is significant in that it coincides with the supposed implementation of detailed procedures for dealing with child sexual abuse promulgated in 1996 by the Catholic Church in Ireland entitled *Child Sexual Abuse: Framework for a Church Response*, (“Framework Document”) which included a requirement to report such allegations to the civil authorities. By letter, the Cloyne bishop, John Magee, notified all priests in the diocese that he had adopted the procedures in 1996. However, the Cloyne Commissioners found that despite his stated position, “the reality is that the guidelines set out in that document were not fully or consistently implemented” during the period between 1996 and 2009.¹⁹ The Commissioners noted that Magee paid little attention to the procedures until 2008, which incidentally also coincided with media exposure of a looming scandal. The Cloyne Commission found that Magee failed to report nine of 15 cases which clearly should have been reported to the civil authorities under the Framework Document. The Commission also found that the diocese failed to report any complaints to the health authorities between 1996 and 2008, failed to appoint support people for complainants and failed to operate an independent advisory panel as required by the Framework Document.²⁰ Notably, the Holy See was a Party to the CRC throughout this period.

Similarly, in February 2011, a third Grand Jury which had been convened in 2009 to look into sex abuse allegations in the Philadelphia Archdiocese in the United States, concluded that the same patterns persisted even well after much-heralded reforms had gone into effect:

Most disheartening to the grand jury was what we learned about the current practice toward accused abusers in the Philadelphia Archdiocese. We would have assumed, by the year 2011, after all the revelations both here and around the world, that the church would not risk its youth by leaving them in the presence of priests subject to substantial evidence of abuse. That is not the case. In fact, we discovered that there have been at least 37 such priests who have been kept in assignments that expose them to children. Ten of these priests have been in place since before 2005 – over six years ago.²¹

Even the crimes that are seemingly more remote in time are not truly “a thing of the past” as the violations continue to cause harm, especially for those for whom there is no redress, and where the perpetrators have benefitted from a culture of impunity that Church officials have helped to create and maintain in ways that are discussed further below. The vast majority of the priests who committed acts of sexual violence against children and vulnerable adults have faced no punishment or criminal sanction for their actions; many continue to work, and have privileged access to future victims because of their status as a member of the Catholic clergy. The high-level officials of the Church who failed to prevent and punish these criminal actions, and too often facilitated or enabled the acts of sexual violence described herein have, to date, enjoyed absolute impunity as well.

The Policies and Practices of the Holy See Have Helped to Perpetuate the Crimes

Among the common practices that have been identified through the different inquiries and investigations are:

First, as discussed below at Sec. III in the response below to the Holy See’s Second CRC Report, is the refusal to cooperate with civil authorities. The Vatican leadership has consistently resisted the idea that it could be subject to laws of other governing authorities, whether at the national, international and local levels.

Second, is the practice of “priest shifting,” meaning bishops, cardinals or other high-ranking officials have transferred known offenders to other locations where they continued to have access to children or vulnerable adults and who officials knew continued to commit rape and other acts of sexual violence. As the Westchester (New York) Grand Jury noted: “the religious institution consistently shuttled the abuser from place to place each time an allegation came to light” and “the new congregation was purposefully kept in the dark... By virtue of this reassignment strategy, the religious institution put more children at risk.”²² Similarly, the Ferns Commission in Ireland found that offending priests were moved from parish to parish with no warning to parishioners and others with whom they would come into contact; that victims’ complaints were not handled in a sensitive or supportive manner, “which led to further hurt and alienation for the complainant” and that other children suffered further sexual violence as a result of these actions and inactions.²³ Priest shifting takes on truly global dimensions, as offender priests may be first moved out of one local jurisdiction to another part of a country, and then are moved to other countries or continents to evade accountability – and place more children in danger of sexual assault.²⁴

Third, is the destruction of evidence and the obstruction of justice. In many cases, not only did church officials not submit the matter to the competent authorities for investigation and prosecution, causing delay in an effort to bar the action due to the statute of limitations, but some went so far as to obstruct investigations and prosecutions and encouraged others to do so as well. A Grand Jury in Westchester (New York) found that “[i]n many instances, the religious institution’s internal investigation of the allegations was primarily geared to delay, with the hope that the victim and his family

would not persist in pursuing their claim.”²⁵ Similarly, a Grand Jury in Philadelphia reported that a “previous grand jury was frustrated that it could not charge either the abusers or their protectors in the church, because the successful cover-up of the abuse resulted in the expiration of the statute of limitations.”²⁶

Additionally, commissions have reported their findings that evidence was deliberately destroyed. Experts investigating the situation in the Archdiocese of Munich and Freising in Germany reported that “destruction of documents took place in considerable measure.”²⁷ An Archbishop in the United States testified to routinely shredding documents that he received on a weekly basis advising him of sexual abuse cases.²⁸

Fourth, the Church enforced these practices by rewarding those members of the clergy who remained quiet or assisted in cover-ups, while punishing the whistle-blowers, i.e., those who sought to prevent other children from being hurt and to have offender priests investigated and held accountable for the crimes they committed. Instances of this were noted by a Philadelphia Grand Jury which found that Archdiocesan officials intimidated and retaliated against victims and witnesses who came forward about abuse, including firing a nun from her position as director of religious education after she complained about a priest who was still ministering to children despite a conviction for possession of child pornography; and accusing a seminarian of homosexuality and dismissing him from the diocese after he reported he had been abused as an altar boy. Additional instances punishing whistleblowers and rewarding those who cover up are set out below at Sec. III.

Finally, *fifth*, the Church has responded to reports of sexual violence against children and vulnerable adults by blaming the victims. This is among the most insidious and cruel practices used in the Church, and the impact on the victims – the survivors – can be devastating. The Grand Jury in Westchester found that “the religious institution, when it became aware of the abuse, rather than seeking to alleviate the trauma to the victim, increased it” and that there was a “concerted effort on the part of the religious institution to mislead the community: defending the abuser while simultaneously attempting to humiliate the victims and their families...”²⁹ The Ryan Commission in Ireland found that there were times when “the child was blamed and seen as corrupted by the sexual activity, and was punished severely.”³⁰ Similarly, the Winter Commission in Canada found that “victims of child sexual abuse have been wrongly blamed for their own victimization.”³¹

The Acts at Issue: Torture, Rape and Other forms of Sexual Violence

It is important to note at the outset that often the acts of rape and sexual violence in this context are referred to as “abuse.”³² Descriptions such as ‘sexual abuse’ minimize the seriousness of the conduct at issue as though it is something other than torture, rape or serious sexual violence when committed by priests or others associated with the church.³³ Such terminology masks the true extent of the harm such acts cause and the severe pain and suffering associated with the abuse of power, violation of trust and bodily autonomy, as well as the alienation and isolation from family, friends, community, and other sources of support. The “devastating impact of violence against children” has been recognized by this Committee in General Comment 13.³⁴ Especially for children, such acts can separate

them from their sense of connection to their family, the spiritual community and foundations through which they are taught to view the world and, indeed, the world itself.

A Grand Jury in Philadelphia noted this tendency and reaffirmed the multi-dimensional effects and gravity of all forms of sexual violence in this context:

We should begin by making one thing clear. When we say abuse, we don't just mean "inappropriate touching" (as the Archdiocese often chose to refer to it). We mean rape. Boys who were raped orally, boys who were raped anally, girls who were raped vaginally. *But even those victims whose physical abuse did not include actual rape – those who were subjected to fondling, to masturbation, to pornography – suffered psychological abuse that scarred their lives and sapped the faith in which they had been raised.*³⁵ (emphasis added)

A report issued by experts in Germany also observed that "euphemistic, trivializing language was used" to describe the offenses which in the experts' view "gave no more than an inkling of the complete extent of the offence and its effect on the victim."³⁶ A study conducted by the John Jay College of Criminal Justice in the United States found that of the more than 10,000 credible allegations of 'child sexual abuse' reported to church officials in the U.S. between the years 1950 and 2002, a large percentage involved penile penetration or attempted penile penetration or oral sex, acts which constitute rape, attempted rape or sexual violence.³⁷ The Hughes Commission in Canada, which was formed to investigate the systemic physical and sexual violence committed against young boys at the Mount Cashel Orphanage operated by the Christian Brothers in St. John's Newfoundland, found that the evidence of sexual violence adduced at the hearings "was of such a nature as to shock profoundly the conscience and susceptibilities of the people of Newfoundland and Labrador."³⁸

A Philadelphia Grand Jury report provided a sampling of the kind of harm done to children that was subsequently covered up by Church officials:

A girl, 11 years old, was raped by her priest and became pregnant. The priest took her in for an abortion.

A 5th-grader was molested by her priest inside the confessional booth.

A teenage girl was groped by her priest while she lay immobilized in traction in a hospital bed. The priest stopped only when the girl was able to ring for a nurse.

A boy was repeatedly molested in his own school auditorium, where his priest/teacher bent the boy over and rubbed his genitals against the boy until the priest ejaculated.

A priest, no longer satisfied with mere pederasty, regularly began forcing sex on two boys at once in his bed.

A boy woke up intoxicated in a priest's bed to find the Father sucking on his penis while three other priests watched and masturbated themselves.

A priest offered money to boys in exchange for sadomasochism – directing them to place him in bondage, to “break” him, to make him their “slave,” and to defecate so that he could lick excrement from them.

A 12-year-old, who was raped and sodomized by his priest, tried to commit suicide, and remains institutionalized in a mental hospital as an adult.

A priest told a 12-year-old boy that his mother knew of and had agreed to the priest's repeated rape of her son.

A boy who told his father about the abuse his younger brother was suffering was beaten to the point of unconsciousness. “Priests don't do that,” said the father as he punished his son for what he thought was a vicious lie against the clergy.³⁹

Indeed, the gravity of the harm is such that while we use the term “survivor” where appropriate throughout this report to acknowledge, affirm and empower those to whom such violence has been done, we do so advisedly. As is tragically demonstrated in the reports and investigations summarized below, many have not survived their experiences. The Adriaansen Report in Belgium found that 13 people were believed to have committed suicide as a result of the sexual assault by clerics and that six others were reported to have attempted suicide as a result. Last year, police reports detailing the suicides of forty people sexually abused by Catholic clergy in Australia led to the establishment of a Commission of Inquiry in the state of Victoria.⁴⁰ The police reporting suggested that the Church had known about a shockingly high rate of suicides and premature deaths but had “chosen to remain silent.”⁴¹

The reports reveal the deep, psychic harm that can result from this type of assault and betrayal due to not only the sexual violence inflicted on the victims but the psychological violence, including the alienation and isolation, inflicted by the Church in the aftermath – the brutality involved in a system that knowingly exposes and subjects children and vulnerable adults to violent acts and then protects the perpetrators while turning its back on and on condemning the victims. Multiple studies have shown that sexual abuse increases the risk of developing health and social problems such as drug and alcohol abuse, mental illness and relationship strife.⁴² The toll in terms of lives lost, futures and families harmed and, in some cases, ruined, is incalculable.

Violations of Principles Enshrined in the CRC and the OPSC

The foregoing demonstrates that the Holy See has refused to uphold the core principles enshrined in the Convention on the Rights of the Child and the OPSC. Specifically, the Holy See has failed to make the best interests of the child its primary concern in accordance with **Article 3** of the Convention. Rather, it has placed the interests of the Church, including its reputation, above those of children.⁴³ The Holy See's actions have frustrated, and in some cases, fully prevented the enjoyment of the rights contained in

Article 6 of the CRC: the right to life, survival and development. The sexual violence and betrayal of trust proved overwhelming for some child victims, leading them to take their own lives. The children's self-respect has been profoundly impacted and their dignity denied.⁴⁴ Through the acts and omissions of its leadership, and the policies it promotes, the Holy See has violated **Article 19** of the CRC, in that it failed to take all measures necessary to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, *including sexual abuse*, while in the care of members of the clergy or persons operating religious schools or institutions.

The Holy See has not only failed to “undertake to protect the child from all forms of sexual exploitation and sexual abuse,” as required under **Article 34** of the CRC, but it has actively promoted policies and practices, including priest-shifting, that have made children more vulnerable to sexual exploitation and sexual violence. As rape and other forms of sexual violence constitute acts of torture or cruel, inhuman or degrading treatment or punishment, the Holy See has violated **Article 37** of the CRC which provides that no child shall be subjected to torture. Finally, the Holy See has failed take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse, or torture or any other form of cruel, inhuman or degrading treatment or punishment, as required by **Article 39** of the CRC. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.⁴⁵ The commission of acts of rape and sexual violence by trusted members of the clergy on vulnerable children has caused deep psychological wounds that have not allowed for the recovery of child victims of abuse, exploitation and torture.

CCR and SNAP recall that the underlying rationale for **General Comment No. 13** on the right of the child to freedom from all forms of violence set forth in Article 19, CRC/GC/13 (2011): “the extent and intensity of violence exerted on children is alarming. Measures to end violence must be massively strengthened and expanded in order to effectively put an end to these practices which jeopardize children's development and societies' potential non-violent solutions for conflict resolution.” GC 13, para. 2. Indeed, as General Comment 13 sets forth, “[s]ecuring and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention.” *Id.* at para. 13.

Additionally, as discussed further below in Section IV, the Holy See has undermined the very purpose of the **OPSC**, which has as one of its core purposes the prohibition of child pornography (**Art. 1 of OPSC**), and has not adopted the appropriate measures to protect the rights and interests of child victims (**Art. 8 of the OPSC**).

“The Church is not a democracy. And no one from below can decide on the truth.”

- Pope John Paul II

II. Legal Status and Structure of the Holy See and Implications for Fulfillment of its Obligations under the CRC and OPSC

In its reporting to this Committee, the Holy See reiterates its designation as a sovereign state and subject of international law.⁴⁶ This has been the subject of much debate in recent years among international law experts. Those who argue against its designation as a sovereign state point to the diminutive size of its territory and the fact that it has no stable population.⁴⁷ Those who argue in support of Vatican statehood point to the fact that it has territorial control of the territory, no matter how small, a governing structure and an international legal personality.⁴⁸

While for purposes of this report the issue is a moot one since the Holy See has ratified the CRC and optional protocols, the very fact of these arguments underscores the point that the Holy See inhabits a unique and hybrid space in the world unlike any other country or entity. In many ways, the extraordinary legal status and nature of the Holy See – a tiny territorial state with a virtually global presence and the protections afforded sovereigns *and* religious entities – is a significant factor enabling the widespread sexual violence within the Church. This hybrid status has long allowed it to avoid accountability, both internally and externally, and meaningful compliance with one of the core obligations of the Convention and the OPSC, i.e., the protection of children from all forms of sexual exploitation and violence, when committed by those associated with the Church.

The Church exists alongside as well as within other countries which gives rise to a situation that operates on the ground to the severe detriment of child victims of sexual violence by clergy and very often results in no means or avenues of redress. In its Second Report under the Convention and its Initial Report on the OPSC, the Holy See makes distinctions between the territory and citizens of Vatican City State who are governed by the laws pertaining thereto and that of the Holy See as it relates to the “universal Church.” Both within the confines of Vatican City and beyond in the realm of the universal Church, the Holy See has failed in its obligation under the Convention and OPSC to take all legal, administrative and other measures to protect children from all forms of sexual exploitation and violence by clergy.

While the Holy See reports to this Committee that penal canon law “differs greatly from State criminal laws, and is not intended to usurp or otherwise interfere with them or with State civil actions,” in matters involving sexual abuse, the fact of the matter is that this representation is directly at odds with actual Church policy and practice. The actual

practice is that the Holy See will use the fact of its statehood and associated immunities to shield against efforts to hold it and its high-ranking officials accountable in national courts for their role in forming and implementing policies and practices that have enabled and facilitated acts of rape and sexual violence.⁴⁹ By the same token, Church authorities will use the fact of the Church's status as a religious entity to shield it from civil suits on the grounds that any inquiry by national courts into the church's handling of abuse cases constitutes an interference with religion. In one recent case in the United States, an appellate court agreed with Church authorities and the United States Supreme Court let the decision stand, ending any hope of redress for the victim in that case.⁵⁰

In addition, church authorities have fought efforts to reform statutes of limitations with respect to cases of child rape and sexual violence which would allow victims to seek redress once they are finally able and willing to come forward, which for most victims is late in life. In the United States for example, the United States Conference of Catholic Bishops has worked through its state-level counterparts to oppose legislative efforts at reforming statutes of limitation for childhood sexual abuse.⁵¹ This is particularly troubling and problematic in light of the fact that rape and other forms of sexual violence constitute torture and, when committed on a widespread or systematic basis, crimes against humanity for which there should be no statute of limitations under international law. When Church authorities have taken these steps to block efforts by victims seeking redress, the primary consideration is not the best interest of the child.

At the same time that church authorities have fought to block efforts by victims at accountability and redress in national systems, its own internal policies and procedures provide no real protection or remedy for victims of sexual violence. The Holy See acknowledges in its Second Report under the Convention that "the penal sanctions in the Church are medicinal penalties or censures" or "expiatory penalties" such as loss of the clerical state, loss of office, or order to reside.⁵² It is the Vatican, not local bishops, that controls the decision as to whether offending clergy should be laicized, or defrocked, or subject to other canonical sanctions short of laicization.

Moreover, the process of reaching that decision can take many years while the priest or religious has often been allowed to serve in the community and potentially do harm to others, with the penalties amounting only to penance or laicization. Historically, the canonical proceedings identified by the Holy See in its Second Report under the CRC have worked against the interests of victims. Some investigators have concluded that Church authorities have intentionally prolonged internal investigations so as to outlast the statute of limitations period for offenses in the civil systems. *Crimen Sollicitationis*, a key document that exemplified the Vatican's procedure for dealing with sexual abuse allegations until the implementation of new norms, required all actors involved, including victims, their family members and witnesses, to maintain secrecy at the risk of excommunication.⁵³ This stands in stark contrast to the penalty for an accused if found guilty in the canonical process of having committed the actual rape or sexual violence as the possible repercussions do not include excommunication. In addition, even now, victims have no established rights to information during the proceedings, or means of asserting themselves in the process, which is also lacking in transparency and any form of accountability.

Thus, *the entire “State” apparatus of the Church’s long and winding canonical and institutional response to cases of child rape amounts in the end to a personnel policy, i.e., the determination of whether someone found guilty of raping or sexually assaulting a child should be fired from the vocation or otherwise subject to discipline short of being fired. What is more striking is that in numerous cases of admitted violations the Vatican has refused to do even this.*⁵⁴

Privileging Canon Law and Procedures and Lack of Cooperation with Civil Authorities

The Holy See is described as an absolute monarchy with all authority leading to and residing in the Pope in Rome who, according to canon law, has “supreme full, immediate and universal ordinary power” and can “always freely exercise this power.”⁵⁵ This is important to understanding how policies and practices are expressed through those at the center of power at the Vatican. In one striking expression of the Church’s unwritten policy privileging its canonical law and process and encouraging a lack of reporting to and cooperation with civil authorities, Pope John Paul II in 2001 authorized Cardinal Darío Castrillón Hoyos to send a letter to a French bishop to congratulate him for refusing to report to the French authorities a priest who had repeatedly raped one boy and sexually assaulted nine others, despite the fact that the priest had admitted his guilt to the bishop. The bishop, Pierre Pican, was sentenced by a French court to a suspended three-month sentence for failing to report the assaults while the priest was sentenced to 18 years in prison. In the letter, Castrillón Hoyos, who was serving as Prefect for the Congregation for the Clergy in Rome at the time, writes that he was “delighted to have a fellow member of the episcopate who, in the eyes of history and of other bishops, would prefer to go to prison rather than denounce his priest-son.” Moreover, Castrillón Hoyos informed Pican that he would use him as example for other bishops to follow when he wrote: “This Congregation, in order to encourage brothers in the episcopate in this delicate matter, will forward a copy of this letter to all the conferences of bishops.”⁵⁶

Similarly in 2002, Cardinal Tarcisio Bertone, who now serves as Vatican Secretary of State, countered those who argued that mandatory reporting of sexual violence to state authorities should be required and asserted that civil society should respect to the “professional secrecy” of priests even beyond the “seal of the confessional”:

In my opinion, *the demand that a bishop be obligated to contact the police in order to denounce a priest who has admitted the offense of pedophilia is unfounded.* Naturally civil society has the obligation to defend its citizens. But it must also respect the “professional secrecy” of priests, as it respects the professional secrecy of other categories, a respect that cannot be reduced simply to the inviolable seal of the confessional. If a priest cannot confide in his bishop for fear of being denounced, then it would mean that there is no more liberty of conscience.⁵⁷ (emphasis added)

More recently, when asked whether the Church could be trusted to police itself or an independent body was needed to look into issues of sexual abuse, a Vatican official defended the Church's procedures:

The Roman Catholic Church has a process for dealing with such cases. It is thorough. It is just and it is final.... [the cardinal] will meet the justice as he needs, as will the church, and as will the perpetrators and also those who have been victimized.⁵⁸

As a result of the work of victims and survivors of sexual violence in coming forward and speaking out, often at considerable personal risk, there are now numerous examples around the world where it is clear that bishops have followed this policy as expressed by two men at the center of gravity of power in Rome. One recent example which has come to light is that of Cardinal Roger Mahony of the Los Angeles Archdiocese. In January 2013, tens of thousands of pages of documents were released pursuant to a settlement reached with hundreds of victims.⁵⁹ The documents showed that Mahony and other church leaders worked to shield offending priests rather than risk having them reported to authorities. In particular, the documents show that Mahony and his top aide worked to keep priests from seeing therapists who would have been obliged under California law to alert police to suspected child abuse.⁶⁰ They also sent others out of state to avoid criminal investigations and civil suits.⁶¹ The documents also show that while Mahony often took steps to conceal crimes and protect offending priests, there were also times when he attempted for years to get the Vatican to remove offenders from the priesthood and encountered resistance.⁶² It should be noted that Mahony was only working within the Vatican's shadow process in doing so – he was still not reporting the matter to civil authorities or otherwise alerting others to the dangers posed by offending priests.

It is important to note that no cardinal or bishop has ever been laicized or defrocked by the Church for concealing rape and sexual violence, protecting offending priests or failing to report and cooperate with civil authorities in the investigation and prosecution of these types of cases. In fact, it appears that more often the opposite has occurred. In the examples listed below, which fall during the time-period that the Holy See has been a Party to the CRC and which coincide with the reporting period, it is significant that there is no indication that any of these men ever came under scrutiny by the Vatican despite multiple sources of evidence showing that they worked to cover-up and conceal sexual violence, and shifted offending priests:

Cardinal William Levada. William Levada retired in 2012 as Cardinal Joseph Ratzinger's successor to the Congregation for the Doctrine of the Faith (CDF), a post to which he was appointed in 2005 following Ratzinger's election as Pope (Pope Benedict XVI). Prior to that he served as Archbishop of San Francisco from 1995-2005 and before that as Archbishop of the Portland, Oregon from 1986-1995. Before Portland, he worked closely with Cardinal Ratzinger in Rome where he served as secretary of the CDF and was considered by some to be a protégé of Ratzinger.

When he was Archbishop of San Francisco, the archdiocese was sued by a whistleblower priest for retaliation and defamation after the priest reported a fellow priest to the authorities when he suspected he was sexually assaulting altar boys.⁶³ The whistleblower

priest, Father John Conley, sued the archdiocese after he was accused by church leadership of being unstable and negligent and placed on administrative leave. The suspected priest later admitted to sexual involvement with altar boys and was ushered into retirement.⁶⁴ Eventually, the archdiocese, under Levada, entered into a settlement with one of the altar boys who had sued. The archdiocese then also entered into a settlement with Father Conley, a lawyer and former federal prosecutor himself, in the defamation case in which the Archdiocese pre-funded his retirement.⁶⁵

In 2004, a founding member of the Independent Review Board which was formed to monitor the handling of allegations of sexual abuse by priests in the San Francisco archdiocese resigned in protest when he accused Levada of blocking the release of the panel's findings on sexual abuse allegations involving 40 priests.⁶⁶ Levada has also been severely criticized for his handling of abuse allegations when he was serving as Archbishop in Portland.⁶⁷ Despite the accusations of impropriety, Levada was appointed by Pope Benedict XVI to be his successor in overseeing all sexual abuse allegations at the Congregation for the Doctrine in 2005.

Because of his role as prefect for the CDF, where he was responsible for implementing and overseeing church policy on these matters, Levada has been named in the complaint brought by the submitting organizations to the ICC. The case of one of the complainants, Megan Peterson, who was 14 years old at the time she was raped and sexually assaulted by her priest, made its way to Levada's attention while he was serving in that capacity. Despite being aware of reports of abuse by more than one victim, there is no evidence that Levada took any steps to discipline or remove the priest or assist in his extradition to the United States.⁶⁸

Cardinal Justin Rigali. Rigali served as Archbishop of Philadelphia from 2003-2011 and before that as Archbishop of St. Louis from 1994-2003. Rigali's tenure at the head of the Philadelphia Archdiocese coincided with a period in which revelations of past crimes against children were brought forward and on-going acts that placed children in jeopardy of sexual assault and exploitation were revealed. Philadelphia grand jury investigations yielded three scathing reports over nearly ten years finding evidence of cover-up and priest-shifting.⁶⁹ In fact, years after a so-called zero-tolerance policy was in place in the U.S., the grand jury reported that in 2011 there were 37 credibly accused priests still openly serving in the archdiocese.⁷⁰ What was more shocking to many is that the archdiocese had been declared to be in good working order by a review board tasked with ensuring compliance with the zero tolerance policy.

In particular, the Grand Jury noted:

Most disheartening to the grand jury was what we learned about the current practice toward accused abusers in the Philadelphia Archdiocese. We would have assumed, by the year 2011, after all the revelations both here and around the world, that the church would not risk its youth by leaving them in the presence of priests subject to substantial evidence of abuse. That is not the case. In fact, we discovered that there have been at least 37 such priests who have been kept in assignments that expose them to children.

Ten of these priests have been in place since before 2005 – over six years ago.⁷¹

The Grand Jury further reported that despite the zero-tolerance policy, the Archdiocese,

...continues to engage in practices that mislead victims, that violate their trust, that hinder prosecution of their abusers and that leave large numbers of credibly accused priests in ministry... [t]he procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself.⁷²

Cardinal Bernard Law. Retired Cardinal Law became widely known when he resigned under public pressure as Archbishop of Boston in 2002 after the extent of his role in the cover-up of sexual violence by priests was unearthed by the Boston Globe.⁷³ The Massachusetts Attorney General launched an 18-month investigation which revealed that *250 priests and church workers stood accused of acts of rape and sexual assault of children and that the mistreatment was “so massive and so prolonged that it borders on the unbelievable.”*⁷⁴ (emphasis added) The report issued by the Attorney General further noted that “For decades, Cardinals, Bishops and others in positions of authority within the Archdiocese chose to protect the image and reputation of their institution rather than the safety and well-being of children.” Law, in particular, was singled out in the Attorney General’s report: “Law had direct knowledge of the scope, duration and severity of the crisis experienced by children in the Archdiocese; he participated directly in crucial decisions concerning the assignment of abusive priests, decisions that typically increased the risk to children.”⁷⁵

Subsequent to his resignation as archbishop in Boston, Law relocated to Rome and in 2004 was appointed Archpriest of the Basilica di Santa Maria Maggiore, a coveted position. He retired from that post in November 2011.

Cardinal Sean Brady, Ireland. Brady was elevated by Pope Benedict XVI to cardinal in 2007. Before that he had been serving as Archbishop of Armagh and Primate of All Ireland since 1994. There have been repeated calls for his resignation due to his role in covering up sexual violence by priests, in particular once it became widely known that he participated in an internal canonical inquiry into cases of rape and sexual abuse committed by Father Brendan Smyth in 1975.⁷⁶ All participants in the proceeding were sworn to maintain confidentiality of the tribunal and Brady never reported the incidents to police or parents of those who had been abused. Smyth went on to commit other acts of sexual abuse against dozens of children before finally being investigated and prosecuted in 1994.

Cardinal Godfried Danneels, Belgium. Danneels served as Archbishop of Mechelen-Brussels in Belgium from 1979-2010. In 1998, a Belgian court found that the church failed to protect victims of an offending priest. When he testified in court, Danneels denied that he had known of the abuse. Subsequent to his retirement, Danneels was surreptitiously recorded advising a victim of sexual abuse to delay a public statement

until after the offending priest had retired.⁷⁷ It was later learned that another priest attempted to notify Danneels about the offending priest as early as 1996 but Danneels had not heeded the warning.⁷⁸ A series of revelations in Belgium about the scale and the scope of sexual violence involving clergy prompted Catholic church officials to set up a commission of inquiry into cases of sexual assault in the church from the 1960-1970's, with a primary goal of addressing older cases for which there could be no legal recourse due to the statute of limitations. The report set out evidence gathered by the Commission on 476 cases and found that at least 13 people were believed to have committed suicide as a result of the sexual assault by clerics and that six others had attempted suicide as a result. The report further noted that "many consider there to be an organized system of concealment."⁷⁹

Cardinal Anthony Bevilacqua. During the course of criminal proceedings in Philadelphia, Pennsylvania in the U.S., evidence was uncovered in February 2012 that revealed that Cardinal Anthony Bevilacqua ordered his subordinates to destroy a list of thirty-five priests credibly accused of sexual violence.⁸⁰ The order was recorded in a hand-written note made by the person who was ordered to destroy all existing copies of the document, Monsignor James Malloy, and was witnessed by Rev. Joseph Cistone.). Malloy secretly stored the memo of a meeting and the shredding of the document in a safe which was not opened until after his death in 2006 when archdiocesan officials hired a locksmith to open it and found the letter. Malloy, the priest who destroyed the list on Bevilacqua's orders, died in 2006 but prior to his death expressed his reasons for documenting the destruction of the evidence:

I couldn't be sure that I could trust my superiors to do the right thing. I wanted my memos to be there if the archdiocese's decisions were eventually put on the judicial scales. This way, anyone could come along in the future and say, this was right or this wrong. But they could never say it wasn't all written down.⁸¹

Bevilacqua appeared at least ten times before the grand jury and each time denied knowing the details or playing a significant role in the handling of allegations of sexual violence by priests, even testifying at one point that he "saw no evidence at any time that we did any cover-up."⁸² In the first grand jury report, the jurors noted that Bevilacqua had publicly declared in 2002 that he had a "zero tolerance" policy and never transferred any priest who had abused a child to another assignment where he would have access to children. That grand jury found otherwise:

We find that despite those identified risks, these Archdiocesan managers continued and/or established policies that made the protection of the Church from "scandal" more important than the protection of children from sexual predators. These policies were followed, even at the cost of giving priests who had not only been accused of, but in many cases admitted to, sexually assaulting children, access to untold thousands of additional innocent children. We find that Archdiocesan managers as a whole acted not to prevent the sexual abuse of children by priests but to prevent the discovery that such abuse had occurred.⁸³

The first Grand Jury observed that *“the human toll of the Archdiocesan policies is staggering. Children suffered the horror of being sexually assaulted by priests”* and *“were then victimized a second time by an Archdiocesan administration that in many cases ignored, minimized or attempted to conceal their abuse.”*⁸⁴ The second Grand Jury documented additional evidence of priest-shifting and noted that the archdiocese’s own records showed that one abusive priest was transferred so many times “they were running of places to send him where he would not already be known” and that Bevilaqua engaged in a practice of reciprocity with other bishops known as “bishops helping bishops where he agreed to harbor accused priests in his diocese.”⁸⁵ Bevilaqua died in January 2012, without ever undergoing scrutiny or any kind of rebuke from the Vatican on account of the overwhelming evidence that he covered up sexual abuse and exposed others to risk.

“These are simply not the actions of an institution that is serious about ending sexual abuse of its children. There is no other conclusion.”

- Philadelphia Grand Jury
February 2011

III. Specific Areas of Concern Regarding Holy See’s Failure to Fulfill Obligations Under CRC

The activities reported by the Holy See to have been taken to address the problem of sexual violence by clergy at the local level⁸⁶ have instead served to mask and make it more difficult to discern the same underlying policies and practices that facilitate and enable sexual violence rather than prevent it. But the fact that these policies and practices still exist has been shown through the work of Grand Juries in the U.S. which have had the opportunity to investigate the actions and conduct of higher church officials several years after the so-called zero-tolerance policy went into effect, as well as in Ireland several years after reforms undertaken there.

In its Second Report under the Convention, the Holy See points to the Essential Norms adopted by a mixed commission of U.S. Bishops and Vatican hierarchy as a step taken to combat sexual abuse, also often referred to the “Zero Tolerance” policy.⁸⁷ It fails to mention, however, that the Holy See was responsible for watering down that policy when it vetoed the requirement that all suspected child sexual abuse be mandatorily reported to civil authorities as the conference of U.S. bishops had initially desired. The original June 2002 version of the norms would have required mandatory reporting to public authorities of any allegation of sexual abuse. Norm 10 of that document stated: “The diocese/eparchy will report to the public authorities any allegation (unless canonically privileged) of sexual abuse of a person who is currently a minor.”⁸⁸

In October 2002, the Vatican dispatched a letter to the U.S. Conference of Catholic Bishops (USCCB) wherein it foreshadowed that the mandatory reporting would not stand:

[T]he application of the policies adopted at the Plenary Assembly in Dallas can be the source of confusion and ambiguity, because the ‘Norms’ and ‘Charter’ contain provisions which in some aspects are difficult to reconcile with the universal law of the Church. ... Questions ... remain concerning the concrete manner in which the procedures outlined in the ‘Norms’ and ‘Charter’ are to be applied in conjunction with the requirements of the Code of Canon Law and the *Motu proprio Sacramentorum sanctitatis tutela* (AAS 93, 2001, p. 787).⁸⁹

A mixed Commission, comprised of high-level Vatican officials and members of the USCCB, was convened in Rome in late 2002 to “reconcile” the June Charter and Norms with canon law. At this point, the Vatican deleted the mandatory reporting requirement

from the original norms and replaced it with the watered down Norm 11, which simply requires compliance “with applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities.”⁹⁰ This is the Norm which is still in effect today in the U.S.

This is significant for a number of reasons. First, the Vatican’s resistance to mandatory reporting by diocesan officials in the U.S. is consistent with its practice of attempting to invalidate mandatory reporting voluntarily adopted by bishops elsewhere. For example, in its Second Report under the Convention, the Holy See also points to the principles adopted by the Irish Catholic Bishops’ Conference in the 2008 Safeguarding and Guidance Document without any mention of the level of involvement of and pressure brought to bear by Irish civil society and government actors after four separate commissions of inquiry into widespread and systemic abuses by clergy.⁹¹ The Holy See also fails to mention that it urged Irish bishops not to comply with any mandatory reporting requirements in the original Framework Document developed by bishops as early as 1996. *In fact, a 1997 letter from the Vatican, channeled through the Vatican’s embassy to Ireland, put the bishops on notice that the “mandatory reporting” required by the Framework Document “gives rise to serious reservations of both a moral and a canonical nature” and appeared “contrary to the canonical discipline.”*⁹² The letter further put the bishops on notice that “[i]f 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.”⁹³ These actions, taken during the reporting period, make it clear that the Holy See placed its own interests above the interests of the child.

Secondly, high-ranking officials in U.S. dioceses are still failing to report despite the existence of so-called reforms. In a report issued in February 2011, a third Grand Jury was convened to look at cases of rape and sexual violence in the archdiocese of Philadelphia, found that the same policies and practices of cover-up, priest-shifting and victim-blaming were still happening despite the USCCB’s zero tolerance policy.⁹⁴ The Philadelphia archdiocese, which had been certified by an independent review board as functioning properly and in accordance with the model policy adopted by the bishops and approved by the Vatican in 2002, was shown to have 37 credibly accused priests still freely serving in ministry with access to congregants.⁹⁵ In particular, as noted above with respect to the role of Cardinal Rigali in overseeing the Philadelphia Archdiocese in recent years, the report stated: “*We would have assumed, by the year 2011, after all the revelations both here and around the world, that the church would not risk its youth by leaving them in the presence of priests subject to substantial evidence of abuse. That is not the case.*”⁹⁶ In fact, the Grand Jury concluded that the “*procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself.*”⁹⁷

Finally, the grand jurors also noted problems with the way that the Archdiocese’s independent review board, a mechanism also mandated by the 2002 reforms, has functioned in these cases and found that when it has taken action, “the results have often been even worse than no decision at all.”⁹⁸ The jurors concluded that even with the so-called reforms in place, such as the review board, “[t]hese are simply not the actions of

*an institution that is serious about ending sexual abuse of its children. There is no other conclusion.”*⁹⁹

Similarly, in February 2011, fourteen district attorneys in the United States whose counties are encompassed by the Albany diocese found it necessary to join efforts and strongly communicate their concerns about the diocese’s handling of sexual abuse allegations – again years after “reforms” had been implemented.¹⁰⁰ In fact, this was the second time in ten years that the district attorneys of those counties have jointly raised concerns about these matters with the diocese. In 2002, the district attorneys issued recommendations with which the diocese agreed to comply. In the 29 February 2012 letter, the prosecutors disagreed with the diocesan counsel’s claim that the diocese was fully in compliance with the 2002 recommendations made by prosecutors. The prosecutors also faulted the diocese for failing to “promptly” report “all” allegations to the appropriate district attorneys’ office. The D.A.s’ letter was issued soon after a notable trial last year of a priest who had worked in the Albany diocese and against whom complaints were made to diocesan officials in 2000 and 2008. The diocese never reported the allegations to appropriate authorities. When one of the now-adult victims learned that the priest was still working at a church affiliated with a school, he contacted the appropriate district attorney and recounted years of abuse by the priest. While the New York statute of limitations barred any charges against the priest, Massachusetts authorities were able to prosecute him as the offenses were not time-barred there.

The fourteen prosecutors proposed a new and strongly worded Memorandum of Understanding that requires the diocese to “immediately notify” the appropriate district attorney’s office with jurisdiction over the matter and even defines what is meant by “immediate notification,” i.e., “the same day or next business day.”¹⁰¹ The memorandum also prohibits the diocese from transferring or re-assigning the accused member of the clergy during the pendency of the state’s investigation. The memorandum further prohibits the diocesan officials from investigating the matter themselves, including “screening” of cases for truth or falsity.

Likewise, commissions of inquiry in Ireland have found that many of the same practices have been happening even after reforms. For example, the Cloyne Commission, which released its report in June 2011 and a final chapter in December 2011, also found instances of failure to report, victim-blaming, exposing others to harm by leaving accused priests with access to children and congregants and minimizing the offenses. Indeed, it found that the bishop of the Cloyne diocese intentionally mislead the Irish Minister for Children to believe that “the Framework Document guidelines [the reforms] were fully in place and were being fully complied with.”¹⁰²

Finally, while the Holy See reports that “the universal law of the Church has always viewed sexual abuse of a minor by a cleric/religious as one of the most serious offenses that sacred ministers can commit,”¹⁰³ sexual violence against a minor by clergy is treated in the same way and carries the same penalties as attempts by clergy to ordain women in the revised procedural norms issued by the Vatican in 2010.¹⁰⁴ Such treatment casts serious doubt as to the validity of the Holy See’s representation in this regard and its ability to comprehend and address the full scale and gravity of the harm to children resulting from sexual violence by clergy – or it suggests that the Church views ordination

of women as a horror equivalent to the rape of a child, which is problematic in a number of respects.

The Holy See's Failures with Regard to Specific Articles of the Convention

The Holy See has repeatedly failed to honor the paramount principle concerning the best interests of the child set out of the **Articles 3** of the Convention. As noted above, without exception every single commission of inquiry, grand jury, or other independent investigation in every country in which such inquiries have been conducted has concluded that Church authorities were concerned above all else with protecting the Church, church officials and priests to the exclusion of what would have been in the best interests of the children raped and sexually assaulted on the one hand, and those who would be harmed in the future as a result of the Church's decisions.

1. In light of the overwhelming evidence of widespread and systemic sexual abuse by its clergy and the equally overwhelming evidence of Church policies and practices that have served to conceal and perpetuate such violence, the Holy See has totally and utterly failed in protecting children from all forms of sexual exploitation and sexual abuse under **Article 34**.
2. Likewise, the Holy See has failed in its obligation under **Article 35** to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.
3. The Holy See has additionally failed to respect, protect and fulfill the inherent right to life of children and to ensure to the maximum extent possible the survival and development of the child under **Article 6** of the Convention. As noted above and as established in a number of inquiries in different countries, many victims of sexual abuse by priests have not survived their experience and have taken their own lives.

Moreover, the Holy See has failed to ensure to proper and healthy development of the child inasmuch as childhood sexual abuse has been to shown to give rise to high incidents of substance abuse, and depression and other mental illness, particularly when reports of sexual abuse are met with the kinds of responses victims have received from the Church.

“The sexual exploitation of children is a grave crime against the truth of the human person... Every abuse against their dignity is a crime against humanity and against the future of the human family....”

-Final Declaration of the 1992 International Conference on the Sexual Exploitation of Children Through Prostitution and Pornography

IV. Specific Areas of Concern Regarding Holy See’s Failure to Fulfill Its Obligations Under the OPSC

The reports of commissions of inquiry and grand jury investigations in different countries are replete with accounts and references to child pornography. These cases have involved instances where priests were found to be possessing or producing child pornography as well as using pornography to lower a child’s inhibitions and entice or coerce them into engaging in sexual behavior.¹⁰⁵ Among the cases appearing in the reports of inquiries are:

- In the Philadelphia Archdiocese, a nun was fired from her position as director of religious education after she complained about the fact that a priest was ministering to children after he had been convicted of receiving child pornography.¹⁰⁶
- Also in the Philadelphia Archdiocese, Church officials allowed Father Edward DePaoli to work in the church for almost 20 years, despite their knowledge of his continued addiction to child pornography.¹⁰⁷ DePaoli continued to work as a priest until 2002, when he was accused of abusing a 14 year old girl. He was officially removed from the priesthood in 2004.¹⁰⁸ With regard to this case the Philadelphia Grand Jury observed:

If a priest was arrested or convicted and his crimes publicized in the news, more extreme measures were needed to return the abuser to ministry among uninformed parishioners. Thus, when Archbishop Bevilacqua was deciding where to assign Fr. Edward DePaoli after his conviction for possessing child pornography, he wrote: “for the present time it might be more advisable for [Fr. DePaoli] to return to the active ministry in another diocese.” The Archbishop explained that *this move would “put a sufficient period between the publicity and reinstatement in the active ministry of the Archdiocese of Philadelphia.”* He arranged for Fr. DePaoli to be assigned to a parish in New Jersey for three years.¹⁰⁹

Likewise, two notable and recent cases from Canada and the United States indicate the presence or use of child pornography in these cases. Last year, Raymond Lahey, a former bishop, was charged with and pled guilty to importing child pornography into Canada and sentenced to fifteen months in prison. According to prosecutors, Lahey’s laptop contained hundreds of photos of children ranging from “soft core” to depictions of

torture. Lahey, who admitted to an addiction to child pornography, had in the previous year overseen a multi-million dollar settlement for clerical sexual abuse victims in his diocese before he was charged.¹¹⁰

In September 2012, for the first time in the United States, a bishop was convicted of failing to report suspected child abuse by a priest in his diocese.¹¹¹ In October 2011, Bishop Robert Finn, head of the Kansas City-St. Joseph Diocese, was indicted in Jackson County, Missouri, for failing to report suspected sex offenses against children by Father Sean Ratigan. The priest has been charged in different local and federal jurisdictions with possessing, producing and attempting to produce child pornography. A lawsuit brought last year alleges that Bishop Finn's delay in reporting Ratigan to police enabled Ratigan to abuse a ten-year old girl during that time.¹¹²

On 5 April 2012, the trial court denied Finn's motions to dismiss the indictments on the basis that he was not a designated, i.e. mandatory, reporter of sexual abuse under state law.¹¹³ The trial court held a jury could conclude that Finn was a "designated reporter" under the statute, clearing the way for the case to proceed to trial. Previously, in November 2011, Finn avoided another indictment in a different county when he entered into a five-year diversion program with the Clay County prosecutor requiring him to meet monthly face-to-face with the District Attorney for the next five years to discuss any allegations of child sex abuse levied against clergy or diocesan staff within the diocese's Clay County facilities; describe what steps the diocese is taking to address the allegations; and visit all Clay County parishes to outline new programs the diocese is implementing to protect children. Pursuant to the agreement, Finn must be accompanied by the diocesan ombudsman and a new director of child and youth protection.¹¹⁴

Holy See's Representations to the Committee on the OPSC

In light of now well-documented, widespread and systemic sexual violence against children within the Church, which includes documented instances of the use or production of child pornography, it is remarkable that in the Holy See's Initial Report on the OPSC filed more than a decade after it ratified the treaty, offenses against children by clergy are referenced in only six paragraphs which pertain to statements made by two Popes about the matter.¹¹⁵ With regard to its obligations of protection and prevention, the Holy See's sole representation is that its ratification of the Protocols "is another sign of its ceaseless recognition of the fundamental importance of protecting the human rights of children and promoting their well-being." The Holy See advises this Committee that its ratification encourages protection and prevention by encouraging other countries to join in the effort by ratifying the treaties.¹¹⁶

In the few paragraphs in which offenses against children by clergy are mentioned, the Holy See lists a number of statements made by Pope John Paul II and Pope Benedict XVI in which they acknowledge the "offenses committed by some of the Church's own members against the rights of the child."¹¹⁷ Many victims of these offenses have not viewed such statements as true apologies in that they have not also acknowledged the ways in which the Holy See itself has contributed to the offenses against the rights of the

child. Instead, successive Pontiffs have placed blame *inter alia* on a “deep-seated crisis of sexual morality” shared by society as a whole¹¹⁸ or, as one Irish advocate and survivor noted, on “secularization.”¹¹⁹

Whether constituting an apology or not, far more is required when faced with the kinds of offenses described above than statements. The Holy See pointed to no affirmative steps taken in the areas of protection, prevention, prohibition or international cooperation, in the implementation of the protocol in the universal Church beyond rhetoric. In fact, the Holy See acknowledges that in the more than 10 years since its ratification of the treaty, no steps have been taken to criminalize the sale of children, child pornography or trafficking as grave crimes within the Penal Canon Law as it pertains to Vatican City State, or to address issues of extradition or international cooperation as these issues relate to the universal Church. In paragraph 60 of its Initial Report on the OPSC, the Holy See admits that “to date there are no specific penal laws enacted for VCS that criminalize the sale of children, child prostitution and child pornography as defined in the OPSC.” Rather, according to the Holy See, the Vatican relies on Italian law for these matters. No explanation is provided for the laws or procedures governing situations in which the crime is committed outside the territory of VCS nor is there any apparent framework of accountability for those responsible beyond the direct perpetrator.

Holy See’s Failures with Regard to Specific Articles of the Optional Protocol

1. The Holy See has failed to criminalize to even the extent minimally required by the OPSC the specific acts of the sale of children, child prostitution and child pornography, in violation of **Article 3 and 4**.
2. Neither has the Holy See fulfilled the requirements of Article 5 concerning extradition, nor of ensuring the greatest measure of assistance to cooperate with States regarding criminal investigations and extradition proceedings under **Article 6**.

Indeed, in light of the evidence unearthed in multiple inquiries in different countries, including the entrenched practice of “priest shifting,” there is evidence to suggest that the Holy See has done the opposite of complying with the provisions of the protocol.

3. In light of the problems inherent in the Holy See’s internal procedures which lack independence, transparency and accountability, it has failed to adequately provide for the protection of the rights of child victims and witnesses and to provide for rehabilitation, transparent access to procedures to seek compensation and prevention measures to protect children from these offences in accordance with **Articles 8 and 9** of the Optional Protocol.
4. The Holy See has failed to genuinely encourage and participate in international cooperation in the areas of prevention, detection, investigation, prosecution and punishment of those responsible in accordance with **Article 10**, particularly when the offenders are members of its own clergy.

V. Recommendations

- 1) Issue an affirmative instruction that the best interests of the child, in particular to be protected from all forms of sexual exploitation, are to prevail in all matters involving allegations of sexual abuse or misconduct by clergy, subject to disciplinary action for those who fail to adhere to this principle
- 2) Adopt disciplinary measures for higher-ranking officials including bishops and cardinals who engage in cover-up of sexual abuse cases, who fail to report cases to secular authorities;
- 3) Require mandatory reporting to secular authorities;
- 4) Initiate a program for educating children about their rights under the Convention and Optional Protocols;
- 5) Require background checks and psychological assessments by independent specialists before admitting clergy to positions of close contact with children and vulnerable adults;
- 6) Open the ecclesiastical proceedings to the public, with due regard for situations in which victims request confidentiality as in the case of national courts with procedures for victim and witness protection

Endnotes

¹ More information on CCR is available at <http://www.ccrjustice.org/> and more information on SNAP is available at <http://www.snapnetwork.org>.

² The Holy See Second Report is a consolidated document reflecting the second, third and fourth periodic reports, due in 1997, 2002 and 2007, respectively. The Holy See submitted its Initial Report, due in 1992, in 1994 (CRC/C/3/Add.27) (“Holy See Initial CRC Report”). The initial report on the OPSC was due in 2003.

³ Maziejuk was a 64-year-old farmer and one of a group of villagers who unsuccessfully asked church authorities to reassign an accused priest in Poland quoted in Beata Pasek, *Faithful in Pope’s Homeland Press Church to Act on Sex Abuse*, STAR TRIBUNE [Poland], 28 Sept. 2003, available at http://www.bishop-accountability.org/news2003_07_12/2003_09_28_Pasek_FaithfulIn.htm.

⁴ Much of the information provided in this report is drawn from a factual and legal analysis submitted to the Prosecutor of the International Criminal Court in the submitting organizations surveyed and summarized much of the evidence compiled to date by different commissions of inquiry, grand juries and other investigative bodies. Thus, for a more detailed summary and analysis of that evidence and key reports in the sex abuse crisis in different countries, please see, *Victims’ Communication pursuant to Article 15 of the Rome Statute Requesting Investigation and Prosecution of High-level Vatican Officials for Rape and Other Forms of Sexual Violence as Crimes Against Humanity and Torture as a Crime Against Humanity*, ICC File No. OTP-CR-159/11, 13 Sept. 2011, available at <http://s3.documentcloud.org/documents/243877/victims-communication.pdf> [hereinafter “Victims’ Communication”]; *Information Supplementing ICC Communication*, ICC File No. OTP-CR-159/11, 11 April 2012, available at [http://ccrjustice.org/files/Supplemental%20SNAP%20Submission%20to%20ICC%20OTP%20\(11%20April%202012\).pdf](http://ccrjustice.org/files/Supplemental%20SNAP%20Submission%20to%20ICC%20OTP%20(11%20April%202012).pdf).

⁵ See for example, Geoffrey Robertson, *The Case Against Vatican Power*, NEWSTATESMAN, 8 Sept. 2010, available at <http://www.newstatesman.com/law-and-reform/2010/09/vatican-rights-state-italy>.

⁶ Samuel S.H. Hughes, *Royal Commission of Inquiry into the Response of the Newfoundland Criminal System to Complaints* (Newfoundland, Canada, 1989), at 490, available at http://www.lewisday.ca/ldlf_files/pdf/Mt.Cashel%20vol%201.pdf; See also, Gordon A. Winter, *The Report of the Archdiocesan Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy* (Archdiocese of St. John’s, Canada, 1990), at 137, available at http://www.attorneygeneral.jus.gov.on.ca/inquiries/cornwall/en/hearings/exhibits/Tom_Doyle/pdf/06_Commission.pdf [hereinafter “Winter Commission”].

⁷ *Cummins Report: Report of the Protecting Victoria’s Vulnerable Children Inquiry by Government of Victoria, Australia* (Feb. 2012) available at <http://www.childprotectioninquiry.vic.gov.au/images/stories/inquiry/consolidated%20%20protecting%20victorias%20vulnerable%20children%20inquiry%20report%2027%20january%202012.pdf>. Two commissions of inquiry were set up in 2012, a Royal Commission of Inquiry operating at the federal level and a Commission of Inquiry set up by the government of the state of Victoria. See e.g., Stuart Rintoul, *Victoria Sex Abuse Inquiry Gets Extension*, The Australian, 15 Feb. 2013, <http://www.theaustralian.com.au/national-affairs/in-depth/victorian-sex-abuse-inquiry-granted-extension/story-fngburq5-1226578568897> and Alison Rourke, *Australia to Hold Wide-Ranging Inquiry Into Child Sex Abuse*, The Guardian, 12 Nov. 2012, <http://www.guardian.co.uk/world/2012/nov/12/australia-judicial-inquiry-child-abuse>

⁸ Although one recently undertaken study was cancelled by bishops who were accused by an investigator of trying to censor aspects of the report. See Reuters, *German Bishops Cancel Study Into Sexual Abuse by Priests*, 9 Jan. 2013. Available at <http://www.nytimes.com/2013/01/10/world/europe/german-bishops-cancel-study-into-sexual-abuse-by-priests.html>.

⁹ Francis D. Murphy, Helen Buckley, and Larain Joyce, *The Ferns Report, Diocese of Ferns*, presented to the Minister for Health and Children (Dublin: Government Publications, 2005), available at http://www.bishop-accountability.org/reports/2005_10_Ferns/Complete_Ferns_Report_SO.pdf (“Ferns Report”).

¹⁰ The Ryan Report was issued by the Commission to Inquire Into Child Abuse and was the result of a 10-year inquiry into the extent and effects of abuse on children from 1914-2004 in Irish institutions for children. See *The Ryan Report on Irish Residential Institutions*, The Commission to Inquire into Child Abuse, Dublin, Ireland (20 May 2009), available at <http://www.childabusecommission.com/rpt/index.php>. [hereinafter “Ryan Report”] The five-volume report chronicles cases of tens of thousands of children who suffered systematic sexual, physical and mental abuse in the schools. The report describes in chilling detail how “[a] climate of fear, created by pervasive, excessive and arbitrary punishment, permeated most of the institutions and all those run for boys. Children lived with the daily terror of not knowing where the next beating was coming from.” The violence encompassed rape and other forms of sexual violence, which was particularly ‘endemic’ in boys’ institutions. The Ryan commission found a policy that protected perpetrators and exposed children to repeated acts of sexual violence.

¹¹ Judge Yvonne Murphy, Ms. Ita Mangan, and Mr. Hugh O’Neill, Commission of Investigation: Report into the Catholic Archdiocese of Dublin (26 Nov. 2009), at 11.1-11.2, available at <http://www.justice.ie/en/JELR/Pages/PB09000504> (finding *inter alia* “[t]here was little or no concern for the welfare of the abused child or for the welfare of other children who might come into contact with the priest.”)

¹² See Cloyne Report available at: http://www.justice.ie/en/JELR/Cloyne_Rpt.pdf/Files/Cloyne_Rpt.pdf and Report Into the Diocese of Cloyne Report, Chapter Nine, Commission of Investigation, 23 Dec. 2010, released Dec. 2011, available at http://www.bishop-accountability.org/reports/2011_07_13_Cloyne_Report/Cloyne_further_portions_Dec_2011.pdf.

¹³ See The Adriaenssens Report, Sept. 2010.

¹⁴ Commissioned by Church officials after scandals broke out in Germany, attorney Marion Westphal led an effort which involved examining approximately 13,000 documents spanning 1945 to 2009, with allegations brought against at least 159 priests. See Marion, Westphal, Central Points of Appraisal Report, *Sexual and Other Physical Assaults by Priests, Deacons and Other Pastoral Workers in the Field of Jurisdiction of the Archdiocese of Munich and Freising Between 1945 and 2009* (2010), at 2, available at http://www.bishop-accountability.org/reports/2010_12_02_Westphal_Munich_and_Freising_Key_Points_English.pdf [hereinafter “Westphal Report”]

¹⁵ See Report of Commission of Inquiry into Sexual Abuse of Minors in the Roman Catholic Church (Netherlands), 16 Dec. 2011, available at http://bishopaccountability.org/reports/2011_12_16_Deetman_Seksueel_Misbruik/ and Deetman Report, Executive Summary (English) at http://bishopaccountability.org/reports/2011_12_16_Deetman_Seksueel_Misbruik/Deetman_Report_English_Summary.pdf.

¹⁶ Carole Holohan, *In Plain Sight: Responding to the Ferns, Ryan, Murphy and Cloyne Reports*, Amnesty International Ireland (2011), available at http://www.amnesty.ie/sites/default/files/INPLAINLIGHT_FINAL.pdf.

¹⁷ Report of the Philadelphia Grand Jury, In Re County Investigating Grand Jury, MISC. NO. 01-00-89444, Philadelphia, PA (2001), at 3, available at http://www.bishop-accountability.org/reports/2003_09_25_First_Philadelphia_Grand_Jury_Report.pdf. [hereinafter Philadelphia Report I]. See also, Victims’ Communication, *supra* n. 4, at pp. 22-29.

¹⁸ Ryan Report, *supra* n. 10, Executive Summary, p. 21.

¹⁹ Cloyne Report, *supra* n. 12 at 1.17.

²⁰ *Id.* at 1.21

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- ²¹ Report of the Philadelphia Grand Jury, In Re County Investigating Grand Jury XXIII, MISC. No. 0009901-2008, at p. 9, Philadelphia PA. 23 Jan. 2011, available at http://www.bishopaccountability.org/reports/2011_01_21_Philadelphia_Grand_Jury_Final_Report_Clergy_Abuse_2.pdf. [hereinafter “Philadelphia Report III”]
- ²² Report of the Westchester County (New York) Grand Jury Concerning Complaints of Sexual Abuse and Misconduct Against Minors by members of the Clergy, at p. 2. June 2002, available at <http://www.bishop-accountability.org/resources/resource-files/reports/WestchesterGrandJuryReport.pdf>.
- ²³ Ferns Report, *supra* n. 9.
- ²⁴ See, e.g., *Untouchable Accused Of Molesting Children, They Hop Borders and Start Anew, Often Aided By Guardian Angels - Their Catholic Leaders*, DALLAS MORNING NEWS, 20 June 2004, page 1A.
- ²⁵ Westchester Grand Jury Report, *supra* n. 22 at p. 7.
- ²⁶ Philadelphia Report III, *supra* n. 21 at p. 1.
- ²⁷ Westphal, *supra* n. 14 at Exec. Summary p. 3.
- ²⁸ Bruce Vielmetti, *Weakland Shredded Copies Of Sex Abuse Reports, Documents Say*, MILWAUKEE WISC. J. SENTINEL, 3 Dec. 2009, available at <http://www.jsonline.com/news/milwaukee/78431087.html>.
- ²⁹ Westchester Grand Jury Report, *supra* n. 22 at pp. 8-9.
- ³⁰ Ryan Report, *supra* n. 10, Executive Summary . p 22.
- ³¹ Winter Commission, *supra* n. 6 at 137.
- ³² See also General Comment No. 13, CRC/GC/13 (2011), para. 4 defining “violence”. Importantly, the Committee recognizes both mental and physical violence. GC 13, paras. 21 and 22.
- ³³ For a discussion of torture in the context of the CRC, see GC 13, para. 26. For a discussion of the international criminal law jurisprudence on rape and sexual violence as torture, see Victims’ Communication, p. 68.
- ³⁴ General Comment 13, para. 15, which recognizes *inter alia* the short and long term health consequences of violence against children and child maltreatment; and the developmental and behavioral consequences.
- ³⁵ Report of the Grand Jury, *In Re County Investigating Grand Jury*, MISC. NO. 03-00-239, (C. P. Philadelphia, 2003), available at http://www.bishop-accountability.org/reports/2005_09_21_Philly_GrandJury/Grand_Jury_Report.pdf [hereinafter Philadelphia Report II], at 2-3. See also, Westphal Report, *supra* n. 14 at Exec. Summary, 3: “With regard to the misconduct in question, namely the sexual offences, it must be emphasized that euphemistic, trivialising language was used, which, from the point of view of the experts, often gave no more than an inkling of the complete extent of the offence and its effect on the victim.”
- ³⁶ *Id.*
- ³⁷ Karen Terry et al., *The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons*, prepared by John Jay College of Criminal Justice, United States Conference of Catholic Bishops (2004), available at http://www.bishop-accountability.org/reports/2004_02_27_JohnJay_revised/2004_02_27_John_Jay_Main_Report_Optimized.pdf.
- ³⁸ Hughes Commission Report, *supra* n. 6.
- ³⁹ Philadelphia Report II, *supra* n. 35 at 3.
- ⁴⁰ Nick McKenzie, Richard Baker and Jane Lee, *Church’s Suicide Victims*, Canberra Times, 13 April 2012. <http://www.canberratimes.com.au/victoria/churchs-suicide-victims-20120412-1wwox.html>
- ⁴¹ *Id.* The reporting led to the establishment of two commissions of inquiry in Australia.

⁴² See, e.g., Shanta R. Dube, et al., Long-term Consequences of Childhood Sexual Abuse by Gender of Victim, 28 AM. J. OF PREVENTIVE MED. 430 (2005) (“A history of suicide attempt was more than twice as likely among both male and female victims as among nonvictims.”); See also, Boys, Too, Suffer Long-term Consequences of Childhood Sexual Abuse, SCI.DAILY, 19 May 2005, available at <http://www.sciencedaily.com/releases/2005/05/050519082907.htm> (“[s]exual abuse significantly increases the risk of developing health and social problems -- such as drug and alcohol abuse, mental illness, and marital strife -- in both men and women.”)

⁴³ See, e.g., Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Initial Reports of States Parties Due in 2009: Republic of Moldova*, 4 Nov. 2010, U.N. Doc. CRC/C/OPSC/MDA/1*, at 10 (“State institutions are obliged to take into account children’s interests in all decisions made concerning children”); Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention, Third and Fourth Periodic Reports of States Parties Due in 2008: Slovenia*, 19 May 2010, U.N. Doc. CRC/C/SVN/3-4, at 27 (noting that the “the best interest of the child is the ultimate criterion” in the context of parental visitation rights); Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention, Third and Fourth Periodic Reports of States Parties Due in 2008: Uzbekistan*, 22 Feb. 2010, U.N. Doc. CRC/C/UZB/3-4, at 68 (describing how the actions of government officials “must be based on the principle of the child’s best interests”); Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention, Fourth Periodic Report of States Parties Due in 2007: Costa Rica*, 27 Apr. 2009, at 37 (“Even when the principle [of the best interests of the child] is not mentioned, it must be a fundamental standard to be followed in all actions undertaken.”).

⁴⁴ See, e.g., Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention, Third Periodic Reports of States Parties Due in 2006: Japan*, 22 Apr. 2008, U.N. Doc. CRC/C/JPN/3, at 45 (“It is inadmissible for a child to take his/her own life, whatever the reason may be. It is thus important to recognize the value of life and to develop the strength necessary to overcome crises and difficulties.”); Comm. on the Rights of the Child, *General Comment No. 7 on Implementing Child Rights in Early Childhood*, U.N. Doc. CRC/C/GC/7/Rev.1 (2005), at 4 (“Article 6 refers to the child’s inherent right to life and States parties’ obligation to ensure, to the maximum extent possible, the survival and development of the child.”); *id.* (“States parties are reminded that a young child’s health and psychological well-being are in many respects interdependent.”).

⁴⁵ See, e.g., Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention, Combined Second and Third Periodic Reports of States Parties Due in 2007: Turkey*, 14 July 2009, U.N. Doc. CRC/C/TUR/2-3, at 20 (noting that, in accordance with Article 39, “Turkish law makes it imperative to take all necessary measures, including the involvement of the judiciary when warranted, . . . in order to ensure the prevention, detection, reporting, submission to the pertinent authority, investigation, medical treatment and follow-up of cases involving child neglect and abuse”); Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Under Article 44 of the Convention Fourth Periodic Reports of States Parties Due in 2008: Denmark*, 19 Aug. 2008, U.N. Doc. CRC/C/DNK/4, at 75–76 (discussing Article 34 and the associated need to investigate and prosecute actions involving the sexual abuse of minors).

⁴⁶ Holy See Second Report at para. 1; Holy See Initial Report on OPSC, para. 4.

⁴⁷ See Robertson, *supra* n. 5.

⁴⁸ See Austen Ivereigh, *The Vatican is a Real State*, The Guardian, 8 September 2010. <http://www.guardian.co.uk/commentisfree/belief/2010/sep/08/religion-vatican-statehood-immunity>

⁴⁹ See, e.g., James Robertson, *Archbishop Used Immunity in Civil Suit*, Sidney Morning Herald, 9 July 2012, <http://www.smh.com.au/world/archbishop-used-immunity-in-civil-suit-20120708-21pkh.html>. See also, *John V. Doe v. Holy See*, No. 06-35563, Decision of the United States Court of Appeals for the Ninth Circuit on Appeal from the United States District Court for the District of Oregon, 3 March 2009, *cert. denied*, *Holy See v. John V. Doe*, 09-1 (U.S. June 28, 2010) (denying certiorari and letting stand a case that

denied the Holy See immunity under the Foreign Sovereign Immunities Act). Available at: <http://cdn.ca9.uscourts.gov/datastore/opinions/2009/03/03/0635563.pdf> .

⁵⁰ See, e.g., *Doe v. Roman Catholic Archdiocese of St. Louis*, Decision of the Missouri Court of Appeals, Eastern District, No. ED94720, 5 July 2011, *cert. denied*, *John Doe AP v. Roman Catholic Archdiocese of St. Louis*, 11-840 (U.S. Mar. 19, 2012). Available at <http://www.courts.mo.gov/file.jsp?id=47627> . The court held:

...questions of hiring, ordaining, and retaining clergy, necessarily involve interpretation of religious doctrine, policy, and administration, and such excessive entanglement between church and state has the effect of inhibiting religion, in violation of the First Amendment, U.S. Const. Amend. I. Further, adjudicating the reasonableness of a church's supervision of a cleric--what the church 'should know'--requires inquiry into religious doctrine.

⁵¹ See, e.g., Laurie Goodstein and Erik Eckholm, *Church Battles Efforts to Ease Sex Abuse Suits*, The New York Times, 14 June 2012, at http://www.nytimes.com/2012/06/14/us/sex-abuse-statutes-of-limitation-stir-battle.html?pagewanted=all&_r=0; and Tara Murtha, *Catholic Church Fights to Kill PA's Statute of Limitation Reform*, Philadelphia Weekly, 8 Feb. 2012, at <http://www.philadelphiaweekly.com/news-and-opinion/cover-story/138884039.html?page=2&comments=1&showAll>.

⁵² Holy See Second Report, para. 78(e).

⁵³ See Center for Constitutional Rights, Communication to Prosecutor of the International Criminal Court, 11 May 2011, pp. 9-10, *available at*: [http://ccrjustice.org/files/Survivors%20Network%20Art%20%2015%20Communication%20to%20ICC%20OTP%20\(3\).pdf](http://ccrjustice.org/files/Survivors%20Network%20Art%20%2015%20Communication%20to%20ICC%20OTP%20(3).pdf).

⁵⁴ See Expert Opinion of Thomas P. Doyle, Annexed to Victims Communication, *supra* n.4, as Appendix A, paras. 90-93, *available at*: <https://www.documentcloud.org/documents/243674-a-1-final-doyle-expert-opinion-formatted.html>.

⁵⁵ See Website of Vatican City State, State Departments, *available at*: http://www.vaticanstate.va/EN/State_and_Government/StateDepartments/index.htm (“Vatican City State is governed as an absolute monarchy. The Head of State is the Pope who holds full legislative, executive and judicial powers.”). See also See Expert Opinion of Thomas Doyle, Exhibit A-1, para. 12 (d) (“The governmental system of the Catholic Church is defined officially as a hierarchy. [...]In practice the governmental system of the Catholic Church is monarchical in that power is vested in individual persons and not in groups or communal bodies. There is no separation of the three essential functions of government in the Catholic Church”) and para. 12 (e) (“The pope is the supreme judge, executive, legislator and teacher for the entire Catholic Church. His authority and power is absolute.”) *Id.* at paras. 21-27; and See 1983 Code c.331, *available at* http://www.vatican.va/archive/ENG1104/_P16.HTM.

⁵⁶ *Letter from Cardinal Castrillón Hoyos to Bishop Pierre Pican, 8 Sept. 2001*. French original is available at <http://www.documentcloud.org/documents/243767-5-pican-hoyos-letter-8-sept-2001-original.html>. English translation is available at <http://www.documentcloud.org/documents/243768-5a-pican-letter-english-translation.html>.

⁵⁷ John Allen, *ALL THE POPE'S MEN*, 241 (2004).

⁵⁸ CBS This Morning, *Monsignor: Church Doesn't Need Outside Justice*, 25 Feb. 2013, at <http://www.cbsnews.com/video/watch/?id=50141681n>.

⁵⁹ Los Angeles Times, *The Archdiocese's Cover-Up: The Release of Confidential Files on 1980s Clergy Sex Abuse in the Los Angeles Archdiocese is the Beginning of the End of a Long and Sordid Saga*, 23 Jan. 2013, at <http://www.latimes.com/news/opinion/editorials/la-ed-mahony-clergy-abuse-files-20130123,0,1998210.story>.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Victoria Kim and Ashley Powers, *Vatican Impeded Mahony Attempts to Remove Priests, Files Show*, Los Angeles Times, 15 Feb. 2013, at <http://articles.latimes.com/2013/feb/15/local/la-me-mahony-vatican-20130216>.

⁶³ Elizabeth Fernandez, *Burlingame Priest Sues S.F. Diocese: Clergyman Punished After Reporting Abuse*, San Francisco Chronicle, 24 Nov. 2000, at http://www.bishop-accountability.org/news3/2000_11_24_Fernandez_BurlingamePriest_James_Aylward_3.htm.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Don Lattin, *Levada Takes Heat Over Abuse Inquiry: Panel Member Resigns, Says Church Suppressed Results*, 12 Nov. 2004, at http://www.bishop-accountability.org/news3/2004_11_12_Lattin_LevadaTakes_John_Heaney_ETC_1.htm

⁶⁷ Don Lattin, *Levada's Oregon History Surfaces: Lawyers Question S.F. Archbishop in Molest Cases*, San Francisco Chronicle, 10 July 2004, at http://www.bishop-accountability.org/news3/2004_07_10_Lattin_LevadasOregon_Joseph_A_Baccellieri_5.htm .

⁶⁸ See Victim's Communication, *supra* n. 4 at pp. 52 and Appendices to Communication G-1 through G-8.

⁶⁹ *Id.* at pp. 22-29.

⁷⁰ Philadelphia Report III, *supra* n. 21 at p. 9.

⁷¹ *Id.*

⁷² *Id.* at 1.

⁷³ The Boston Globe, *Spotlight Investigation, Abuse in the Catholic Church*, available at <http://www.boston.com/globe/spotlight/abuse/>.

⁷⁴ Office of the Att'y Gen., *The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston* (2003), at p. 1-1 Appendix, available at <http://www.bishop-accountability.org/downloads/archdiocese.pdf> [hereinafter Reilly Report]

⁷⁵ *Id.* at p. 31.

⁷⁶ See Charlie Taylor, Èanna O Caollai and Gerry Moriarty, *Brady Says He Will Not Resign Over Handling of Abuse Case*, The Irish Times, 12 May 2012. <http://www.irishtimes.com/newspaper/breaking/2012/0502/breaking8.html#Full%20statement%20by%20Cardinal%20Se%20C%20A%20Brady>. See also, BBC News, *Profile of Father Brendan Smyth*, http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8567868.stm

⁷⁷ The Associated Press, *Belgium: Cardinal Apologizes for Suggesting Temporary Cover-up of Bishop's Abuse*, 30 Aug. 2010 available at http://www.nytimes.com/2010/08/31/world/europe/31frnbriefs-BELGIUM.html?_r=2&.

⁷⁸ *Id.*

⁷⁹ See Victims Communication, *supra* n. 4 at pp. 34-35.

⁸⁰ John P. Martin, *Court filing: Bevilacqua Ordered Shredding of Memo Identifying Suspected Abusers*, The Philadelphia Inquirer, 25 Feb. 2012, http://articles.philly.com/2012-02-25/news/31098596_1_churchlawyers-abuse-complaints-priests/2.

⁸¹ Tom Roberts, *A Deep Look Into Philly's Clerical Culture*, National Catholic Reporter, 28 Feb. 2012, <http://ncronline.org/blogs/ncr-today/deep-look-phillys-clerical-culture>.

⁸² Martin, *supra* n. 80.

⁸³ Philadelphia Report I, *supra* n. 17 at 1-2..

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- ⁸⁴ *Id.* at p. 3.
- ⁸⁵ Philadelphia Report II, *supra* n. 35.
- ⁸⁶ Holy See Second Report, para. 79.
- ⁸⁷ Second Report, para. 79, subpara a.
- ⁸⁸ Bishop Accountability.Org, *Comparative Texts for November 2002 Meeting; Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, June 14, 2002 - October 29, 2002 (2003), <http://www.bishop-accountability.org/resources/resourcefiles/churchdocs/ComparativeText.htm>;
- ⁸⁹ *Letter from Cardinal Giovanni Battista Re, Prefect of the Vatican's Congregation of Bishops, to Bishop Wilton Gregory*, U.S. Conference of Catholic Bishops, 14 Oct. 2002, available at <http://www.bishop-accountability.org/resources/resource-files/churchdocs/Gregory.htm>.
- ⁹⁰ *Charter for the Protection of Children and Young People*, USCCB, available at <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/Charter-for-the-Protection-of-Children-and-Young-People-revised-2011.pdf>
- ⁹¹ See Victims Communication, *supra* n. 4 at pp. 9-15.
- ⁹² *Id.* at 14-15.
- ⁹³ *Id.*
- ⁹⁴ Philadelphia Report III, *supra* n. 21.
- ⁹⁵ *Id.* at p. 9.
- ⁹⁶ *Id.*
- ⁹⁷ *Id.* at 1.
- ⁹⁸ *Id.* at 9-11.
- ⁹⁹ *Id.*
- ¹⁰⁰ Brendan J. Lyons, *Clergy-abuse Reporting Under Fire From DAs*, The Times Union, 5 Mar. 2012, available at <http://www.timesunion.com/local/article/Clergy-abuse-reporting-under-fire-from-DAs-3380015.php#ixzz1oHBBCRr3> . Letter from District Attorneys and Memorandum of Understanding
- ¹⁰¹ *Id.*
- ¹⁰² Cloyne Report, *supra* n. 12 at 1.77.
- ¹⁰³ Holy See Second Report, para. 78(f).
- ¹⁰⁴ See Substantive and Procedural Norms, 2010. Available at: http://www.vatican.va/resources/resources_norme_en.html.
- ¹⁰⁵ With regard to the latter situation, a Suffolk County (New York) Grand Jury concluded that pornography was often introduced to children during a “grooming” period which was intended to break down “the child’s inhibitors about sex.” Without this, according to the Grand Jury, “the sexual relationship will not move forward.” See Grand Jury Report, Suffolk County (New York) Supreme Court, Special Grand Jury Term 1D, May 6, 2002, foreperson Rosanne Bonventre, at 107, dated 17 Jan. 2003, available at <http://www.bishop-accountability.org/resources/resource-files/reports/SuffolkGrandJuryReport.pdf>.
- ¹⁰⁶ Philadelphia Report III, *supra* n. 21.
- ¹⁰⁷ *Id.* The grand jury noted:
- [He was] ordained in 1970,[he] was convicted in 1986 of receiving child pornography through the mail. A 1985 search by U.S. Postal Inspectors of his rectory room at Holy Martyrs Church in Oreland turned up an estimated \$15,000 worth of pornography. Child

pornography - including 111 magazines, 14 8mm films, and 11 videotapes - was seized from under Fr. DePaoli's bed. . . . He was diagnosed with a sexual compulsion and relapsed repeatedly - purchasing child pornography even while residing at a treatment center.

¹⁰⁸ *Id.* at 261

¹⁰⁹ *Id.* at 37-38.

¹¹⁰ See The Canadian Press, *Roman Catholic Bishop Convicted of Child Pornography and Stripped of Clerical Duties*, 16 May 2012, available at <http://www.theglobeandmail.com/news/national/roman-catholic-bishop-convicted-of-child-pornography-stripped-of-clerical-duties/article4179331/>; Huffington Post, *Raymond Lahey, Canadian Bishop in Child Porn Case, Apologizes*, 20 Dec. 2011, available at http://www.bishop-accountability.org/news2011/11_12/2011_12_20_HuffingtonPost_RaymondLahey.htm.

¹¹¹ John Eligon and Laurie Goodstein, *Kansas City Bishop Convicted of Shielding Pedophile Priest*, The New York Times, 6 Sept. 2012, available at <http://www.nytimes.com/2012/09/07/us/kansas-city-bishop-convicted-of-shielding-pedophile-priest.html>.

¹¹² Joshua J. McElwee, *Lawsuit Alleges Finn, Kc Diocese, Placed Child in Harm's Way*, National Catholic Reporter, 16 Nov. 2011, available at http://www.bishop-accountability.org/news2011/11_12/2011_11_16_McElwee_LawsuitAlleges.htm.

¹¹³ Joshua J. McElwee, *Judge Orders Kansas City Bishop to Stand Trial in Abuse Case*, National Catholic Reporter, 5 Apr. 2012, available at <http://ncronline.org/news/accountability/judge-orders-kansas-city-bishop-stand-trial-abuse-case>.

¹¹⁴ Glenn E. Rice, Judy L. Thomas and Mark Morris, *Bishop Finn Avoids Indictment by Entering Diversion Program*, The Kansas City Star, 14 Nov. 2011, available at <http://www.kansascity.com/2011/11/15/3267619/bishop-finn-avoids-indictment.html>.

¹¹⁵ Holy See Initial Report OPSC, paras. 26-31.

¹¹⁶ *Id.* at para. 11.

¹¹⁷ *Id.* at paras. 26-31.

¹¹⁸ *Id.* at para. 27

¹¹⁹ Colm O'Gorman, *Papal Letter Is Neither Unprecedented Nor a Significant Step Forward*, March 2010. Available at: <http://colmogorman.com/?m=201003>.

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