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# Abuse in Care

## Royal Commission 01 Inquiry

UNDER THE

Inquiries Act 2013

IN THE MATTER OF

The Royal Commission of Inquiry into Historical Abuse  
in State Care and in the Care of Faith-based Institutions

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## i. Preface

1. On January 3, 1988, an American bishop wrote to Archbishop Pio Laghi, Papal Nuncio to the United States. The purpose of his letter was to complain that a colleague and I had been speaking to the secular media about the clergy sexual abuse issue that was rapidly developing at that time. His closing remarks are reflective of the attitude then and still apparent among some clergy and lay people in the Catholic Church:

*"I am afraid that such articles [referring to one in which I was quoted] will continue to flow from time to time. The Church has weathered worse attacks, thanks to the strength and guidance of the Holy Spirit. So too will the pedophile annoyance eventually abate." (Letter of Bishop A. J. Quinn to Archbishop Pio Laghi, January 3, 1988; emphasis added.)*

2. Two years prior to this I was in a conversation with an American archbishop whom I knew and respected. We were at a reception at the Vatican Embassy in Washington D.C. The sexual abuse issue, which had been catapulted into the public eye by the case of Fr. Gilbert Gauthé in Lafayette, Louisiana, was a major topic of conversation among the bishops present that evening. The archbishop made a comment to me that I have never forgotten: *"Tom, don't get too excited about all of this. Nobody is going to sue the Catholic Church."*
3. It is now 2021. The "pedophile annoyance" has proven to be an annoyance of global proportions that has changed the Catholic Church in ways and to an extent that no one could have imagined back in the second half of the 1980s. The archbishop who assured me not to worry about lawsuits has since passed from this life to the next. His prediction was not only wrong but was a kind of reverse prophesy. From *"nobody is going to sue"* we have gone to \$US 4 billion in compensation to victims in the United States alone in 30 years and the end is *not* near.
4. The phenomenon of sexual abuse by Catholic clergy and non-ordained religious men and women has existed in the Catholic Church throughout its history. When it emerged from deep secrecy in the latter half of the 1980s, the fact of sexual violation of the young by trusted clergy and religious caused shock waves that are still

reverberating. But the monumental outrage and mind-boggling disbelief has been in reaction to the way the leadership of the institutional Church, primarily the hierarchy and the papacy, have responded. Pope John Paul II first tried to pin the blame on American materialism and media sensationalism. When that crashed and burned, the next target for blame was the English-speaking countries, a theory that had the appearance of validity for little more than a month. Inevitably, the scourge of sexual abuse surfaced in one country after another, in spite of the strident claims of some bishops that it could not possibly exist in "my diocese" or in "our country".

5. The efforts worldwide at shattering the institutional denial and shifting accountability to where it really belongs have not been spearheaded and sustained by the Church's official leadership. Rather, it has been the victims and their supporters who have continued to forge ahead. They, more than anyone, know how horrific and devastating it is to be sexually violated, especially by those whom they have been taught by their Church to trust the most, the clergy and religious.
6. The worldwide movement to expose the causes and heal the victims has led to the harsh realization that this is truly a very dark side of the institutional Church, and that the essential causes are systemic in nature. In other words, the root problem is not in the individual clergy and religious perpetrators, or in the bishops and religious superiors who have mishandled reports and scrambled to cover up, minimize, shift the blame and demonize the victims and their supporters. The root cause is deeply embedded in the ecclesiastical system upon which the institutional Church is built.
7. Marty Baron, newly hired editor-in-chief of *The Boston Globe* in December of 2001, met with the Spotlight Team that was researching sexual abuse and cover-up in the Boston Archdiocese. He told them not to focus on the cardinal and the priests because they were not the fundamental problem. He told them the problem was systemic. He was dead right.
8. This Royal Commission, if it is to succeed, must first accept that sexual abuse by clergy and the problematic response of the hierarchy is no different in Aotearoa than in any other country. In looking into the complex array of systemic causes, the massive amount of data produced will reflect horror stories, institutional bumbling, lay and



clergy denial, boundless anger, the unmatched courage of the victims and - here and there - rays of hope.

9. Internationally, clergy, religious and lay people in the Church, and plenty of people outside the Church have wondered: "*What went wrong?*" There is no single answer that can grasp the phenomenon of such cosmic proportions, but one reality keeps recurring: this is a human problem that cannot be adequately helped by administrative programs or carefully crafted expressions of generic apology. But it *can* be changed if the men and women who make up the Body of Christ ask themselves what Christ would do and then pray for the courage to do it.

## **ii. Introduction**

10. This submission consists of two parts:
  - (a) Part One - The multi-faceted nature of sexual abuse by clergy; and
  - (b) Part Two - The systemic problem.
11. Part One will focus mainly on the core areas that make up the complex phenomenon of sexual abuse by clergy. I use the term "phenomenon" deliberately to describe the subject of this submission and the subject of the Royal Commission's inquiries into the Catholic Church. The sexual abuse issue has been described as a "crisis", a "problem" and, in the words of one American bishop, a "nuisance". In reality, it is none of these and all of these. The revelations of sexual abuse by church personnel in our era (1980s to the present) have shown that the response of the leadership of the Church, primarily the hierarchy and the papacy, have drawn more attention and concern than the acts of abuse themselves.
12. We have learned that this is far more than a crisis, isolated in time, responded to by "crisis intervention" and followed by a return to business as usual. It is certainly a problem of global dimensions, but the various aspects of its complexity have shown that it is much more: it is a phenomenon that has revealed a very dark and toxic dimension of the institutional Catholic Church. It is not an issue the origin of which can be isolated to the clergy, to the hierarchy, or to the popes. The darkness is

rooted in essential elements of the theological system that serves as the foundation of the Church as an institution and which have a profound influence on all members.

13. Sexual violation of minors and adults by clergy or non-ordained religious men or women cannot be isolated to a discussion of the instances of sexual abuse and the reasons that prompt or compel individuals to sexually harm vulnerable minors or adults. The perpetrators are clergy and religious who are full-time personnel of the institutional Catholic Church. Their identification with the Church places the sexual abuse into a unique category. They are part of a worldwide religious denomination. The relationship of the perpetrators to the institutional Church is complex and the sexual abuse of vulnerable members is equally complex.
14. Part Two will integrate the areas of response in Part One into a discussion of the elements of causality that originate in the system itself. It will focus more explicitly on the systemic issues and how and why victims are so traumatized by clergy sexual abuse, including as a result of spiritual damage. Part Two will end with a section that attempts to sum up the key reasons why we are where we are, and what we must do to emerge to a healthier and certainly holier Church.

### **iii. Terminology**

15. The phrases "sexual abuse", "sexual abuse by clergy" (and the commonly used term "clergy sexual abuse") as they are used in this submission are understood to include sexual abuse perpetrated by clergy (also referred to as "clerics") as well as by non-ordained men and women religious and by lay persons associated with, and under some form of supervision by, the institutional Church, unless otherwise noted. Clergy in the Catholic Church include three ranks of men who are ordained: deacons, priests and bishops. "Bishops" includes archbishops and cardinals unless otherwise noted.
16. Non-ordained religious refers to men and women who are members of religious institutes, commonly referred to as "religious orders" or "religious communities". This category includes men who are not ordained, commonly referred to as brothers. Their proper title is Brother X, usually abbreviated as "Br." or "Bro.". Women who are

members of religious institutes are commonly referred to as nuns or sisters. Their proper title is Sister.

17. Members of religious institutes include ordained deacons and priests as well as non-ordained. In Catholic literature and writing, both official and non-official, members of religious institutes are commonly referred to simply as "religious". The word is here used as a noun (not an adjective) and includes both singular and plural as for example, "Fr. Duckworth is a religious" or "Mount Cashel orphanage was run by religious".
18. It is also important to mention that references to victims and survivors includes both males and females.

## PART ONE: THE MULTI-FACETED NATURE OF SEXUAL ABUSE BY CLERGY

### I. QUALIFICATIONS AND EXPERIENCE

#### A. *Academic qualifications*

19. I was ordained a Catholic priest in 1970. I have graduate training and degrees in six different areas: Canon Law (doctorate), Theology, Philosophy, Church Administration, Canon Law and Political Science (master's degrees). I am also a trained and licensed addictions therapist.

#### 8. *Experience in this area*

20. I have been directly involved in the issue of sexual abuse of minor boys and girls by clerics since 1982. At that time, I worked as the staff canon lawyer at the Vatican Embassy in Washington D.C. The first two cases I was called on to assist with involved bishops and were covered in secrecy at the time. Years later, the identities of each of the bishops were revealed in civil court actions.

21. My intense involvement began in 1984 with the case of a priest named Gilbert Gauthé from the Diocese of Lafayette in the southern state of Louisiana. He was a prolific predator and a true serial pedophile in that all of his victims were prepubescent boys. His case involved the first civil trial against a Catholic diocese based on the diocese's (bishop's) responsibility for the sexual abuse of a minor by a cleric. The jury awarded the plaintiff, a 12-year-old boy who had been nine years old when the abuse occurred, approximately \$1 million.<sup>1</sup>

22. The priest also faced criminal charges and spent 10 years in prison. The facts of this case became known to the public because of the criminal charges which the media picked up. The secular news sources focused on the actual abuse but even more so on the cover-up by the bishop. The case is considered to have been the one that changed the course of history because it started a course of action that brought

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<sup>1</sup> See *State v. Gauthé*, 731 So. 2d 273 (La. 1998) and *Gastal v. Hannan*, 459 So. 2d 526 (La. 1984).

worldwide disclosure of sexual abuse of minors in the Catholic Church and of the systemic mismanagement of cases by the official leaders of the Church - from the papacy down to the bishops of dioceses.

23. My initial involvement was simply to manage the flow of information about the case between the bishop and the papal ambassador (nuncio). I enlisted the help of a priest-psychiatrist to assist the bishop of the diocese in the determination of decisions to be made about the accused priest. The priest, Fr. Michael Peterson, and I were joined in January 1985 by an attorney retained by the diocese to represent the accused priest on the criminal charges he faced. The three of us worked very closely together and quickly came to the conclusion that this issue was actually a very serious problem for the institutional Church that would only get worse unless the hierarchy took some decisive steps. With the encouragement and support of the papal ambassador and several high-ranking bishops (actually two cardinals and two bishops who were at the core), we composed a detailed "manual" for the bishops to assist them if and when they faced reports of sexual abuse by one of their clerics. The three of us had no idea how extensive this problem really was. Additionally, we had no idea of the prior knowledge by many bishops, nor of the bishops' belief that the problem had to be shielded from any public knowledge.
24. We presented a copy of our "manual" (which was 100 pages in length with three appended articles from professional journals describing aspects of pedophilia), to the papal ambassador, who in turn offered it to the United States Conference of Catholic Bishops (USCCB). The papal ambassador's primary contact was the Secretary-General of the USCCB. The leadership cadre of the USCCB responded quickly. They informed the papal ambassador that they did not need the manual because they already were well aware of everything it contained. They also claimed to have already created policies that were in place to respond to the problem.
25. Within a very short time, the papal ambassador realized that there were no such policies in existence and that in fact the USCCB had information related to sexual abuse that was only indirectly related to their written policies on how to respond to civil law cases involving the actions of clerics. It was clear that the USCCB leadership did not consider the sexual abuse of minors to be a potentially serious problem, nor

did they believe there was a serious threat to the dioceses' finances and image. Although the USCCB held a one-day closed seminar on sexual abuse at their June 1995 plenary meeting, they took no other decisive measures beyond issuing some statements. The key factor motivating them to pay attention to the problem was the nation-wide publicity that the Louisiana case had generated.

26. The inaccuracy of their estimate of the severity of the problem is reflected partially by some contemporary statistics. Between 1986 and 2019 the dioceses of the U.S. (not including religious orders) have paid out the following amounts:
- (a) \$US 3,997,798,471.00 (nearly \$US 4 billion) in court awards and settlements to victims.
  - (b) \$US 871,400,000.00- bankruptcy settlements for 17 out of 26 dioceses in bankruptcy.<sup>2</sup>
  - (c) \$US 154,929,153.00 - other payments to victims, including therapy.
  - (d) \$US 235,606,275.00 - costs for the support and defense of offenders.
  - (e) \$US 642,968,347.00 - in attorney's fees.<sup>3</sup>
27. In addition to the lawsuits, the number of which is estimated to be about 11,600 since 1986, 26 of the 196 dioceses and archdioceses in the U.S. have filed for bankruptcy protection. Three religious institutes have also filed for such protection.
28. Since 1984, I have been continuously involved in the phenomenon of clergy sexual abuse. This involvement is very wide-ranging, covering probably every possible aspect of the issue: pastoral care of victims and their families, canonical defense

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<sup>2</sup> Bankruptcy settlements represent the amount the diocese settled for to compensate victims. All amounts are officially published once the settlement has been reached.

<sup>3</sup> The amount of total awards and settlements does not include bankruptcy settlements. The amounts from 1986 to 2004 are from the website [www.bishop-accountability.org](http://www.bishop-accountability.org) and all are from public sources. The remaining amounts in the total awards category and the other three categories, except the bankruptcy amounts, are from the annual reports published by the USCCB and available on their website. These totals are from the years 2004-2019 so they are obviously incomplete.

counselor for accused clerics, consultant to dioceses and religious communities, expert witness and consultant in civil and criminal cases throughout the U.S., in Canada, England, Ireland, Belgium, Australia, New Zealand and Israel. I have addressed the State legislatures of Pennsylvania, Ohio, Illinois, Colorado, California, Delaware, Maryland and the City Council of the District of Columbia on child protective legislation. I have also served, and continue to serve, as a consultant and expert in matters related to sexual abuse by Catholic clergy for grand juries in the U.S. and at the present time am actively involved as a consultant and expert in investigations being conducted by the Attorneys General of 10 States in the U.S. wherein every Catholic diocese in each State is being investigated. I have served as an expert witness in litigation involving sexual abuse by clerics of several non-Catholic denominations. I have also served as a consultant and expert in several of the investigatory commissions in Ireland and served as an expert witness before the Royal Commission in Australia.<sup>4</sup>

29. In 2011, I was invited to address the Belgian parliament regarding sexual abuse by Catholic clerics. In addition to the above, I have conducted extensive research into several areas related to clergy sexual abuse.

**C. *Previous contact in New Zealand***

30. In December 1988, I was invited by the Canon Law Society of Australia and New Zealand to give a series of lectures at their annual convention. The general topic of the lectures was the canon law on marriage contained in the revised *Code of Canon Law*. I was also asked to address the issue of sexual abuse of minors. The convention took place in Adelaide, South Australia. While there, I was invited to meet with and discuss the issue of sexual abuse with Bishop Geoffrey Robinson, auxiliary bishop of Sydney, and Bishop Joseph O'Connell, auxiliary bishop of Melbourne. Over the years since then, I developed a close working relationship and cherished friendship with Bishop Robinson.

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<sup>4</sup> Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA).

31. After the convention, I traveled to New Zealand and remained there for several days. While I was there, a meeting was arranged between me and Cardinal Thomas Williams. I met with the cardinal at his home. The meeting lasted for three or four hours and included a luncheon prepared by the cardinal. I shared with him everything I knew at the time about clergy sexual abuse, including my experiences with the U.S. bishops and my estimation of their attempts at a systemic cover-up, which at that time appeared to have its beginnings in 1985. Cardinal Williams told me that New Zealand was culturally about 20 years behind the United States but that he would like to see the bishops take action on this issue before it was too late. He informed me that he would see about having the bishops publish a protocol for use throughout the country.
32. At that time, I was an officer in the U.S. Air Force on active reserve duty. Within a few days of my return to the U.S., I was assigned by the Air Force to duty at Thule Air Base, Greenland, and flew there about a week after returning from New Zealand. While I was there, mail was forwarded to me and it included a copy of the statement prepared by the New Zealand bishops. Unfortunately, I am not able to locate a copy of this document.
33. My discussions with the clergy in Australia and New Zealand, including my discussion with Cardinal Williams, were based on information I had accumulated between 1984 and 1988 when I visited both countries. I broke down the discussions into the following areas: the medical information about pedophilia and the abuse of minors who were not prepubescent; the absolute necessity of compassionate pastoral outreach to the victims and their families; the absolute need for complete honesty with the media and with the "faithful" (meaning the lay people of any parishes or dioceses involved); the canonical processes to be followed upon receipt of a report (meaning the required preliminary investigation); how to deal with clerics when they have been accused; and finally, the absolute need for education of all the clergy about this issue.



**D. *Basis for the content of my submission***

34. I have included the above information to provide context for the substance of my submission. My experience and expertise go far beyond the realm of canon law. From almost the first years when I began to slowly realize the complex and extensive nature of the reality of clergy sexual abuse of minors and vulnerable people, I have been driven to find the answer to the essential question: "*Why?*" My submission is based on my experience in the United States and in several other countries. In searching for the answer to the essential question "*Why?*", I have learned that the "*Why?*" of clergy sexual abuse is only partially answered by looking at the pathology, motivations and lifestyle of the clerics who have harmed the vulnerable. To comprehend the true nature and complexity of this particular genre of pathological sexual behavior, one must look beyond and beneath the instances of sexual violation. One must look at the history, culture and theological foundations of the institutional Church. The "*Why?*" is only partially answered by looking at the perpetrators. The more pressing and more profound question begins with acknowledging that this terrible phenomenon has been a destructive element of the institutional Catholic Church throughout its history.

**II. CLERGY SEXUAL ABUSE: THE STATE OF THE ISSUE**

**A. *What is the basic scope of this phenomenon?***

35. The sexual violation of children and minors by anyone is one of the most heinous and disgusting crimes known to civilized society. When these terrible acts are committed by the most revered and trusted persons in the young person's life, the pain and trauma are much worse. The basic impact on the victims of clergy and religious is commonly referred to by psychologists and others as "soul murder", and so it is.
36. This phenomenon - and I reiterate the fact that I use this word intentionally because we are not talking about a crisis, a problem, a singular issue, or a "difficulty" with distinct parameters - is particularly toxic because it has a number of distinct yet connected elements, and an unknown depth and breadth. The three fundamental areas of this phenomenon are:

- (a) **The actual sexual violation of minors and vulnerable adults by Catholic clerics and lay employees** or associates of agencies or institutions sponsored by the Catholic Church.
- (b) **The corporate response of the hierarchical leadership of the Catholic Church** to individual cases of sexual abuse and to the overall problem of sexual abuse.
- (c) **The lack of adequate pastoral and spiritual care for victims** of sexual abuse, their families and their communities.

37. These three elements of sexual abuse in the Catholic Church cannot be separated one from the other. Of the three, the central and essential or foundational aspect is the response of the governmental structure of the leadership of the Catholic Church.
38. The reference to the leadership of the Church includes not only the bishops of dioceses, but also the leadership of the religious institutes.

***B. What is the state of the issue today?***

39. Although sexual abuse by Catholic clergy has existed in the Church and has been known by the hierarchy since the first century of the Church's existence, in our own era it was not widely known until the mid-1980s due to a notorious case in the U.S. that received very widespread media coverage. Since 1984, when this particular case surfaced, cases of clergy sexual abuse have been steadily and increasingly reported, first in the English-speaking world, then in continental Europe and, within the last 10 years at least, regular reports have come forth from Latin American, Sub-Saharan African, and Asian countries.
40. No one knows how many actual cases have been reported although there have been attempts at tracking the numbers in some countries, especially in the U.S. When the issue first surfaced in the United States in the 1980s, the late Pope John Paul II and several high-ranking Vatican prelates attempted to authoritatively claim that this was an American problem. When that theory collapsed due to reports in Canada, Ireland and England, the same sources decided it was a problem confined to the English-speaking world. From the outset, both theories were baseless and, in time, were

proven so by the rapid increase in revelations from country after country in other parts of the world.

41. Between 1970 and 2021, there have been 105 inquiries into some aspect of sexual abuse in the Catholic Church. The earliest was a report of an investigation into reformatory and industrial schools by the government of the Republic of Ireland (also known as the Kennedy Report), published in 1970. The most recent was the *Final Report of the Commission of Investigation into Mother and Baby Homes* by the Irish Government, published January 12, 2021.<sup>5</sup>
42. Two of the early reports were not about sexual abuse as such but about the sexual maturity, or lack thereof, of Catholic priests. The first was by Drs. Conrad Baars and Anna Terruwe. It was first presented to the world Synod of Bishops in 1971 and later that same year to the United States Conference of Catholic Bishops at their annual meeting.
43. In 1972, Drs. Eugene Kennedy and Victor Heckler published *The Catholic Priest in the United States: Psychological Investigations*.<sup>6</sup> This was the report of a study which they had conducted at the request of the U.S. bishops. The bishops in general rejected the conclusions and therefore did not act in any way on the report.
44. The breakdown of the remaining 103 reports is as follows:
 

(a) Civil government mandated reports	59
(b) Church-sponsored reports	17
(c) Reports by agencies contracted by the Church	10
(d) Reports by independent sources	17

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<sup>5</sup> Available at <http://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>

<sup>6</sup> Eugene Kennedy and Victor Heckler, *The Catholic Priest in the United States: Psychological Investigations* (Washington D.C.: National Conference of Catholic Bishops, 1972).

45. Some of these reports, especially the government-sponsored ones, have included a section on causality based on an analysis of the data in the report. The focus in each report was not on the offenders but on the systemic or institutional role in the causality. Each of the reports singled out the hierarchy - the bishops and popes - as the primary aspect of systemic causality.
46. These inquiries, but especially the government inquiries, have been crucial for discovering as accurate a description as possible of the complex problem of clergy sexual abuse of minors. The inquiries reflect the serious concern of civil governments. The impact of the public revelations of worldwide sexual violation over the past 36 years has reached far beyond the institutional Church. It would have been tragic had the New Zealand Government decided not to include the victims of faith-based institutions in the scope of this inquiry, because these institutions enjoy a level of trust higher than purely secular or government institutions and this trust has obviously been seriously violated. This was seen in the shocking revelations arising from some of the earlier investigations, including the Australian Royal Commission (2017), *The Ryan Report* in Ireland (2009), the reports of three Grand Jury Investigations in Philadelphia, PA, USA (2003, 2007, 2011) and the latest, the *Final Report of the Commission of Investigation into Mother and Baby Homes* in Ireland (2021).
47. Some have argued that these investigations concerned events of the past and do not reflect the present situation. This is a completely irrelevant statement and reflects a lack of understanding of what these investigations have been about. The fundamental point at issue is not so much recitals of the facts but a clear understanding as to why these events happened in Catholic institutions.
48. Some also refer to the cases of sexual abuse that occurred years or decades in the past but are coming forth in the present as "historic cases". The pejorative nature of this classification is obvious. The sexual violation of a person in his or her early years leaves deep emotional, psychological and - in relation to clergy sexual abuse - spiritual scars. These do not heal by themselves over time. Rather, the toxic and highly destructive effects worsen over time. Perhaps the single most shameful and scandalous aspect of the institutional Church's response has been the absence of

compassionate pastoral care for victims and their families. Numerous statements made by bishops over the past three decades, but especially in the present, reveal that in general they know very little about the effects of sexual abuse inflicted on minors or adults. One of the most disturbing realities to come out of the investigations - but especially from the thousands of civil cases brought by victims as well as the countless conversations I have had with them - is that upon learning of a report of abuse, the bishops, rather than reaching out to the victims, instead reached out to their lawyers.

49. The most common conclusion from the various investigations, as well as the evidence produced in civil litigation, is that the hierarchy's primary concern is the image and welfare of the institution and not the welfare of the victims. A study of the statements of Pope John Paul II reveals clearly that his primary concern was the institutional Church first, the welfare of the bishops second, and at the bottom of the list, the victims.
50. The inquiries and investigations mentioned above are not a thing of the past, nor do they tell the story of what was and not what is. In other words, the findings of these many investigations across a broad spectrum of countries are still relevant today. The sexual abuse of minors by clergy is not an "historic problem" that has been faced and fixed. The conditions and factors that have made the sexual abuse issue as scandalous and destructive as it is are, to one degree or another, still part of the theological and cultural fabric of the institutional Church.
51. The success of this Royal Commission of Inquiry should be measured not by the discovery that reports of sexual abuse have declined over the years that have been the focus of the study, nor can true success be evaluated in terms of the number of policies, programs, protocols or committees that have been created. These goals could have been achieved by any government or by other institutions without going through the expensive and extended process of a full-blown inquiry.
52. The measure of success will be the excavation and honest acknowledgement of the toxic beliefs and the arrogant and narcissistic attitudes that have prevented the pillars of the institutions, especially the religious bodies, from seeing beyond their own

defensiveness, from seeing beyond their concern for their own security, and minimizing and distorting the grave nature of the reasons why this inquiry is taking place in the first place. The success of this and any similar inquiry must be judged not by the creation of more administrative ventures but by the honest acknowledgement of beliefs and attitudes that have victimized, and continue to victimize, so many of the men and women whose lives have been irreparably damaged - not so much by the actual sexual violence but by the institutions that have treated them as commodities rather than persons; as a threat rather than as our brothers and sisters.

53. In other countries, the defensive, narcissistic and hypocritical attitudes and thinking are still alive and still drive the responses of church leaders and their spokespersons, who do not seem to be able to get past the illusion that the institutional Church and the reputation of its leaders are more important than the spiritual welfare of the victims of the Church's harmful behavior. In addition, beyond the victims, their families and their close friends, we must also seriously consider the impact the whole nightmare has had on the believing, devout and donating members of the Body of Christ.
54. Whether this lesson will be lost on the institutional Church of New Zealand remains to be seen, but there is little doubt that it has not penetrated the minds and hearts of the bishops in several other countries, my own in particular. Let me offer as an infuriating example the stark contrast between the bishops' continuous pledges of concern for the victims and their actual actions. In several States in the U.S., there were movements to have State legislation changed to enact much more realistic statutes of limitation for child abuse cases. The consistent opposition in every State came from the Catholic bishops who have spent between \$US 10 and \$US 15 million to influence State lawmakers to reject any legislation that would change the status quo.<sup>7</sup> Those dollars were all donated by the "faithful", as the obedient Catholics are often called. The bishops' efforts were, in the end, unsuccessful.

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<sup>7</sup> The amount spent between 2011 and 2019 was \$US 10.6 million. See: Christina Capatides, "Catholic Church spent \$10.6 million to lobby against legislation that would benefit victims of child sex abuse", June 6, 2019, CBS News. The story cites a report, *Church Influencing State: How the Catholic Church Spent Millions against Survivors of Clergy Abuse*, published by Williams Cedar LLC in 2019.

55. In addition, two of the dioceses that have most recently petitioned the courts for bankruptcy protection, Buffalo and Rockville Center, both in New York State, have each engaged several law firms - not several lawyers but several law firms - to minimize as much as possible the amounts of money that will be made available in recompense for the damage done to the hundreds of victims. Each diocese has retained Jones Day, the largest law firm in the world, whose senior members are paid \$US 1250.00 per hour and junior associates \$US 900.00 per hour for their services.
56. Dioceses in the U.S. and in several other countries continue to preach how important it is to support and believe victims, but it appears that this applies only so long as the victims do not challenge them.

### **III. Canon law**

#### **A. *Historical context***

57. The Catholic Church, like most other religious denominations, has its own internal regulatory system known as canon law. The word "canon" is derived from the Greek word *kanon* which meant a rule or a straight line. Canon law is the oldest continuously functioning legal system in the world. The earliest recorded legislation dates from 309, consisting of a collection of 81 rules or canons passed by a gathering of territorial bishops at the town of Elvira in southern Spain. More recent research into the early medieval period (fourth to ninth centuries), has found evidence of similar official regulations concerning clerics' or monks' sexual relations with young teenaged boys.
58. As the institutional Church expanded throughout what is now known as Europe, the British Isles and northern Africa, bishops in other areas gathered to create rules to respond to issues involving internal discipline and the growth of the community. From the sixth century, church lawyers, called canonists, gathered the canons passed at local synods and councils and combined them into canonical collections.
59. The vast tangle of local rules was first systematized in 1140 by a Camaldolese monk named Gratian, a legal scholar working at the University of Bologna. The proper

name of his work is the *Concordance of Discordant Canons*. Though not official, his massive work, commonly called *Gratian's Decree*, remains the single most important historical source for canon law. His efforts, and those of other scholars at the time, were greatly influenced by the discovery of the main works of ancient Roman law. Thus, canon law took on many of the attributes of Roman law in terms of concepts, structure and legal philosophy.

60. The Church's laws, regulations, norms and guidelines remained uncodified until the beginning of the 20th century. The first *Code* as such was officially published or promulgated in 1917. This *Code* was replaced by the revised *Code of Canon Law* on November 27, 1983.
61. The role of canon law in the life of the Catholic Church is highly relevant to this inquiry. As set out below, canon law explains the extent and nature of the bishop's authority in his diocese, and it explains the responses expected from a bishop when he learns of the possible commission of a canonical crime. The issue of the authority of the diocesan bishop over members of religious orders working in his diocese is also explained by canon law. Sexual abuse of a minor by a lay person or a cleric is included in the *Code* as a specific crime.

## **8. *Application of canon law***

62. Canon law applies to everyone in the Church. Canon law not only regulates the lives of Catholics, but also assists in understanding how the institutional Church works. For example, the various lines of authority and the details of the offices that manage this authority are contained in the *Code*. It contains the requirements and procedures to be followed for establishing church structures, such as dioceses, parishes, universities and seminaries. It also contains the basic requirements that bishops should look for in assigning priests to various posts, and it explains the legal or canonical relationships between bishops of dioceses and religious orders that are established in their dioceses, as well as the ministries or works conducted by the religious orders.
63. Although the *Code* is the fundamental source of all church laws, popes regularly give official interpretations to certain laws, add new laws, or suspend laws. These changes



are not included in the *Code* but are considered canon law all the same. As the supreme lawgiver, only the pope can issue official interpretations of canon law. The pope can also dispense from all laws except those that are grounded in divine law. (To "dispense" means to exempt a person or a group of persons from the obligation of obeying specifically-named canon laws.)

64. The diocesan bishop also has the authority to dispense from certain laws in the *Code*. He cannot dispense from liturgical laws, procedural laws or legislation based on divine law. This means he cannot dispense himself or others from laws in these categories. The canon laws that pertain to sexual abuse of minors are among those the bishop cannot dispense.
65. The Church also has "particular law", which consists of laws passed (promulgated) for either specific geographic areas or specific groups of people. Special laws that pertain only to religious institutes are particular laws. The Catholic Church in the U.S. has its own particular law concerning sexual abuse. This is commonly known as the "Dallas Charter", but more precisely consists of the "Essential Norms", which are formally known as the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons". This is real canon law, but it applies only to the dioceses that are part of the United States Conference of Catholic Bishops.

### **C. *Relationship with civil law***

66. The *Code of Canon Law* has sections on procedural law and on criminal law. It contains specific procedures that are mandatory for a bishop to follow when he receives a report of the possible commission of certain canonical crimes.
67. When members of the clergy, church officials or church entities are examined in civil court, canon law can be helpful to determine what the Church's own internal expectations were of an officeholder in a given situation, or what the Church's internal regulations are pertaining to the authority over church structures. The *Code of Canon Law* is not, however, a substitute for the civil law systems of the various countries where the Church is established. It does not "trump" civil law. In fact,

there are canons that stipulate that the civil laws are to be obeyed in all things that are not immoral or contrary to God's law. Lay people, but especially priests and bishops, are not immune from civil laws and are bound to obey them unless those laws are contrary to divine law. In matters related to sexual abuse of minors by clergy or religious, any civil laws of whatever country the Church is in supersede canon law.

68. Some bishops in certain countries, notably the U.S., have claimed they did not know that sexual abuse of minors by adults is a crime in canon law. Nevertheless, even if they claim they were not aware of the canon law (which is very difficult to believe), they are still subject to civil law.
69. In theory, as the leader of a religious denomination, the pope is subject to the secular or civil laws in whatever country he is in. However, he is not only the head of the Catholic Church but also the head of the Holy See (the official name of the seat of government of the Church), which is considered by the world community of nations to be a member nation. Consequently, as the head of state the pope has sovereign immunity.

*"The pope is accountable to no earthly power. He has total power over everyone in the Church and over every aspect of the Church". (canon 1556 & canon 1404)*

70. Each diocesan bishop is accountable to the pope, not to the archbishop of the ecclesiastical province or the head of the national bishops' conference. The diocesan bishop is also accountable to the secular laws of the country where he lives and to the laws of any country he visits. (canon 341 & canon 381)
71. If a particular country has reporting laws that apply to child abuse of any kind (physical and sexual), the clergy- especially the bishops - are not immune from obeying these laws. Over the years, several highly placed Vatican officials have publicly stated that bishops are not obliged to report specific cases and clergy perpetrators to civil officials.<sup>8</sup> These are purely private, and incorrect, opinions. The

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<sup>8</sup> "Vatican prelates oppose move to report priests", *National Catholic Reporter*, May 31, 2002. The article mentions four senior leaders: Archbishop Tarcisio Bertone, Archbishop Julian Herranz, Cardinal Oscar Maradiaga and Fr. Gianfranco Ghirlanda.  
<http://natcath.org/NCR Online/archives/053102/053102h.htm>

example that gained widespread publicity was an official secret letter sent by the papal ambassador to Ireland, Archbishop Luciano Storero, to each Irish bishop on January 31, 1997 (see **Appendix 1**). The letter was intended to inform the bishops of the wishes of the Congregation for the Clergy, a Vatican congregation, which had reviewed the proposed norms passed by the Irish bishops in a document called "Child Sexual Abuse: Framework for a Church Response". Among the observations in the letter was this: "*In particular, the situation of 'mandatory reporting' gives rise to serious reservations of both a moral and a canonical nature.*" The letter went on to inform the bishops that their proposed norms were to be considered "*merely a study document*" and in their place the norms of the *Code of Canon Law* were to be followed.

72. In 2011, Archbishop Storero's letter was leaked to the media, which caused outrage in Ireland, especially on the part of the Prime Minister, Enda Kenny, who sharply criticized the Holy See for interfering in an inquiry of a "sovereign, democratic republic" (see **Appendix 2**).<sup>9</sup>

**D. Relevant provisions of canon law**

73. The *Code of Canon Law*, promulgated in 1917, contained a canon that named sexual abuse of a minor by a cleric as a canonical crime (canon 2359). The *Code* also had procedural norms that were to be followed when a bishop received a report of a canonical crime. (canon 1939)
74. In 1922, the Holy See published a special set of procedural rules (*Crimen Sollicitationis*) that were to be followed in cases of four types of crimes committed by clerics: solicitation in the course of sacramental confession, sex with males, bestiality, and sexual abuse of a minor under 16 years. These procedures were to be followed in place of the procedures in the *Code*.

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<sup>9</sup> The speech was delivered by Enda Kenny on July 20, 2011 before the Irish Parliament. The full text was immediately available from the government through multiple sources.

75. In 1962, Pope John **XXIII** had the Congregation for the Holy Office issue a renewed version of the rules issued in 1922.<sup>10</sup> These norms remained in force until 2001.
76. In 1983, the revised *Code of Canon Law* was published. It repeated the canon that named sexual abuse as a sin (canon 1395), and it also contained procedures to be followed in the investigation and prosecution of a cleric accused of sexual abuse. (canons 1717-1719)
77. In 2001, the Holy See issued a new set of procedural rules for certain crimes considered to be extremely serious. One of these was sexual abuse of a minor by a cleric. These norms replaced the ones from 1962 and were to be used as the primary source of law for investigating reports of sexual abuse. They were to be supported with the appropriate norms from the *Code* in matters of canonical procedure. In 2010, Pope Benedict XVI issued a new set of norms that replaced those of 2001.
78. The canon law to be applied depended on when the abuse took place. The 1962 norms, also called *Crimen Sollicitationis*, were to be used for cases that were reported between 1962 and 2001. After 2001, the new norms were to be used until replaced in turn by the 2010 norms.

#### **E. Canon law process**

##### 1. Crime and penalty (canon 2359 & canon 1395)

79. Sexual abuse of a minor is a canonical crime and is listed as such in the *Code of Canon Law*. The *Code* specifies certain penalties that are applicable, the most severe of which is dismissal from the clerical state - commonly known as laicization. Laicization can come about in three ways:

- (a) By the pope's decree if a priest voluntarily wishes to be laicized.

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<sup>10</sup> Instruction of the Supreme Sacred Congregation of the Holy Office addressed to all Patriarchs, Archbishops, Bishops and other local ordinaries "also of the Oriental Rite": Instruction on the Manner of Proceeding in Causes involving the Crime of Solicitation. 16 March 1962.

[http://www.vatican.va/resources/resources\\_crimen-sollicitationis-1962\\_en.html](http://www.vatican.va/resources/resources_crimen-sollicitationis-1962_en.html)

(b) By the pope's decree even if the cleric opposes being laicized.

(c) Imposition as a penalty by a church tribunal or court if it is applicable for the crime for which the cleric is convicted.

80. A deacon, priest, bishop or cardinal who is laicized can no longer function as one in Holy Orders (see **paragraph 141**, below). He cannot celebrate Mass or any sacraments or present himself as a minister of the Church. In essence, laicization means the man can no longer function in any manner, way, shape or form as a sacred minister, except in cases of danger of death when he is authorized to hear the confession and to give last rites.

2. Co-operation in an offense (canon 2209 & canon 1329)

81. If anyone, but especially a cleric of any rank, is aware of a possible incident of sexual abuse that he learns about directly, indirectly, from an anonymous informant or from general knowledge, he is obliged to report this to the local bishop. If the alleged culprit is a member of a religious institute, the local bishop is obligated to process the case. If someone, but especially a cleric, knows of an offense and neglects to report it, he can be charged with co-operation in the offense.

82. Many bishops said that they ignored anonymous reports or unsigned letters. This was wrong. The canons that described the preliminary investigation to be carried out by order of the bishop said that the report was to be investigated even if it came from anonymous sources (canon 1717 & canon 1939).

83. On July 16, 2020, Pope Francis had a document issued known as a *Vademe cum*.<sup>11</sup> This was not a new law but a kind of manual that explained how the present law was to be applied. This document was very clear that anonymous reports and unsigned letters were to be investigated.

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<sup>11</sup> Congregation for the Doctrine of the Faith, *Vademecum: On certain points of procedure in treating cases of sexual abuse of minors committed by clerics*. 16 July 2020. [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_2020\\_716\\_vademecum-casi-abuso\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_2020_716_vademecum-casi-abuso_en.html)

### 3. Investigations

84. Once the bishop receives a report, he is obligated to obey any civil reporting laws that exist in the secular jurisdiction where the alleged act took place.<sup>12</sup> He is then obliged (this is mandatory and not optional) to conduct what the *Code* calls the "preliminary investigation". This investigation examines the report itself to make sure it has at least a semblance of credibility. It also looks at the viability of the available proofs (canon 1939 & canon 1717). This investigation is also required under the current norms issued in 2010.
85. The report of the investigation, which must always be recorded in writing, is then given to the bishop. Prior to 2001, he decided if the case should be investigated further or be submitted for further canonical processing. If the allegation involved the possible sexual abuse of a minor, the only option was a full tribunal process conducted on the diocesan level. (The other possible option is what is called the "Administrative Process" wherein the bishop can base his decision on the evidence gathered. The accused is allowed to have a canon lawyer as his defense attorney. In cases of sexual abuse of minors, this alternative is not applicable because among the possible penalties under the 1917 *Code* was permanent suspension or deposition and a bishop cannot impose permanent penalties of this type. The same is true with the 1983 *Code* and the 2010 norms. Under the present canon law, the ultimate penalty is even more severe than that of the 1917 *Code*: dismissal from the clerical state and from whatever order the man holds (deacon, priest, bishop). Contrary to what some bishops have erroneously claimed, there is no "pastoral" alternative approach if the allegation is sexual abuse of a minor. There is such a thing as a pastoral alternative, but it is not applicable in this type of case.)
86. Before 2001, the bishop had the option to conduct a trial in the diocese or he could refer the case to the Congregation for the Doctrine of the Faith (CDF, the Vatican department that deals with sexual abuse of minors by clerics), either for assistance

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<sup>12</sup> Apostolic Letter issued Motu Proprio by the Supreme Pontiff Francis, *On the Protection of Minors and Vulnerable Persons*, 26 March 2019.  
[http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/pa-pa-francesco-motu-proprio-20190326-latut-ela-deiminori.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/pa-pa-francesco-motu-proprio-20190326-latut-ela-deiminori.html)

and direction or with a request that they continue the process from that point. In fact, the bishops in most countries rarely conducted the required preliminary investigations so it is not known how many actually took place - and consequently it is not known if any were referred to the CDF.

#### 4. Outcomes

87. According to the norms issued in 2001, the bishop was mandated to send the files and documents of the complete preliminary report to the CDF. The CDF would study the case and decide one of four courses of action:
- (a) The case would be sent back to the diocese with orders to conduct a canonical trial.
  - (b) The case would be sent to another tribunal more capable of conducting the canonical trial.
  - (c) The case would be tried by the tribunal of the CDF.
  - (d) The Prefect of the CDF could ask the pope to laicize the priest without the normal process, depending on the circumstances of the case.
88. If the case is tried on the local diocesan level or at the CDF, the accused, if convicted, has the right to an appeal (*Crimen Sollicitationis*, par. 58). All appeals are heard by one of the tribunals of the CDF. If the appeal tribunal upholds the conviction, it could also ratify the sentence of the first court or change it.
89. If the first court (either in the diocese or at the CDF) convicts the cleric and imposes the penalty of laicization or any lesser penalty, this penalty becomes effective if neither the accused nor the Promotor of Justice (the church equivalent of the District Attorney or the Crown Attorney) decides to appeal it. If either side appeals it, then the appeal is heard by a special tribunal convened at the CDF.

## 5. Timing

90. Although there are recommended time limits, in practice they have never been followed. The prosecution of the case in first instance, that is, on the local or diocesan level, could be completed within a period of months or it could go on for years before a final decision was given. An added problem was that these decisions were not automatically published, nor were the victims notified. The bishop would be notified and had the option of informing the interested parties and the public or not.
91. One of the most notorious canonical cases was that of former priest Michael Teta of Tucson, Arizona. The formal canonical process was started in Tucson on **September 24, 1990** using the procedures in *Crimen Sollicitationis*. The judges in the case reached their verdict of guilty on **April 15, 1997** and imposed the penalty of dismissal from the clerical state. The defendant, Teta, appealed the case so it then went to the CDF on **April 28, 1997**. On **August 15, 2004** the CDF denied the appeal and confirmed the penalty. The time from beginning to end (1990-2004) was approximately 14 years. This case was highly unusual because the advocate for the accused, Fr. Gregory Ingels, a canon lawyer, created roadblocks from start to finish. Subsequently, Ingels himself was credibly accused of sexually abusing a boy.<sup>13</sup>

## **IV. REACTIONS OF POPES AND BISHOPS TO CLERGY SEXUAL ABUSE**

### ***A. Reactions of the popes***

#### 1. John Paul II (1978-2005)

92. There is no available documentation on what John Paul II knew about clergy sexual abuse prior to his election in 1978 or during the first seven years of his papacy.
93. Officials in the administration of the Holy See, known as the Roman or Vatican Curia, were informed by telephone about the situation in Lafayette, Louisiana, at least by

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<sup>13</sup> See: [www.bishop-accountability.org](http://www.bishop-accountability.org). Gregory Ingels, ordained in 1974, worked as a canon lawyer for the archdiocese of San Francisco. He was accused of sexual abuse in 1996 but his archbishop, Cardinal William Levada, allowed him to continue in active ministry until 2002. He was criminally charged in 2003. This site has a long list of media sources.



December 1984. The parents of one of the minor boys withdrew from a secret settlement and brought a civil suit before the local court. In the suit, they named as defendants the cleric (Fr. Gilbert Gauthé), the vicar general (Msgr. Henri Larroque), the bishop (Gerard Frey), the papal ambassador (Pio Laghi), and the pope. Because the situation had quickly escalated to include accusations against clerics in another diocese, the papal nuncio was reporting information to the Holy See by telephone.

94. In February 1985, I was asked to compose a detailed report on the situation in the Diocese of Lafayette. I did so, and the report was both detailed and graphic. It was hand-carried by Cardinal John Krol to Rome on a Monday flight in February and given by him personally to the pope. He reported back by Thursday that the pope had read the report but did not report the pope's reaction or comments.
95. In June 1985, Cardinal Silvio Oddi, Prefect of the Congregation for the Clergy, visited Washington and requested information on the sex abuse issue. I was asked by the papal ambassador to prepare a report and deliver it orally to the cardinal, which I did. At the conclusion of the three-hour meeting, Cardinal Oddi informed me that he would take the report to Rome and give copies to the other heads of the congregations of the Vatican Curia - all cardinals. He also said he would give a copy to the pope and then he would urge that the Holy See issue a decree on the matter. We knew that he had circulated copies to the other cardinals and the pope but never heard whether any action was taken.
96. Pope John Paul II neither said nor did anything that had any impact on the situation until June 1993 when he sent a one-page letter to the bishops of the United States (see **Appendix 3**). Between 1993 and 2004, Pope John Paul II made 14 statements in which he mentioned sexual abuse. It is certain that hundreds of victims sent letters to the pope or to other departments of the Vatican between 1978 and 2005. There is no evidence to be found that Pope John Paul II ever acknowledged any of these, much less responded to them. Organized groups of victims asked to at least be presented to the pope at the World Youth Celebrations in Denver (1993) and Toronto (2002). They were denied any access to the pope on both occasions.

97. In 1998, nine former members of a religious community known as the Legion of Christ submitted a petition to the Congregation for the Doctrine of the Faith in Rome, alleging that they had all been sexually abused as very young teenagers by the man who was the founder of the Legion and its superior general until 2005. They did not want to pursue the matter in civil courts but rather in the Church's canonical court system. In 1999, they were informed that Pope John Paul II had ordered that the canonical process be stopped, giving no reasons to the nine petitioners.
98. Overall, Pope John Paul II's response to the sex abuse issue can be described as more than simply passive enabling. He sympathized with bishops, was highly critical of priest-offenders, tried to shift the blame to the secular media and to the secular culture, and claimed that the best way to deal with the issue was by prayer.
99. The one positive move made by John Paul II was the promulgation of the new norms for processing certain special cases, issued in 2001 (see **paragraph 231**, below). The norms included a mandate that all reports be investigated by the local bishop (which had already been in the *Code* since 1917) and the report be sent to the Congregation for the Doctrine of the Faith. The norms also established a statute of limitation for the first time since there was none in the 1917 or 1983 *Code*.

## 2. Pope Benedict XVI (2005-2013)

100. Pope Benedict's response was mixed, but on balance was supportive of the victims. He made numerous statements in support of victims and ordered bishops in general to treat them with compassion. Pope Benedict also met with victims in five different countries. The meetings were orchestrated by the local bishop and the officials of the Holy See. There was no time for any extended conversation - in fact, the average amount of time for each victim was 11.1 minutes per person.
101. On the plus side, Pope Benedict re-opened the investigation against Maciel, the head of the Legion of Christ, before John Paul II had died. After he was elected, Benedict banished Maciel to a life of prayer and penance. Pope Benedict is also the second pope in history known to have laicized a bishop. He laicized three bishops - in 2008,

2009 and 2012 - two for sexual abuse of minors and one for a variety of reasons including an illicit marriage.

102. In 2010, Pope Benedict also issued revised norms for processing cases of clerics accused of sexual abuse (see **paragraph 234**, below). He was criticized, however, for never taking any action against the hundreds of bishops who covered up cases of sexual abuse.

### 3. Pope Francis (2013 to the present)

103. It is too early to try to come up with an accurate evaluation of Pope Francis' response. On balance, it has been positive. He has taken the time to actually listen to victims. He has reversed at least two decisions concerning the appointment of bishops after listening to victims. He has removed several bishops and has laicized five. In 2019, he removed Cardinal Theodore Mccarrick from the College of Cardinals and shortly thereafter, following a canonical trial, he reduced him to the lay state because he had sexually abused minors. This was a remarkable move because the only other known case of a cardinal being transferred to the status of a lay man was that of Cesare Borgia, the son of Rodrigo Borgia who was Pope Alexander VI.

#### ***B. Reactions of the bishops***

104. The sexual abuse of minors by clergy has been revealed throughout the world in a very gradual and uneven manner between 1984 and the present. It not possible to generalize that all bishops have responded in precisely the same manner.
105. The experiences of victims and survivors in several countries in all parts of the world have revealed, however, that overall bishops have responded much the same way everywhere as the phenomenon unfolded in country after country. The catalogue of negative, toxic and destructive responses is long and not unique to any single country. The bishops of many countries have expressed attitudes, misunderstandings, judgments and erroneous beliefs that are not confined to any single country or nationality. If there is to be the deep attitudinal change that is essential, there must be a fearless examination into, and acknowledgement of, the essential reasons for

these attitudes. Many of these attitudes are held not just by the bishops, but by others, also.

106. The hierarchy, from the papacy on down to the diocesan level, have displayed defensiveness in their responses to the victims, to the media and in general to anyone who questions the institutional Church's role in the overall disastrous response to the harsh reality of worldwide sexual abuse by clerics and religious. The defensiveness has spawned denial and minimization of the issue. It has given rise to the shameful blame-shifting from any aspect of the institutional Church, to cultural influences, the media, greedy lawyers and - worst of all - to the victims themselves, or their parents. One of the documents I reviewed recounted the story of a New Zealand diocesan official who claimed that parental failure to report was the problem and not the assaults themselves. This same irresponsible and shameful attitude has been revealed all too often by bishops and prelates in other countries and, perhaps most infuriatingly, by senior members of the Vatican Curia. All these officials know full well that reports made by victims or their parents have been regularly dismissed or ignored for decades, which is the main reason why the victims have turned to the civil courts for support, relief and accountability.
107. In spite of the countless assurances of the Church's concern for the victims and the promises of support, mixed with the litany of expressions of regret, there remains a strong undercurrent of disdain and distrust directed not only at the victims but those who actively support them. Clerics and religious who have openly supported victims and criticized the official Church's pattern of mishandling reports, protecting perpetrators and ignoring - or worse, re-traumatizing - victims, have been routinely threatened, ridiculed, slandered, sidelined and penalized in one way or another by church leaders, other clergy and religious and lay people.
108. The documented responses of the hierarchy and many clergy across the various cultures and nationalities where the Church exists reveal a deplorable list of beliefs and attitudes:

- (a) *Defensiveness*: The first reaction is to defend the institutional Church and the clerical subculture. This takes a variety of forms and is expressed in a variety of ways, but all serve to distort the fundamental issue.
- (b) *Minimization*: Since the clerical culture as a whole is perceived to be "under attack" by claims of victims, it is not unusual that the hierarchy - as the clerics responsible for the welfare of the Church - will seek to minimize the nature and extent of sexual violation by clerics. The old saying "*it's just a few bad apples in the barrel*" has turned out to be irrelevant because it is not the apples but the barrel that is the cause of the problem.
- (c) *Blame-shifting*: From the outset, the hierarchy have tried to shift the blame or the cause anywhere but where it belongs. Pope John Paul II blamed the American materialistic culture and media sensationalism. Cardinal Ratzinger at one point blamed the media. A common target for bishops and "loyal" Catholics are the victims' attorneys, who they claim are only in it to make money. But they conveniently forget that the attorneys hired by the bishops to defend them are not paid on contingency as are plaintiff lawyers, but by the hour - and the hourly rates can soar from \$US 400.00 an hour to \$US 1250.00, depending on the firm. Another example is shifting the responsibility for the abuse from the Church's clerical leadership to the laity by asking them to do penance and to contribute to the support of accused priests or to payment of reparations to victims. More than one furious lay person has said: "*The bishops caused this and not us so why are we being asked to do penance or help repair the damage?*". The most despicable attempt at blame-shifting is to blame the victims and/or their parents.
- (d) *Obsession with control*: Catholic bishops are accustomed to being in control of their environment. In the context of clergy sexual abuse, this need to control manifests itself in various ways. Some dioceses insist on limiting the counseling sessions allowed to victims. Some also insist that victims see therapists they either provide or must approve. If victims approach bishops or religious superiors on their own with no support, the outcome of the negotiations depends on the bishop or superior.

- (e) *Insularity*: Many, if not most, dioceses that have had to confront the clergy sexual abuse issue have diocesan review boards, victim assistance coordinators or positions with similar titles. These have been mandated in the U.S. and have been created in several other countries, though not necessarily mandated. Studies done in the U.S. and Canada have shown that these entities have had very mixed results. In far too many cases, the victims leave feeling re-victimized. The bishops and religious superiors generally conduct their own internal investigations into accusations and then will pronounce on the apparent credibility or lack thereof. They fail to realize that the institution that is the context or source of the problem cannot be trusted to properly investigate it. Investigations need to be done by competent individuals and not by churchmen. Similarly, decisions as to the need for, or type of, therapy for victims should be left to the victims and their own support sources.
- (f) *Misplaced priorities*: The documented evidence about clergy sexual abuse has shown that, almost exclusively, the first priority of the hierarchy - from the popes down to diocesan bishops and religious superiors - has been the image, prestige, power and financial security of the institutional Church, and not the welfare of victims. There is much truth to the accusation that the Church's leaders have outsourced the gospel to their attorneys. Upon learning of a possible incident of abuse, the bishop's first call has, in most known cases, been to the attorney and not to the victim (in fact the number of bishops who have called victims upon learning of possible sexual abuse is miniscule). The fundamental problem with this very powerful attitude is that it is based on an erroneous and even heretical theology of "the Church". A common excuse for the actions taken to protect a diocese has been that "*it's for the good of the Church*". On its face, this is true: it is all for the good of the Church, but the meaning of "the Church" is limited to the governing structure and its incumbents and to the institution. This theology completely forgets that, in the authentic ecclesiology, the victims and the bishops are spiritually equal, although they have different duties within the community of the People of God (see **paragraph 131**, below). The victims are the members of this community

who are rejected and in greater need of compassionate pastoral care and therefore they would, according to the teaching of Jesus, take precedence.

- (g) *Confusing declarations of intent:* The popes and bishops have issued countless expressions of regret and apology accompanied by public promises to care for victims. This flood of words has not been consistently accompanied by actions. The sympathetic expressions are valid so long as the victims remain docile and refrain from criticizing or challenging the Church in any way. Probably the clearest evidence of this hypocrisy is the bishops' employment of attorneys to stonewall victims and, in general, to resort to all manner of tactics to control and defeat them. The common excuse is that the bishops have a right to defend themselves and an obligation to protect the Church's patrimony. This is true except for the fact that the only reason the victims go to court is because it has been the only way to achieve justice and acknowledgement that what happened to them is real.
- (h) *Adversarial attitude:* The most common descriptive term for the relationship between the victim (and the victims' supporters and advocates) and the Church is "adversarial". If victims report abuse, too often the report is not believed until there has been a source of proof determined by the Church official. The victims are reporting a grave crime allegedly committed by a member of the clergy or religious life - by an "insider". Consequently, feelings of loyalty to the perpetrator dominate and overshadow any sense of compassion for the victim. If the person was reporting sexual abuse by a neighbor or a public school teacher or anyone not connected with the clerical world, the response from the church official would no doubt be much different.
- (i) *Disdain for victims:* One cannot generalize that there is a universal disdain for victims because many bishops and superiors have shown true Christian charity, kindness and understanding. But the disdain, which so many sense, is real. This has been an attitude that has been constant for the past nearly four decades. It is manifested in a variety of ways. Refusing to speak to or listen to victims is one sign of a negative attitude. Allowing attorneys to attack them is certainly another. Treating victims as if they were customers and shifting them

to review boards or victim assistance coordinators rather than initiating face-to-face encounters, is another. One wonders if the fact that many of the victims are now adults makes a difference. It is easy to forget that these men and women were vulnerable, defenseless children when they were abused.

109. If there is a bottom line to describe the common response of the hierarchy, it is the shocking absence of authentic, compassionate pastoral concern, not only for the victims themselves but for their families, friends and indeed the entire church community.
110. The sexual abuse we are speaking about is, in the opinion of one noted American psychologist, the most painful and destructive type, even more so than incest.<sup>14</sup> This is because the victims are abused by a priest or religious whom they have been taught takes the place of God. For many, this is conflated to the belief that it is God who is inflicting the violence on them. Thus, the spiritual damage cannot be adequately described or evaluated.
111. Yet among the many pronouncements of church officials, there is an almost complete absence of reference to the spiritual damage. Bishops and religious superiors all too often believe that the need for healing is for the realm of mental health professionals. From my experience with victims over the last 36 years, I can attest that hardly any victims ever experienced from any church official a recognition of the spiritual damage inflicted, or any idea as to how to either evaluate the extent of that damage or begin a healing process. Pope Benedict **XVI**, in his letter to the people of Ireland, suggested that healing would come from a return to the institutional Church and to sacramental practices in particular.<sup>15</sup> Such suggestions completely fail to comprehend the nature of the damage done to victims by clergy within the context of the institutional Church. For many, a return to the institutional Church only deepens the wounds. Those who advocate healing through the institutional channels need to

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<sup>14</sup> "Church in Crisis : Interview of Dr. Leslie Lothstein by Katherine DiGiulio, 'Crossroads Magazine', June 17, 2002 television interview , in *National Catholic Reporter*, August 9, 2002. <http://www.natcath.org/NCR/Online/archives/081602/lothstein.htm>

<sup>15</sup> Pastoral Letter of the Holy Father Pope Benedict XVI to the Catholics of Ireland, 19 March 2010. [http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf\\_ben-xvi\\_let\\_20100319\\_church-ireland.html](http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html)



realize that this means a submission once again to clerical control and it is this control that served as a major enabler of the sexual abuse.

112. Although there have been exceptions, the overwhelming response from victims when asked about their treatment by the institutional Church has been negative. In the early years, that is in the late 1980s, several U.S. bishops said they wanted to reach out to victims but were prevented from doing so by their attorneys, who told them that doing so would be an admission of liability. The only guidance the U.S. bishops were getting from the United States Conference of Catholic Bishops (USCCB) was through the Office of the General Counsel and there was absolutely no guidance from the Holy See. They were getting no assistance from any official source in providing true pastoral care.
113. The relationship between the bishops and the victims (and their supporters) has changed little over the past 30 years. It is true that there have been many individual bishops who have shown genuine compassion. Unfortunately, the general impression of the bishops as a group has not changed significantly. In every country where the victims and their supporters have forced the issue out of the shadows, the response has been the same. The victims (and their supporters) are treated as a threat to the bishops' security and not as deeply wounded persons who have only wanted to be believed, affirmed and treated with dignity.
114. The three exceptions that have stood out from their approximately 5,000 colleagues are: Bishop Geoffrey Robinson from Australia who died very recently; Bishop Thomas Gumbleton of Detroit; and Archbishop Diarmuid Martin, retired archbishop of Dublin. These three men have publicly sided with the victims and have publicly criticized the standard response of the institutional Church.
115. Bishop Robinson publicly criticized Pope John Paul II's lack of leadership, then suddenly resigned as auxiliary bishop in 2004 "for health reasons" - which was bogus because he was in excellent health. His resignation was forced by the Holy See.
116. In 2006, Bishop Gumbleton publicly supported victims who sought to have the Statute of Limitations changed by the legislature of the State of Ohio. The only opposition

came from the Ohio bishops whom Bishop Gumbleton publicly opposed. Within a month, he received a communication from the Holy See, sent through the Archbishop of Detroit, Cardinal Adam Maida, that he was removed as auxiliary bishop and as pastor of the parish he had led for 25 years. The excuse given in the letter from the Congregation for Bishops was that he had "broken communion" with his brother bishops.

117. Archbishop Martin won the trust and praise of Irish victims because of his open support of them and his voluntary disclosure of the clergy files to the Murphy Commission. Archbishop Martin was not removed but was passed over for the cardinalate five times by Benedict XVI and seven times by Pope Francis.
118. Why have there been so few bishops who have publicly supported victims while thousands have not? No doubt many are very sympathetic but are kept from any public expression by the pressure exerted by other bishops and the Holy See.

## V. CULTURAL AND ACADEMIC RESPONSE

### A. *Media reporting*

119. Prior to the Lafayette, Louisiana case in 1984 referred to above (see **paragraph 21**), the secular media in the English-speaking world gave little attention to those few reports of clergy sexual abuse that became known.
120. In 1985, Jason Berry, an independent writer, wrote a four-part series on the situation in Louisiana. In the face of strong opposition from church supporters - including an advertising boycott - the *Times of Acadiana* published the series, which focused more on the lengthy cover-up by the bishop and diocesan officials than on the extensive sexual abuse perpetrated by the priest. The other print and electronic local media gave the case intensive coverage, and this was picked up by the national media. *Newsweek* magazine published a story about the case and included a photo of Gauthe in his jail cell. Since then, the secular media in the English-speaking world has provided continuous coverage. As cases of abuse were revealed in other countries,

usually by victims and victims' support groups, foreign, non-English media has also provided extensive coverage.

## **8. Documentaries and movies**

121. Since 1990, at least 86 documentaries have been produced about sexual abuse in the Catholic Church. Most have been in English, but a significant minority are in other languages including Italian, French and Polish. The earliest was a documentary about the Louisiana case produced in 1990; the most recent was a Polish documentary that came out in November 2020.
122. There have been 29 movies produced in the U.S., Canada, Ireland, Germany, Mexico, Chile, France and Poland. Among the more prominent ones have been: *The Magdalene Sisters* (2002), about the inmates of the Magdalene Laundries in Ireland; *The Boys of St. Vincent* (1992), about the abuse of young boys by the Christian brothers at Mount Cashel orphanage in St. John's in Newfoundland; *Our Fathers* (2005), about the uncovering of sexual abuse in the Archdiocese of Boston; *Spotlight* (2015), about the investigation carried out by *The Boston Globe* in 2001-2002 (which won the Academy Award for Best Picture in 2016); and *Kier* (2018), about sexual abuse by Polish clergy.

## **C. Books and academic articles**

123. Since 1984, at least 258 books have been published that are either exclusively or primarily about clergy sex abuse. All but four are about sexual abuse by Catholic clerics. It is entirely possible that the number is greater than what I have recorded here, because although I regularly check the Internet for new publications, it is likely that I will have missed those that have been privately published. This number includes:
- (a) 36 that are autobiographical or biographical, either by or about victims of clergy abuse
  - (b) 6 novels based on true experiences of clergy sexual abuse

- (c) 4 books that are scholarly examinations of certain periods of the medieval era
- (d) 4 historical works on sexual abuse in the contemporary era
- (e) 206 scholarly books that include psychological, sociological and religious-theological studies.

124. There have been hundreds of articles published in popular secular magazines over the past 36 years. The focus ranges from specific cases to the overall problem. Far more important have been the scholarly articles that have appeared in academic and professional journals in several countries. The subject areas include theology, canon law, civil law, trauma studies, history, psychology and psychiatry. Additionally, at least 36 doctoral dissertations have been written that focus on some aspect of sexual abuse by clergy. These are from candidates at universities in the U.S., Canada, Australia, Ireland, Spain, the Philippines and India.
125. The significance of the academic and cultural response does not need to be belabored. The phenomenon of sexual abuse in the Catholic Church has prompted great interest not only from the general public but also from specialized academic disciplines. This is not simply a "Catholic" problem but a harsh reality that has significant importance for society in general. One fact seems certain: the revelations in the Catholic community throughout the world have prompted similar concern about sexual abuse in other religious denominations and in private institutions such as the Boy Scouts and non-public schools, as well as in public institutions such as the military, public schools and government offices.

## **VI. THE GOVERNANCE AND STRUCTURE OF THE CATHOLIC CHURCH**

### **A. Context**

126. The governmental structure of the Catholic Church, the theology that supports it, and the popular beliefs that surround it, all have a direct impact on several aspects of clergy sexual abuse. The following important, recurring questions open the window to the relationship of church structures to clergy sexual abuse:

- (a) Why are victims (and their parents) reluctant to report sexual abuse?
- (b) Why have parents refused or been afraid to believe their children's accounts?
- (c) Why have secular agencies such as the media, law enforcement, the judiciary and the medical profession favored religious organizations over victims?
- (d) Why have church leaders gone to such great lengths to protect the image of the institutional Church and the reputation of the clergy?
- (e) Why has the Holy See traditionally protected bishops, even those accused of sexual abuse themselves?
- (f) Why has there been denial on all levels of the church hierarchy- clergy and laity- even in the face of hard facts about the extent of sexual abuse?
- (g) Why do bishops in some countries spend vast amounts of money to hire lawyers to try to deny compensation to victims?

127. The answers to these questions are directly related to the Church's official teaching about itself, known as a branch of theology called "ecclesiology". Directly related to the theological nature of the Church is the official teaching about the nature of the ordained priesthood. Additionally, the Church's traditional teaching on human sexuality has heavily influenced the response to abuse because it has shaped beliefs about the nature of aberrant psychosexual behavior and the effects of forced sexual acts on victims.

## **8. *What is "the Church"?***

128. There are two separate definitions or understandings of the reality we call "the Church". The Catholic Church is a religious way of life and it is also a sociopolitical structure that exists in society. It is the largest religious denomination in the world and also the largest corporation in the world.

129. The Catholic Church is the only religious denomination on earth that is recognized as the equivalent of a country. It has a diplomatic service and has full diplomatic

relations with 183 of the 195 countries in the world today. In some of the countries that do not have diplomatic relations with the Holy See, there is an "apostolic delegate" who is the pope's representative to the Catholic Church in the country and, in some instances, the pope's private envoy to the head of the government. New Zealand has had diplomatic relations with the Holy See since 1973.

130. The meaning of "the Church" for most Catholic people is that which they see: the sociopolitical structure commonly known as the "institutional Church". The dominant feature of this concrete reality is the governmental structure. The model of government used by the Catholic Church since the third century has been the hierarchical model. In actual practice, this model is monarchical, in that power is centered not in the people or in representative bodies but in two separate offices: the papacy (pope) and the episcopacy (bishops who are heads of dioceses).
131. The other model of the Church is that which was revived by Vatican Council II (which ran from 1962 to 1965). It is grounded in the scriptures and is described in non-revisionist Catholic history. This model emphasizes the concept of community, not government and power. Vatican Council II referred to the Church as the "People of God", a concept that is understood more as a dynamic way of life than as a static governmental structure (canon 204, 1). The official church teaching is that the People of God is organized as a society in this world and subsists in the institutional Church.
132. The official teaching of the Catholic Church states that the hierarchical model was instituted by God through the encounter between Jesus and St. Peter, who, traditionally, is considered to be the first pope. However, scripture scholars and independent Catholic theologians assert that there is no clear historical or scriptural basis for the assumption that Jesus Christ even founded a church, much less a church with a clearly defined political structure. There is more credible historical evidence that the Church as an organized structure developed gradually as the number of followers of Christ increased. A key point in the organizational development came in the early fourth century when Emperor Constantine recognized the followers of Christ as a religion. At that time, the common model of government was monarchical with ascendance to leadership depending on lineage or power.

133. Despite historical questions about the authenticity and accuracy of the official teaching on the origin of the hierarchical model, the teaching that this governmental system is of divine origin is essential for supporting the power of the hierarchical leaders.
134. The Catholic Church is also commonly identified, though erroneously, with the subclass comprised of the men who govern the Church, namely the clerics. The institutional Church claims a membership of 1.31 billion people. The clerical class, which includes all deacons, priests and bishops (including archbishops and cardinals) totals 457,798 people (approximately 0.035% of the Church membership). The entire billion-plus Catholic population is ruled by approximately 3040 men, comprising the active bishops (including those who are archbishops and cardinals but excluding all who are retired or not in positions of authority) in governing positions throughout the Catholic world. (Although there are 5,578 living bishops in the world, not all are in positions of power.)<sup>16</sup>
135. The Church, as an earthly society and not a way of life, is officially understood to be a stratified society. Canon law (canon 204) states that there are two levels or strata in the Church: the clergy and the laity. A more realistic and practical way to look at the stratification would be with four strata. The lay men and women who comprise the vast majority of the Church's membership are the bottom layer. The next layer consists of the non-ordained men and women who are members of the various religious institutes (the brothers and sisters or nuns) because they live and work within the church structure on a full-time basis. The third layer is made up of the first two ranks of the ordained clerics, deacons and priests. The fourth layer, which historically has been a kind of ecclesiastical aristocracy, consists of the bishops. This fourth level is itself stratified into three more levels which are defined by rank: the auxiliary bishops, the bishops and archbishops who are heads of dioceses, and at the top, the cardinals. Clergy sexual abuse as referred to in this submission includes all members of the top three layers.

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<sup>16</sup> The statistics come from several sources: The Vatican website, The Center for Applied Research in the Apostolate at Georgetown University, Washington, D.C., and the *Annuario Pontificio*, which is popularly known as the Vatican yearbook, published yearly by the Vatican bookstore.

136. The nature of the Church as an earthly society was described by Pope Pius X in an encyclical written in 1906 but which is still valid:<sup>17</sup>

*"[T]he church is essentially an unequal society, that is, a society comprising two categories of persons, the Pastors and the flock ... So distinct are these categories that with the pastoral body only rests the necessary right and authority for promoting the end of society and directing all its members towards that end; the one duty of the multitude is to allow themselves to be led, and, like a docile flock, to follow the Pastors."*

137. Vatican Council II initiated wide-ranging reforms on just about every level of the Church, including attempts to move away from the monarchical and triumphalist manner of church government and culture. These attempts were successful on some superficial levels. Nonetheless, in 2021 the Church remains a hierarchical entity with a stratified society. As noted above, over a billion people are ruled by the 3040 bishops in positions of authority, none of whom is married and presumably none of whom has ever experienced not just being a biological father, but true parenthood.
138. The Catholic clergy are, for the most part, obligated by choice to total celibacy. There are official exceptions: priests of the Eastern or Oriental rites and the very small number of former Anglican priests and Protestant ministers, most of whom are married, who have been allowed to be re-ordained as Catholic priests and function in the Church as married priests.
139. To sum up: the Catholic Church is a political structure that is hierarchical in name and monarchical in practice. The bishops are believed to be the spiritual successors of the 12 apostles and therefore are essential to the political structure of the Church. They are, in a very real sense, the pillars upon which the Church stands. All bishops are appointed personally by the pope. Only the pope can appoint a bishop, transfer a bishop, or permit a bishop to retire - and only the pope can remove a bishop.

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<sup>17</sup> Vehementer Nos: Encyclical of Pope Pius X on the French Law of Separation, February 11, 1906. [http://www.vatican.va/content/pius-x/en/encyclicals/documents/hf\\_p-x\\_enc\\_11021906\\_vehementer-nos.html](http://www.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_11021906_vehementer-nos.html)



140. Since the governmental model is hierarchical, all power resides in the pope over the entire Church and in the bishop of each diocese. The three main functions of government - executive, legislative and judicial - are not separate in the sense that they are fulfilled by three different persons or offices but are joined in the office of pope and bishop. Consequently, there is no separation of power and no system of checks and balances. Power is delegated to those who hold the various positions in the Vatican bureaucracy and in diocesan governance. The pope is accountable to no human power (canon 1404). Bishops, even retired and auxiliary or assistant bishops, are accountable only to the pope. The various boards, commissions and committees that are part of the governmental structure of the worldwide Church and of individual dioceses are consultative and not deliberative in nature. There are no instances in which the pope is obliged to consult with anyone about anything. Diocesan bishops are obliged to consult with the priests' council and finance council of the diocese on a small number of issues, but the power of these collective bodies is consultative only. The absolute power of the diocesan bishop is believed to be rooted in the nature of the office itself and therefore it is willed by God. The only time a collegiate body has any real power is when the College of Cardinals gather to elect a new pope.

### *C. The sacraments of the Church*

141. The life of Catholics in the Church is grounded in the sacraments. A sacrament is a liturgical ceremony or ritual during which Catholics believe Christ is present and acts in a very special way in the person's life. There are seven sacraments, each corresponding to a key moment in a person's life (baptism - birth, confirmation -- adulthood, matrimony- marriage, penance - reconciliation with God and the Church, sacrament of the sick - healing from illness). The Eucharist (or Mass) is the central sacrament and is believed to be the re-enactment of the Last Supper. At the Eucharist, bread and wine are changed into the body and blood of Christ by the priest, thus Christ is really present in the church community. The sacraments are essential to the life of the Church and to the spiritual life of Catholics and to their eternal salvation. The sacraments are accessible only in the institutional Church and access to the sacraments is controlled by those in Holy Orders (which is the sacrament of ordination as a member of the clergy), especially priests and bishops.

142. Viewing this in the context of clergy sexual abuse, one can see why the stability and power of the institutional Church, and especially the clergy, is so important and why it has occupied the primary place of concern. The hierarchical institution and its pillars, the bishops, are the sole source of spiritual security. Consequently, when victims were, and are, enjoined by priests or bishops to remain silent about sexual abuse so as not to hurt the Church, the sheer weight of this threat becomes understandable. The structure of the Church and the role of the sacraments have a direct bearing on the Church's response to sexual abuse perpetrated by clerics:

- (a) The sociopolitical reality that is the Catholic Church, present in the secular world, is a stratified, unequal society.
- (b) All real power in the Church is held and exercised by individual celibate males, all of whom are clerics.
- (c) The institutional Church is essential for that which all Catholics strive for: salvation.
- (d) The bishops, who were originally instituted by Christ, are the essential supports or pillars of the institutional Church.
- (e) The power and survival of the institutional Church and its pillars is of paramount importance and must be protected and preserved.

***D. The structure of the Catholic Church***

**1. Clerics and lay men and women**

143. As I have outlined, the two fundamental classes of people within the Catholic Church are clerics, and lay men and women, who are referred to as the laity or as "the faithful" (canon 207, 1). Clerics (also referred to as "clergy") consist of deacons, priests and bishops. An archbishop is a bishop who has been appointed to head an archdiocese.

144. Only clerics can receive Holy Orders (canon 1024). When a man is ordained by a bishop to the order of deacon, he automatically becomes a cleric. If he leaves the

clerical state, either by his own volition or because his departure is imposed, he then is once again a lay man and is prohibited from functioning as a deacon, priest or bishop.

145. A cardinal is not one of the ranks of Holy Orders (i.e., it is not part of the sacrament of ordination). Rather, is a title or rank that is given by the pope. A man does not have to be a bishop to be a cardinal. In fact, when the pope creates cardinals, most of those named are either bishops or archbishops, although he often also names priests who are not bishops. These are usually priests who are advanced in age and have given exceptional service to the Church as theologians. At the present time, five of the members of the College of Cardinals are not bishops.

## 2. The papacy

146. The pope is the absolute leader of the worldwide Catholic Church. He is elected for life or until he freely decides to resign or retire, as did Benedict XVI. The pope is the immediate superior of every bishop. In the office of the papacy, the three main governmental functions are joined: executive, legislator, judge. The pope is assisted by the Vatican Curia, which is the administrative center of the Catholic Church.

## 3. The Vatican Curia

147. The administrative departments of the Catholic Church are commonly known as the "Vatican Curia". The Curia is divided into various departments, each of which has a specific area of competence. The head of each department, as well as all subordinate personnel, are appointed by the pope. The Curia includes three tribunals (or courts). As noted earlier, the department of the Curia that is charged with dealing with sexual abuse of minors by clerics is the Congregation for the Doctrine of the Faith.

## 4. Bishops and dioceses

148. The worldwide Church is divided into geographically defined entities known as dioceses. There are some exceptions to the geographic norm - these are called personal dioceses and are created for specific classes of people. They are defined by

their subjects and not by geographic boundaries. The dioceses for military personnel are an example of personal dioceses.

149. Dioceses are created by the pope and can be divided or suppressed only by the pope. An archdiocese is a diocese that is so designated because of its historic or geographic importance.
150. Dioceses are grouped together into ecclesiastical provinces. The main diocese is called an archdiocese and the bishop of the archdiocese is known as an archbishop. The archbishop has no real authority over the dioceses that are part of the province, however. In New Zealand, there is one ecclesiastical province for the whole country. Wellington is the archdiocese. The other five dioceses (Auckland, Hamilton, Palmerston North, Christchurch and Dunedin) are the other members of the province.
151. The office of bishop is one of the three Holy Orders that make up the sacrament of Holy Orders. Unlike priests, bishops are chosen and personally appointed by the pope. A priest cannot volunteer or apply to be a bishop, nor can he campaign to be a bishop. The bishop has full authority in his diocese. The scope of this authority is determined by canon law and by any special rules or decisions given by the pope. The pope is the immediate superior of every bishop. Like the pope, the bishop of a diocese is the executive, legislator, and judge of the diocese. He is assisted by members of the administrative departments of the diocese, which are also referred to as the curia of the diocese. Some offices are determined by canon law and some are determined by the bishop. The bishop has certain collegiate bodies to assist him, but these bodies do not have deliberative power.
152. Auxiliary bishops are bishops appointed by the pope to assist the diocesan bishop. They have whatever authority and responsibilities the diocesan bishop gives them. There are no auxiliary bishops in New Zealand, but there is a coadjutor bishop in Wellington. A coadjutor is a bishop who is appointed to assist a diocesan bishop and who will succeed the diocesan bishop.

## 5. The parish

153. The fundamental entity in the overall structure of the Church is the parish. A parish is a community of Catholics who generally live in the same geographic area. The parish is the center of the sacramental and educational life of the Church in this area.
154. A parish is the main element in the overall structure of a diocese. The number of parishes in a diocese depends on the size of the Catholic population. The leader of the parish must be a priest. The proper title of this office is "pastor". The pastor may be assisted by assistant pastors (also called associate pastors or parish vicars), who must also be priests. Only the bishop has the authority to create, close, suppress or divide a parish and only the bishop has the authority to appoint the pastor or any assistant pastors of a parish.
155. The pastor is the head of the parish and the representative of the bishop who is his immediate superior. The assistant pastors are also immediately subject to the bishop.

## 6. Religious institutes

156. Religious institutes, commonly known as religious orders or religious congregations, are communities of men or women who live and work together for a common purpose in serving the Church. The official generic term for all classifications is "institutes of consecrated life". These are more commonly known by the type of institute, such as religious orders, congregations or societies. Men or women join religious institutes to devote their whole life to the service of God and the Church. Most religious institutes were founded to fulfill a need in the Church and to conduct a special ministry such as teaching, mission work or health care.
157. Technically, members of religious institutes who are not ordained are lay persons. Some religious orders of men have members who are clerics ordained to the diaconate (relating to deacons) or to the priesthood. There are also religious men, commonly called "brothers", who have professed their vows but are not ordained nor referred to as clerics. Similarly, members of religious institutes of women are not clerics and are not ordained. They are women who have professed their vows and are religious women and are commonly referred to as "sisters". Technically they are

lay women. Members of religious institutes are commonly referred to as a "religious". The word is used as a noun and not an adjective, as in "*Fr. Smith is a religious*". This simply means the person is a member of a religious institute.

158. Most religious communities are international in scope. They serve in various countries and in various dioceses at the invitation and with the permission of the bishop. The religious communities have their own internal regulatory system, usually consisting of a rule (e.g., the Rule of St. Benedict), constitutions, and in some cases even more detailed rules. A religious institute's internal rules govern its life within that institute.
159. A religious institute must have permission from the local bishop to establish a local community of its members in a diocese. In many dioceses, the bishops invite religious communities of clerics to manage parishes. This is known as "entrusting" a parish to the community. Religious communities of men and women run schools at all levels, health-care facilities, and other ministries to serve special needs.
160. The members of religious communities are subject to their own superiors in all matters that pertain to their life in community. The chain of command of religious communities starts with a general superior, many of whom live in Rome. Each geographic division, called a region or province, has its own superior who is either appointed by the superior general or elected by the membership. On the local level, each community has a superior who is either appointed by a higher superior or elected by the members. How superiors are appointed depends on the constitutions of the particular community. For example, in the Jesuit order, all superiors are appointed either by the superior general or by provincial superiors. The only exception is the superior general who is elected by delegates at a general congregation, which is a gathering of representatives of the society. On the other hand, in the Dominicans, superiors at every level are elected by the members of the local community or province.
161. For the purposes of this inquiry, it is essential that the authority of the diocesan bishop over members of religious communities of men and women be clearly understood. One often hears the misleading claim that bishops have no authority

over members of religious communities in their dioceses, or members of religious communities may claim that they are totally independent of the local bishops. Both claims have an element of truth to them but, in general, they are both erroneous and misleading.

162. The bishop of a diocese has the fundamental authority over, and responsibility for, every ministry and apostolate that takes place in his diocese, including all those under the direction of religious communities (canon 678, 1). This includes every ministry or, as the *Code* says, "*those matters which involve the care of souls, the public exercise of divine worship and other works of the apostolate*". The *Code* has several canons that refer specifically to the bishop's authority over schools, orphanages or similar establishments. Both the religious superiors and the bishop have authority over individual members. The superior is responsible for ensuring that the individual member is faithful to his vows and obeys all church laws and regulations, and the bishop has authority over anything the members do that pertains to the care of souls. For example, if a parent complains to the local parish priest that his son was sexually abused by a Christian Brother at the high school he attends, the pastor must report this to the bishop and the bishop must take direct action. He cannot pass it off to the religious superior.

### ***E. The governance of the Catholic Church***

163. As noted above, the governmental structure of the Catholic Church and the model of governance is formally known as "hierarchical", but the actual style is monarchical. The term "hierarchy" is Greek in origin and its literal meaning is the "rule of the great priest". In the Catholic Church, it means that power, authority and responsibility are grounded in specific offices and is exercised by the office-holder.
164. The only two offices in the church government with "ordinary" power- power coming from the office - are the papacy and the episcopacy (the office of diocesan bishop). Collegiate or aggregate bodies are set up by canon law or by the pope or bishop, but they are consultative in nature. There is no such thing as representative government in the Catholic Church.

165. The pope or bishop can choose to exercise his authority in a collaborative manner or in an authoritative manner. In a diocese, the bishop has direct and broad authority over every diocesan priest. His authority over priests who are members of religious institutes is limited to the ministry or work in which the priest is engaged. However, he also has authority to intervene or otherwise act in situations where a priest-religious is engaged with a member of the diocese (clergy, religious, lay) in a harmful manner, and sexual abuse is a clear example. He also has authority over all ministerial work in a diocese, including those conducted by members of religious institutes.

## **F. Accountability**

### 1. Bishop's accountability for clerics

166. A cleric or religious enjoys freedom to exercise his ministry and live his life, but within the limits of his duties and obligations as laid out in canon law as well as any other normative statements issued by religious superiors, popes or bishops. This applies to non-ordained religious as well.
167. A cleric promises obedience and reverence to his bishop and the bishop's successors during the ceremony of ordination. This obligation is also set forth in canon 127 of the 1917 *Code* and in canon 273 of the 1983 *Code*.
168. The bishop's authority and responsibility for a priest assigned to his diocese is not limited in any way by geographic boundaries or time. In other words, he has authority over the cleric at all times and in all places under all circumstances. The bishop has authority over much of a cleric's private life as well as his public life. The bishop's authority is summed up in canon 384 of the 1983 *Code*, which states that the bishop's obligation is to see that clerics "*correctly fulfill the obligations proper to their state*". This means that the bishop has an obligation to see that a cleric lives up to his responsibilities to lead a virtuous life.
169. Some defense attorneys have argued that since the sexual abuse of minors is not within the scope of a cleric's duties, the bishop cannot be held responsible under the legal doctrine of *respondeat superior*. While it is certainly true that any kind of abuse



is outside the scope of a cleric's duties, it is also true that in most cases the clerics gain access to their victims, groom and seduce their victims, and eventually physically abuse them, within the context of the exercise of their duties.

170. Another empty defense against responsibility is the false assertion that a cleric is not an employee of the diocese or the bishop. In truth the employer-employee analogy cannot be used with accuracy because it only describes one aspect of the relationship. The bishop is the cleric's immediate superior. He assigns the "job duties" to the cleric and he sees to it that the cleric receives proper financial support. He also is the only person in the diocese who can assign, reassign or remove a priest who is a pastor or assistant pastor.<sup>18</sup>
171. Clerics who work in parishes or in other diocesan works of ministry are paid through the institution for whom they work. Parish priests are paid from the parish revenues but the bishop must approve the salary scale. If a parish cannot afford to support a cleric, the responsibility shifts directly to the bishop (canon 281). The cleric is an employee but much more. He shares or collaborates with the bishop in the bishop's fundamental ministry to support the moral and spiritual growth of the people entrusted to his care. To claim that a cleric is "employed by God" and therefore accountable to no one is a farcical absurdity .

**2. A cleric or religious (male or female) is always "on duty"**

172. A frequent argument advanced by defense attorneys is that the alleged perpetrator committed the act while on vacation or at a time when he was not acting as a cleric. Consequently, so the argument goes, since he was not on duty, the bishop or superior was not responsible for his actions.
173. The argument is baseless. A cleric performs a variety of duties, the most well-known being the celebration of the Eucharist (the Mass) and the celebration of the sacraments. To celebrate the Eucharist and administer most of the sacraments the

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<sup>18</sup> Only priests can hold the positions of pastor or assistant pastor. Clerics who lead the worldwide Church, dioceses or parishes are known as "pastors" to emphasize that their role is primarily about caring for people and not administration. A diocesan bishop is also known as the "Chief Pastor" of the diocese and the heads of parishes are known by their official title which is "pastor" .

man must be in Holy Orders. A man need not be ordained to teach, counsel or perform any activity that does not require ordination. Is a cleric or religious on duty only when he is performing functions unique to ordination or when he is performing duties assigned by the bishop or superior? The basis for determining when a priest or religious is on duty is not the performance of specific duties of any kind, the wearing of distinctive religious or clerical garb, or functioning on church-owned property.

174. A cleric or religious is "on duty" at all times, whether he is performing assigned or religious duties or not. He is "on duty" while on vacation, on a day off, outside the diocese, and when performing purely secular duties such as acting as an auto-mechanic, working as a health-care professional or selling encyclopedias (all of these are actual examples). The reason is that the cleric or religious' fundamental and primary ministry is to preach the Word of God and the Image of Christ by the example of his life. The following are the canons from the 1917 and 1983 codes of canon law that pertain to both clerics and non-ordained and ordained religious:

*"Both the interior life and the exterior conduct of the clergy should be superior to that of the laity, to whom they should furnish an example of virtue and good deeds."* (canon 124 of the 1917 Code)

*"In leading their lives clerics are especially bound to pursue holiness because they are consecrated to God by a new title in the reception of orders as dispensers of God's mysteries in the service of his people".* (canon 276 of the 1983 Code)

*"Religious [men and women, ordained and non-ordained] are to have as their highest rule of life the following of Christ as proposed by the gospels and expressed in the constitutions of their institutes."* (canon 662 of the 1983 Code)

175. It would be close to impossible to cite all the documents by which the apostles and the popes have urged this obligation. The following are among the most notable:

- (a) Epistle of St. Paul to Timothy, 3 and 4.

- (b) Second Epistle to Timothy, 4.
- (c) Council of Trent (1545-1563), Session XXII, Cap. 1, Session XXV, Cap.1.
- (d) Pope Pius X, *Exhortation to the Clergy*, August 4, 1908.
- (e) Pope Pius XI, *Encyclical on the Priesthood*, February 8, 1936.
- (f) Pope Pius XII, Apostolic Exhortation, *Menti Nostrae*, September 23, 1950.
- (g) Pope John Paul II, Apostolic Exhortation, *Pastores dabo vobis*, March 25, 1992.

### 3. Accountability of bishops

176. As explained above, the power of the pope is absolute, and the power of bishops is close to absolute in their own dioceses. Bishops are answerable only to the pope, not to the papal ambassador, the regional archbishop or anyone else. Any real accountability demanded of bishops depends solely on the pope.
177. The bishops in the U.S. have claimed that they would hold one another accountable by virtue of the concept of fraternal correction.<sup>19</sup> This was a meaningless claim from the beginning and has proven to be such with the passage of time.
178. Although canon law has provided a process of accountability for the hierarchy, in practice it is - and has been - highly ineffective. In practice, there is more accountability for priests as they are answerable to their bishop or their major religious superior. In the matter of sexual abuse, this level of accountability has traditionally been very ineffective, however.

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<sup>19</sup> Editorial, "Fraternal Correction", *America: The Jesuit Review of Faith and Culture*, March 15, 2004. [http ps:// www.ame ricamagazine.org/iss ue/ 477/editorial/fraternal-correction](http://www.ame ricamagazine.org/iss ue/ 477/editorial/fraternal-correction)

4. *Vos Estis Lux Mundi*

179. On May 7, 2019, Pope Francis issued an apostolic letter called *Vos Estis Lux Mundi* (*You are the Light of the World*).<sup>20</sup> This letter addressed the issue of sexual abuse by clergy and the responsibility of the bishops to safeguard minors. The pope added two important norms to the existing canonical regulations dealing with sexual abuse. The first included the production, possession, distribution or exhibition of child pornography as a canonical crime and this included the enticement or recruitment of minors or adults to participate in pornographic exhibitions. The second sanctioned any conduct by prelates of any rank (e.g., bishops, archbishops, cardinals) who interfered with or attempted to avoid civil or canonical investigations of any kind into accusations of sexual abuse by a cleric. The letter also included specific protections against any form of retribution for anyone who submitted a report of abuse, and it removed any obligation of secrecy regarding such reports.
180. The second part of the letter provided some concrete provisions concerning bishops, which were not merely exhortative but imposed real action. A report of sexual abuse allegedly committed by a bishop (or more senior prelates) is to be transmitted to the Holy See and to the archbishop of the ecclesiastical province where the accused prelate lives.<sup>21</sup>
181. The archbishop is then to request a mandate from the Holy See to carry out an investigation. (In the *Code*, such investigations could only be carried out at the express direction of the pope.) After the archbishop completes the investigation, he is to submit the results along with his opinion (called a *Votum*) to the Holy See. The final decision and the imposition of any penalty is the responsibility of the Holy See, which in practice means the congregation that is competent depending on the identity of the bishop (for most bishops it would be the Congregation for Bishops). The pope then would have to approve the final decision and any penalty. The

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<sup>20</sup> Apostolic Letter issued Motu Proprio by the Supreme Pontiff Francis, *Vos Estis Lux Mundi*, May 7, 2019. [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20190507\\_vos-estis-lux -mundi.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux -mundi.html)

<sup>21</sup> Priests who have been consecrated as bishops or who have been appointed to a higher position of authority but are not bishops are known as "prelates".

document uses the term "metropolitan archbishop" which is the full, formal title for the archbishop of an ecclesiastical province.

182. The problem with this procedure is that the obligation for conducting the investigation devolves to the metropolitan archbishop and the first question that was raised when these norms became public was the possibility of a lack of integrity, impartiality and complete objectivity. For example, the bishop of Brooklyn, Bishop DiMarzio, was accused of sexual abuse when he had been a priest. Cardinal Dolan, the metropolitan archbishop, received the mandate from the Holy See to carry out the investigation on January 7, 2020. Over one year later, there has been no word as to whether an investigation has even taken place. In addition to this, not long after the accusations were made public, Cardinal Dolan made public statements to the effect that Bishop DiMarzio was a close friend of his. There have been three other such allegations made in the U.S. both early in 2020, and to date there seems to have been no movement. The skepticism that a bishop could competently and credibly investigate another bishop is both valid and realistic.

## **VII. THE NATURE, ROLE AND IMAGE OF THE PRIESTHOOD**

### ***A. The nature of the priesthood***

183. The distortion of the authentic theology of the priesthood (and the episcopacy which is considered the fulness of the priesthood) has created a seriously flawed but commonly held belief about the nature and stature of a priest.
184. Sacrifice has been an integral element of most religious systems throughout history. With the notion of "sacrifice" comes the concept of "priesthood". Priesthood is the most ancient form of religious office. In primitive religions, it was given to those thought by the community to be in a special, privileged, favored position in the estimation of the unseen powers, the gods. The earliest known religions had priestly offices. Because of their closeness to the deities, the priests themselves have traditionally been thought to have special powers. Since primitive and ancient societies were generally patriarchal and male-dominated, the priests were usually men.

185. The priest was the special person deputed by the community and favored by the gods to lead worship services but, more importantly, to offer sacrifices on behalf of individuals and the community. Sacrifices were necessary to appease the gods whom people perceived had the potential for highly destructive anger. This belief was based on their belief that certain elements of nature that they could not control were manifestations of the power of the unseen, super-human powers. The two most prominent meteorological phenomena that elicited fear were thunder and lightning, both products of cumulonimbus cloud formations and not angry gods.
186. The priesthood has been central to the Catholic theological system because of the essential concept of sacrifice. Catholic theology and culture are firmly structured around the belief that the Eucharist (more commonly referred to as the Mass) is the only acceptable sacrifice to God, having replaced all forms of sacrifice that preceded it. The notion of sacrifice presumes a belief that there remains a need for intercession and advocacy before God, who is perceived as loving and benevolent but also just. The Mass is the center of Catholicism. The priest is essential to the Mass: without the priest there can be no Mass and without the Mass, there could be no Catholicism.
187. The two major powers of Catholic priests are the power to celebrate Eucharist and the power to forgive sins in the name of God. Catholicism teaches that both are essential for salvation and fundamental to the nature and life of the Church. The Church claims that the priesthood and the powers attached thereto are derived from Christ, who initiated the new form of priesthood at the Last Supper at which he also instituted the Eucharist. The Eucharist has been treated primarily as what is commonly referred to in traditional Catholic theology as an "unbloody sacrifice" - but a sacrifice, nonetheless.<sup>22</sup>
188. For centuries, the Catholic Church has taught that priests are men set apart and above others. The difference begins with ordination. At that moment, by divine action, the man is made a priest and is joined to Christ in such a way that he is substantially different from other humans. The ordination ceremony is long and

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<sup>22</sup> Kenneth Osbourne, *The Nature and Function of Priesthood* (Mahwah NJ: Paulist Press, 1988). This is but one of hundreds of source materials on the nature of the priesthood .

somewhat complicated by the sacramental theologians' claim that the actual moment when the man becomes a priest is the moment when he kneels before the bishop, who then puts his hands on the head of the man. The "imposition of hands", as it is called, is the key moment. This theology, which is based on the theory that a man is "ontologically changed" at ordination and, as John Paul II often said, is "configured to Christ", has led to the popular but inaccurate belief that the priest is some sort of being who is between God and humans and therefore is treated as if he were such.

189. Catholics are taught from the time they first are exposed to Catholic culture as children that priests represent Christ.<sup>23</sup> Consequently, priests are to be accorded the highest respect and are to be believed and obeyed without qualification or question. Nearly all victims of clergy sexual abuse were raised in very devout families in which the parents reinforced the beliefs about the priesthood and priests and looked on priests with a mixture of awe and fear. The common belief was that if one insulted, gossiped about, or harmed a priest in any way, that person would be severely punished by God in the next life and probably in this life as well. This belief is still very much alive among especially devout Catholics. Steeped in this traditional teaching about the priesthood, with its mix of official theology and popular cultural conflation, victims commonly described their reaction at the time of both the seduction process and the abuse itself as being paralyzed with a combination of shock, disbelief, and fear.
190. Though it is hardly intentional, the institutional Church predisposes victims to abuse by means of the teaching and cultural image of the Catholic priest. This image, and the accompanying fear of doing anything to offend a priest, profoundly influences victims so that they are unwilling - or, more often, emotionally unable - to report. The official theology of the priesthood, that the priest is "another Christ" and is "configured to Christ" is enmeshed with a legacy of "folk theology" that is both initiated and encouraged by clergy and laity alike. It influences those parents who are unable or unwilling to believe their children. It influences the Catholic community when it refuses to support victims. It influences civil officials such as judges or law

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<sup>23</sup> See, for example : *Catechism of the Catholic Church*, n. 1581.  
[http://www.vatican.va/archive/ccs/arch\\_ive/catechism/p2s2c3a6.htm](http://www.vatican.va/archive/ccs/arch_ive/catechism/p2s2c3a6.htm)

enforcement officers when they give preferential treatment to a confirmed sexual abuser "for the good of the Church".

191. The belief that the institutional Church is truly God's kingdom on earth and must be protected at all costs served to protect the institution from the embarrassment and loss of image and power that would occur if information about sexual abuse by clerics were to become public. The bishops have been especially motivated to protect this image, not only because of their belief in its essential nature, but also because of their indispensable role in its structure.
192. Apart from the influence of the theology of the Church, there is also the fact that the institutional Church nurtured, formed and educated the priests and bishops. For bishops, because of their belief that they have been chosen by God to lead, the institutional Church is the source of their identity and the security of their present and their future. Consequently, when bishops proclaim that they acted as they did "for the good of the Church", this "good" is intermingled with the "good of the bishop".

### ***8. The Church, the priesthood and the treatment of victims***

193. The damage to victims from sexual abuse only begins with the actual act of sexual violation. It continues and intensifies as the victims perceive that the Church itself is not only not supporting them but viewing them as a threat and as an enemy.<sup>24</sup>
194. This has put them in a self-perceived no-win situation. Stunned by the sexual violation by one whom they were taught to trust and revere, they are even more stunned and perplexed when they realize how they are being treated by the institutional Church, which is now not the "Holy Mother" but a bastion defending itself. The profound contradiction between what the institutional Church and its clergy claim to be, and the sexual invasion of the most vulnerable followed by their rejection, is difficult to comprehend until one looks deeply into the traditional

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<sup>24</sup> A. W. Richard Sipe, *Preliminary Expert Report, Fourth Phase: Victims of priest sexual abuse/the bishops' response*, 2007.



seminary formation and the complex influence of mandatory celibacy on seminarians who later become priests - and some of whom become bishops.

195. Individual priests and bishops all may have their own reasons, but there is something very clearly wrong on the institutional level for such a profound dichotomy to exist between the Church's avowed mission and the action of its leaders. There has been significant research and writing done to find systemic answers to behavior that is contradictory to the basic principles that priests and bishops are expected to live by. The research has focused on several possible sources of causality:
- (a) The effects of the traditional seminary formation on character development.
  - (b) The influence of mandatory celibacy and the theological reasons used as a justification for celibacy.
  - (c) The primacy of "the Church" and the bishops' identification with the Church.

### **C. *Seminary formation and clericalism***

196. The seminary experience of priests who have been ordained from the 1950s to the present has been criticized for its effect on the maturation process of prospective priests.<sup>25</sup> Seminaries were isolated and seminarians lived in an all-male environment. The main habits required for survival were obedience, docility and conformity. Creating and maintaining an image of docility and obedience, never questioning or expressing individuality, was essential to survive in the system. Obedience was required because questioning was detrimental to the holiness (or at least appearance of holiness) demanded, as seminarians were taught that the will of the superiors was the will of God.
197. Clericalism was firmly and deeply rooted in the system. Clericalism (derived from the word "cleric"), is an elitist mindset which takes for granted, or believes, that clerics -

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<sup>25</sup> Eugene Kennedy and Victor Heckler, *The Catholic Priest in the United States: Psychological Investigations* (Washington D.C.: National Conference of Catholic Bishops, 1972).

The work of Kennedy and Heckler, although it was completed in 1972, remains one of the most respected assessments of the psychological state of priests. Since then, numerous books have been written but the Catholic bishops have not commissioned another such study.

and in the Catholic context it pertains especially to priests and bishops - are intrinsically superior to other members of the Church (meaning the non-ordained who are mostly lay people), and deserve automatic deference and unquestioned respect.<sup>26</sup> Seminarians were taught all the theology that supported the image of the priest as a representative of Christ. The institutional Church was held up as the kingdom of God on earth; consequently, the absolute importance of the "good of the Church" was deeply engrained from the beginning of seminary training.

198. The seminary system prepared men to accept mandatory celibacy by presenting human sexuality in a negative, pejorative manner, while at the same time holding virginity and chastity as a higher calling than marriage. Intimacy was equated with sexuality and sexual expression, and therefore was a sure path to grave sin. Holiness was equated with obedience and visible signs of piety and not compassion and charity. Absolute loyalty to the clerical fraternity was expected and without it a seminarian would not survive.
199. Survival meant relinquishing a significant amount of "self" to the all-male authority figures who governed every aspect of the Church. Seminaries, like the clerical subculture of which they were an essential part, were closed institutions that conferred an alternative identity and a promise of complete security. The young man sacrificed himself in exchange for membership in the group. Seminarians were rewarded by the assurances that they were part of a subsociety that had all the right answers to life's questions. As a man progressed through the seminary to ordination - and from ordination into the hallowed, mysterious, dimension of the clerical culture occupied by the ordained - more conformity, docility and obedience was demanded.
200. This was the seminary experience of the clerics who have sexually abused minors between the 1950s and the new millennium, and it was also the experience of the bishops. For a period of about 15 years after Vatican Council II ended in 1965,

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<sup>26</sup> There are a number of excellent works that closely examine the Catholic brand of clericalism: Russell Shaw, *To Hunt, To Shoot, To Entertain: Clericalism and the Catholic Laity* (San Francisco: Ignatius Press, 1993); George Wilson, *Clericalism: The Death of Priesthood* (Collegeville: Liturgical Press, 2008); Michael Papesh, *Clerical Culture: Contradiction and Transformation* (Collegeville: Liturgical Press, 2004).

seminary formation experts, which included bishops, made serious efforts to change the structure of seminary training by, among other things, opening it up. Seminarians in many countries attended Catholic universities where they pursued their courses with lay people. The strict quasi-monastic model of seminary life was changed to a model that hopefully would more realistically prepare men for the diocesan priesthood and not life as a monk. There was resistance to these changes from the more conservative and traditionalist quarters among both lay people and clergy, however.

201. Over the past 20 years there has been a very drastic change in seminary formation and discipline in many countries. For example, there has been a fascination with the pre-Vatican II symbolism and vesture. Seminarians now look to Pope John Paul II as their idol. They have returned to a highly clericalized way of life, complete with the traditional clerical garb of cassocks, capes and birettas. The change has included a very miscible movement to return to the pre-Vatican II Latin liturgy, complete with heavily elaborate vestments. Ironically, this expression of the clerical culture was dying or had disappeared before the majority of these young men were born. The most troubling aspect of this "reform of the reform", as it is commonly referred to, has been the return to the clerical ways of thinking, especially regarding the priesthood. Seminarians are being taught that they are indeed ontologically different, sacred persons who are removed from and above lay people because of their powers of the priesthood.
202. The clerical world, which far too many identify as "the Church", presents an image of holiness, but this holiness covers and protects a culture of excessive narcissism. This is unavoidable since the ordained clerics have been taught during their entire formation that upon ordination they will be special, elevated, given immense spiritual powers over people's lives and, above all, will be uniquely joined to Jesus Christ. The culture of narcissism has supported a brand of clerical spirituality that is toxic and has enabled the culture of sexual abuse. This image of the clerical culture has returned with a vengeance in the past two decades and has brought with it a new strain of clerical narcissism that is more insidious than that which preceded it.

**D. *Mandatory celibacy***

203. Mandatory celibacy has had a definite influence on the development of dysfunctional sexuality within the context of the closed clerical world. The strain of misogyny that had been dominant in seminary formation, the clerical subculture, and the ecclesiastical governing system, has been both very subtle yet glaringly obvious. Although many clerics would deny the presence of misogyny, it was in fact very subtly but surely injected into the seminary culture and continued into the clerical culture. By subtly teaching seminarians about the humility of the Virgin Mary, the image of a woman as docile, obedient and supportive of clerics (as Mary supported Jesus) was geared to creating a positive image of celibacy that seminarians would embrace. On the negative side, they were taught to avoid situations where they could be alone with women lest they be tempted or lest the woman tempt them.
204. The mere fact of being celibate does not turn a priest into a sexual predator, nor does accepting the official teaching on sexuality universally lead to emotional and psychological dysfunction. But mandated celibacy can set up barriers around the cleric that he knows will help protect his purity. These are reinforced by the centuries-old belief system that sexuality is completely forbidden and mortally sinful except as between men and women who are married.
205. Sexuality is presented as an aspect of the human person that can be turned off in order to avoid sin. Doing so requires heroic virtue and strength, which in turns feeds the underlying strain of narcissism. Clerical spirituality can become highly self-centered, persuading the priest that spiritual perfection is his most important goal and that perfection is centered around him: perfect obedience, prayer, avoidance of worldly temptations and distance from those not part of the clerical world.

**E. *The primacy of the institutional Church***

206. For the clergy, "the Church" is the center of everything. It is all around and influences and shapes every aspect of life. The Church is God's special enclave on earth and priests and bishops have been entrusted with it, and they are also essential parts of it. The narcissism and self-centeredness are surely not dissipated for those very few

among the priests who are chosen to be bishops. At his episcopal consecration, the new bishop is given a ring which symbolizes that he is wedded to the Church - not to Christ, but to the Church.

207. The celibate clergy may preach and write about the dignity of marriage and the gift of parenthood, but the truth is that they have no real idea what either really means, and certainly have no idea what they demand. The obsession with the power and image of the Church, and the bishop's deeply rooted and vowed obligation to protect the Church at all costs, leaves no room for consideration of the welfare of children and the vulnerable. The clergy, especially the bishops as the official leaders, may proclaim a commitment to children and "the least of my brothers", but this is not translated into action if it in any way threatens the security of the Church and the bishop.
208. In the context of the sexual abuse phenomenon, bishops (including popes) have shown a grievous breach of trust by their failure to protect children and by their shameful treatment of the abused. The animosity of so many in the clerical world towards victims is explained by the fact that the victims are a serious threat to the power and security of the clerical and hierarchical world. Those in the religious life and the clerical world who have risen above the obsession with loyalty to the institution, if indeed this obsession ever took hold, are demonized, criticized, undermined, slandered and regarded as both a danger and as traitors.
209. Barbara Balboni, at the time a member of a religious community, wrote a doctoral dissertation in 1998 titled *Through the "lens" of the organizational culture perspective: A descriptive study of American Catholic bishops' understanding of clergy sexual molestation and abuse of children and adolescents*.<sup>27</sup> Her study involved 20 American bishops. Her findings included the following:
- (a) The bishops viewed sexual abuse as a private moral failing with spiritual solutions.

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<sup>27</sup> Barbara Balboni, September 1998. A dissertation presented for the degree of Doctor of Philosophy, Northeastern University, Boston MA.

- (b) The bishops were highly motivated to prevent scandal - meaning public revelation of clergy sex abuse.
- (c) Immaturity in priests was not a negative but a sign of docility.
- (d) Individual bishops did not want to share the issue of problem priests with other bishops lest they be seen as incapable of dealing with their own problems.
- (e) Bringing the issue up at the bishops' conference would be seen as a sign of weakness.
- (f) The bishops claimed they acted alone in their responses to sexual abuse. However, data proves that two-thirds acted similarly.

210. Dr. Balboni's findings continue to prove accurate in the years since her dissertation was written.

211. A. W. Richard Sipe was deeply immersed in the sexual abuse phenomenon for most of his professional life in one way or another. His extensive study of documentation produced by the Church itself, as well as his own interviews with 2,500 priests, which included diocesan priests and priests who were members of religious institutes, led him to conclude that the bishops as a group placed pressure on individual bishops to remain secretive about abuse and also about their knowledge of widespread sexual activity in clerical ranks.<sup>28</sup>

212. Dr. Clare McGrath-Merkle searched for reasons why the Catholic bishops have failed to protect children, since the failure to protect children has been a main area of concern in the entire sexual abuse phenomenon. Her conclusions include the following:<sup>29</sup>

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<sup>28</sup> A. W. Richard Sipe, *A Secret World: Sexuality and the Search for Celibacy* (New York: Brunner-Mazel, 1990). Sipe presented the results of the ethnographic study to the U.S. bishops who rejected them. This led to his decision to publish them.

<sup>29</sup> Clare McGrath-Merkle, 25 September 2009, "Generativity and the U.S. Roman Catholic Bishops' Responses to Priests' Sexual Abuse of Minors", *Journal of Religion and Health* 49(73-86) 2010, p. 83.

*"These findings point to the idea that both secularization and mandated celibacy have contributed to a clerical environment that does not identify with the needs of children ... Based on this review a case could be made that pre-existing tendencies coupled with prolonged, sheltered, all-male, celibate environments and formation indoctrination have led to deficits in psychological development, moral judgment and leadership capacity on the part of bishops. The lack of identity differentiation and over-identification of priests with each other and the Church are the same traits of bishops that have proven dangerous to children."*

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213. Before leaving this section, I would like to share an aspect of my personal history. I was ordained in 1970 and served as an Air Force chaplain for nearly 20 years. I retired in 2004 and bought a home in northern Virginia. One of my nieces, aged 26 at the time, was planning to live with me while doing an internship in Washington. Another unexpected event happened that had a profound impact on my original living condition and on my life. A young woman, 29 years of age, who was part of a family with whom I had been extremely close for 40 years, had a baby in 2004. The relationship with the baby's father deteriorated and the young woman needed a place to live. Moving in with her mother would have been possible but quite crowded. In a moment of spontaneous emotion at a family dinner, I told her that she and her little boy could stay with me as long as it took her to get her life squared away.
214. Within a week, I had two 20-something young women and a four-month old baby in my home and I was terrified, not of the young women but of the close proximity of a little baby. The closest I had come to babies was baptizing them and that lasted but a few moments, which is the way I wanted to keep it. I vowed to keep my distance and therefore my personal space and equilibrium. As the weeks unfolded, I found I had no choice but to help with some of the tasks involving the baby like shopping or briefly watching him, but nothing "heavy-duty".
215. After a couple months had passed, I was beginning to relax with the whole situation, until one day the mother called me at dawn from her bedroom and almost begged

me to help her. She had been hit by the flu and was totally out of commission. She asked if I could take care of Phineas because she simply could not even stand. At age 60 I had never fed a baby much less changed a diaper. I now was faced with the daunting and terrifying challenge of changing him, feeding him and doing whatever else needed to be done. Babies don't come with "operating manuals" like airplanes or cars, so this was rock-bottom, on-the-job education. I made it through the first major challenge that early morning without doing serious harm to either one of us. As the days went on I had to do what his mother did: feeding him, entertaining him, changing him and so forth. After a week, she started getting better. I felt like I had been through a transformative experience that made Air Force basic training seem like playing in a sandbox by comparison. But something I never expected happened and it was that I bonded with little Phineas and saw him in a radically new light. Feelings I didn't know existed surfaced. The bond only strengthened because what originally was to have been a short-term arrangement ended up lasting 15 years. I learned and realized that the experience filled a void in my life I never knew was there. Additionally, after that fateful week when I had to jump in with both feet, I became convinced, and still am, that every seminarian, priest, bishop and cardinal should be made to live for one week at least with an unmarried mother and share with everything that parenthood entails. I firmly believe that if that were to happen, the Church would change profoundly, and child abuse would quickly be relegated to a dark moment in Church history.

## **VIII. ACCOUNTABILITY IN PRACTICE-WHAT DIDN'T HAPPEN**

### ***A. The preliminary investigation and the default practice***

216. The actual practices of bishops were first discovered as individual victims brought their cases before the civil courts. As described above, the first cases were in the U.S. in the late 1980s. These were followed by civil complaints against dioceses and religious orders in Canada in the late 1980s and the early 1990s, followed by the Republic of Ireland at the end of the 1990s.
217. The first major challenge the victims' attorneys faced was obtaining the accused clerics' personnel files and any other files pertaining to sexual abuse by clerics from



the church institution. Initially the bishops, through their lawyers, claimed these files were privileged in both canon law and civil law and therefore could not be released. This was challenged by the victims' lawyers. The first court challenge (in my memory) was in a Pennsylvania appellate-level court in the early 1990s. The court ruled that the files in question were not privileged. The next major challenge was that brought by the Archdiocese of Boston in November 2001. The lower court ruled against the archdiocese and ordered the release of files to *The Boston Globe* newspaper. The appellate court upheld this lower court in a ruling on December 21, 2001.<sup>30</sup>

218. In the course of acting as a court expert in civil trials in the U.S., the U.K., Canada and Ireland, as well as serving as an expert for several grand juries in the U.S., I have reviewed over a thousand personnel files produced by dioceses in the U.S., Canada, Ireland and England between 1989 and the present. I recall seeing evidence of the use of the proper canonical procedures in six such files from the U.S., one from Canada, and one from Colombia. The personnel files contained documents that were part of a full canonical investigation but the complete files from the investigations and from the canonical trials, if such took place, were not included.
219. The U.S. bishops never started using the canonical processes until after their meeting in Dallas in 2002, which signaled also a greater degree of scrutiny of church practices by the general public and by the Holy See. The vast majority of canonical complaints, including the ones I have studied and those I have not, were not handled according to the required canonical processes. There are no valid excuses for neglecting these processes, especially the preliminary investigation. In numerous documented instances, if the bishop confronted the accused and he denied the allegation, the bishop would believe him and that would be the end of it.
220. The default response was to admonish the priest and then send him to another assignment either in the diocese or in another diocese. When such priests were sent to other assignments in the diocese, the receiving parish pastors were sometimes warned by the bishops and sometimes not. Lay members of a parish were never told

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<sup>30</sup> The Investigative Staff of *The Boston Globe, Betrayal: The Crisis in the Catholic Church* (Boston: Little Brown & Company, 2002): xi. The appellate decision was rendered by Judge Constance Sweeney.

that an accused child molester was serving as one of their parish priests. In a minority of cases, usually those that showed a potential for media exposure or if the bishop found out it was a repeat offender, the cleric was sent away to receive some form of assistance. In the 1940s and into the 1950s, many bishops believed that a retreat would solve the problem, so the priest would be sent off for a week or even a month for retreat and consultation with a spiritual director. The priest would return to the diocese, promise to mend his ways, and return to ministry, usually to offend again.

## 8. *Excuses for not following canon law*

221. Prior to the era when sex abuse victims began to come forward and disclose their abuse (prior to the mid-1980s) there were no lawsuits filed in civil courts against dioceses or religious institutes for negligence or for other crimes related to sexual abuse. Similarly, there were very few criminal cases, and those which are now known received little if any publicity. The criminal cases came about when clerics were caught or were reported to police in districts where the local law enforcement authorities, notably county prosecutors, district attorneys or Crown Attorneys, were not afraid to prosecute Catholic clerics.
222. When questioned by attorneys in civil cases, bishops and religious superiors came up with a variety of reasons why they neglected to act in the appropriate and responsible manner:
- (a) Some have claimed they did not know that sexual abuse of a minor boy or girl was a crime in civil law, canon law or both. Some claimed they did not know that victims of sexual abuse suffered serious harm. One bishop, when asked what he thought about the harm one of his priests had inflicted on about 50 very young boys, said that "*little boys heal*".<sup>31</sup>

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<sup>31</sup> The bishop was Bishop Loras Watters of Winona, Minnesota. The statement was the response to an attorney's question in a deposition in a civil case in which the plaintiff was suing the diocese over the sexual abuse of one of the priests, former Fr. Thomas Adamson. This was the first civil case filed against a diocese based on sexual abuse of a minor by a cleric.

- (b) Some claimed they could not follow the canonical processes because they had no canon lawyers in their diocese who had been trained in the proper use of the penal procedures in the *Code of Canon Law*.
- (c) Some claimed they did not act because canon law was so complicated on the issue that it prevented them from taking action.
- (d) Some claimed they could not report to appropriate civil authorities because the complaint and the issue was covered by pontifical secrecy (a grave obligation of confidentiality).

223. Some of the excuses offered have no validity. Others have some validity and reflect the honest concern of many bishops that both canon law, including rules around secrecy, and the Vatican bureaucracy and Vatican Curia were a major reason for inaction.

224. It is important to provide a brief word about secrecy in the Catholic Church. There are three kinds of secrecy. The first is that which is attached to certain ecclesiastical offices such as vicar general, tribunal judge or diocesan consultor, to name but a few. This is secrecy that is imposed on the office-holder and it pertains to all matters they deal with that are confidential by nature or are declared so by the bishop. Pontifical secrecy is the highest level of secrecy in the Church. In some cases, depending on the matter itself, the violation of pontifical secrecy can result in the penalty of excommunication. Pontifical secrecy must be specifically mentioned in some form of documentation related to the matter to be kept secret. One example would be the deliberations that take place during the election of a pope. Finally, there is the secrecy of the confessional. This is imposed on any cleric who hears confessions. He is bound never under any circumstances or for any reason to reveal what he has heard during a sacramental confession or the identity of the person who came to him for confession. The penalty for violating confessional secrecy is automatic excommunication. (This binds only the priest. The person who made the confession is free to share the information.)

225. The matter of pontifical secrecy has caused a significant amount of discussion over the past 20 years. A number of church sources maintained that bishops were forbidden to report a case because, according to the law in *Crimen Sollicitationis* and the newer legislation from 2001 and 2010, cases of this nature were covered by the pontifical secret and to violate this would result in automatic excommunication. This assertion is true - however the pontifical secret does not apply until a case has been formally opened. Prior to 2003 or 2004, when much more attention was being given to the canon law procedures, the vast majority of bishops never even initiated a canonical case against an accused cleric, so the imposition of the pontifical secret was a non-issue. In fact, a number of bishops had no idea that such cases were covered by the pontifical secret. This information comes from the responses of bishops in civil court proceedings or responses to questions from the secular media. The whole issue became purely academic on December 17, 2019 when Pope Francis issued a decree removing the pontifical secret from all accusations, investigations, trials and decisions involving cases of sexual abuse of minors.<sup>32</sup> In the same decree, he also said that pontifical secrecy of the confidentiality connected to any ecclesiastical office did not apply to fulfilling reporting obligations or the disclosure of files as part of the civil law discovery process.
226. In retrospect, although a number of U.S. bishops said they did not follow the canonical norms for investigation and prosecution of sexual crimes because they had no familiarity with the process and had no canon lawyers trained in using the process, they could have easily sought the assistance of the Canon Law Society of America which could have provided the names of competent canon lawyers. The bishop of Tucson, Arizona faced such problems when he finally realized that he had two very serious serial predators among his priests. Rather than offer excuses, he brought in a very competent canon lawyer, a priest of a religious community who was teaching canon law at the time. He appointed this priest as presiding judge and appointed other priests to serve as judges. In the course of both processes, the bishop and the presiding judge faced serious interference from officials in the Vatican Curia. The

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<sup>32</sup> Rescriptum ex Audientia SS.MI: Rescriptum of the Holy Father Francis to promulgate the Instruction *On the Confidentiality of Legal Proceedings*, 17.12.2019.  
<http://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/12/17/191217b.html>

most serious and outrageous was from the late Cardinal Dario Castrillon Hoyos who was head of the Congregation for the Clergy at the time. He had the audacity to ask the bishop to allow one of the accused priests to retire with full retirement benefits and cancel the trial, knowing that the priest had been accused in multiple acts of serious abuse against young boys.<sup>33</sup>

227. Another solution would have been for the bishops to instruct the canon lawyers in their dioceses to acquaint themselves with the penal processes and prepare to use them. Any priest with a doctorate in canon law would have studied the sections in the *Code* on "Crimes and Penalties" and the section on procedures.
228. For many years, however, bishops simply transferred priests quietly but other than that did nothing. Some were sent to receive treatment, but when treatment reports strongly advised that certain priests be removed from ministry, some bishops either ignored this advice or asked the therapy center to have the reports re-written without mention of the dangers posed to children. Dr. Leslie Lothstein, a psychologist at the Institute for Living in Hartford, Connecticut, publicly stated in 2002 that bishops frequently ignored the doctors' recommendations or asked that they be re-written. Another complaint he made was that when bishops sent priests to him for treatment, they often would not disclose the real reason, namely accusations of sexual abuse. Instead, they would give other non-related reasons such as depression or substance abuse.<sup>34</sup>
229. Actually, bishops had several alternatives if a priest was reported to have abused a child. Since sexual abuse is clearly a canonical crime, suspension, removal from a ministry assignment, removal of faculties or reassignment to a position where there were no children are possibilities. All are less than adequate in themselves. If a bishop actually initiated a canonical process, he was justified in removing the accused

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<sup>33</sup> The four letters that illustrate Cardinal Castrillon Hoyos' attempt to interfere with the process date from 1996 and 1997. Because of their importance, they are included as **Appendices 4 to 7** of this submission.

<sup>34</sup> E. Rich and E. Hamilton, "Hartford Institute of Living Doctors Say the Church Used Them to Keep Abusive Priests on the Job", *The Hartford Courant*, 24 March 2002. <https://www.courant.com/hc-egan-0324-story.html>

priest from his assignment and changing his residence until the canonical process was finalized. The problem, however, is that this was very rarely done.

230. Perhaps the most serious problem during this period was the failure of bishops to take decisive action. There are countless case files that show that bishops received numerous warnings yet did nothing. Even after some priests were sent for treatment, they were more often than not returned to ministry. If they reoffended and were caught, the bishops often claimed they were only acting on the psychiatrists' advice in an effort to avoid responsibility for their lack of action. This excuse was even used by Pope John Paul II in his address to the U.S. cardinals on April 23, 2002 at the Vatican in efforts to avoid facing accountability for their lack of action. Part of the problem with that excuse is that it bypasses the other reality: the priest had committed a serious canonical crime and this was being ignored.

### **C. Canonical revisions in 2001 and 2010**

231. On April 30, 2001 Pope John Paul II issued a letter titled *Sacramentorum Sanctitatis Tutela*.<sup>35</sup> This letter accompanied a set of procedural norms revised by the Congregation for the Doctrine of the Faith and signed by Cardinal Ratzinger. (Supporters of John Paul II who claim he did a great deal to help victims point to this letter and the revised norms.)
232. These new norms made a difference in the process of reporting cases to the Holy See, which previously had rarely been done. The problem is that these newly revised norms, while they somewhat streamlined the canonical process, had a very minor impact on the overall problem because they pertained only to canonical processes - yet sexual abuse by clergy is complex and multi-faceted. A good way to describe the new norms is that they were a software solution to a hardware problem.
233. The major changes in the 2001 document were as follows:

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<sup>35</sup> Apostolic Letter issued Motu Proprio, *Sacramentorum Sanctitatis Tutela*, of the Supreme Pontiff John Paul II, by which are promulgated norms on more grave delicts reserved to the Congregation for the Doctrine of the Faith, 30 April 2001.

- (a) The document formally announced that these norms replaced *Crimen Sollicitationis*, which had been in force until then but rarely used.
- (b) It raised the age of minority from 16 to 18 years, meaning minority ends when one reaches the age of 18.
- (c) It established a prescription (Statute of Limitations) of 10 years, which begins to run when the minor reaches the age of 18 years.
- (d) The Congregation for the Doctrine of the Faith (CDF) could dispense from the requirement that officials in a trial must be priests.
- (e) The bishop was to send the completed preliminary investigation to the CDF, which would then tell him how to proceed.
- (f) If a case was sent without a preliminary investigation, the CDF would carry out the investigation.
- (g) Once a case was finished on the local level, the entire file (the Acts of the Case) was to be transmitted to the CDF.
- (h) All cases covered by these procedures were covered by the pontifical secret. Unlike the above norms, this was not new but a repetition of the previous law.

234. In May 2010, the CDF, on orders from Pope Benedict XVI, issued an official decree that consisted of a revision of the 2001 norms. The decree was accompanied by five other documents,<sup>36</sup> two of which appeared in July 2010. These were all signed by Cardinal Levada, the Prefect of the CDF. All of the documents are listed below although the actual titles differ slightly from these descriptive titles:

- (a) A guide to understanding the basic CDF procedures.

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<sup>36</sup> The names and content of all documents that are related to the 2010 changes published by the CDF can be found on the Vatican website at the indicated page of the Congregation for the Doctrine of the Faith, under the heading: "Documents - Complete List". Documents are listed according to the date in a descending order with the most recent at the top.

- (b) An introductory letter to the modifications, addressed to the bishops.
- (c) A brief introduction to the modifications.
- (d) An historical introduction to the norms of 2001.
- (e) The texts of the revisions.
- (f) A letter from Levada introducing the guidelines (May 3, 2011).
- (g) A letter from Levada to assist the bishops (May 3, 2011).

235. The important changes from the 2001 norms in the 2010 norms are:

- (a) The CDF has the right to judge cardinals, patriarchs, papal legates,<sup>37</sup> bishops and others mentioned in canon 1405 (any ecclesiastical persons who do not have a superior below the pope).
- (b) The Statute of Limitations was extended to 20 years. The CDF offered the possibility of a derogation (an exemption) from the 20-year limit on a case-by-case basis.
- (c) The CDF could authorize dispensing from a formal trial in certain cases and proceeding to an administrative judgment and imposition of a penalty.
- (d) As far as the crime of sexual abuse is concerned, a person over 18 who is developmentally disabled is considered to be canonically equal to a minor.

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<sup>37</sup> A "papal legate" is the generic term for an ambassador of the pope. There are permanent legates called papal nuncios who are ambassadors to nations. There are also temporary legates named by the pope for a specific occasion at which the legate represents the pope. All permanent legates are archbishops. Temporary legates are either archbishops or cardinals, depending on the importance of the event or occasion. There are also permanent legates in countries that do not have diplomatic relations with the Holy See. They are called apostolic delegates and act as representatives of the pope to the Catholic bishops in the country and can also be named as the pope's personal representative to the head of state of the country.



- (e) The acquisition, possession or distribution of pornographic images of persons under 14 is included as a canonical crime.

236. There is no mention of the obligation of pontifical secrecy and consequently this obligation remained in place.
237. The revisions of both 2001 and 2010 had an impact on the canonical resolution of cases but, in general, they did not have a significant impact on the overall issue. The norms pertained only to the canonical processing of individual cases of priests who violate minors. This, in the minds of the pope and the officials in the Vatican Curia, was probably a great step forward, but it did little if anything to actually promote the healing of victims. The mandate of sending every case to the Holy See in the 2001 norms enabled the Holy See to get a better idea as to the extent of the problem, but this would certainly not provide anything close to an accurate idea as to how widespread sexual abuse by clerics is, nor would it provide an accurate view as to how bishops are actually handling individual cases.

#### ***D. The accountability of bishops***

##### 1. The basis for concern

238. When the U.S. bishops promulgated the "Essential Norms" in 2002 (see above, **paragraph 65**), one of the first criticisms was its limited scope. It pertained only to diocesan priests and not to priests in religious communities. Further, it did not apply to non-ordained religious such as teaching brothers, and it did not apply to bishops. By 2002, a number of bishops themselves had been accused of either sexual abuse of a minor or an adult. By 2021, the number of bishops accused worldwide had reached 147, most of whom were from the United States.<sup>38</sup>
239. The 2010 norms gave the CDF the authority to judge cardinals, papal legates and all bishops accused of sexual abuse. This meant that the CDF did not have to get special

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<sup>38</sup> The most up-to-date list is found on the website [www.bishop-accountability.org](http://www.bishop-accountability.org). Names are not included unless they are verified by reputable media sources, official statements from dioceses or from some other official church source.

permission from the pope to judge the cases of clerics in these positions, which had formerly been reserved to the pope.

240. However, there was no realistic process for investigating and adjudicating cases of bishops or higher who had been accused of sexual abuse. Equally - or more importantly, in the estimation of victim/survivors - none of the legislation paid any attention to bishops who had covered up about known perpetrators, lied about them (including committing perjury in civil judicial hearings or trials), or re-assigned known perpetrators.
241. Another, separate problem with the bishops is that they alone have the authority to decide if a report or accusation is credible. This has caused wide discrepancies in whether certain clerics are publicly listed by dioceses as having been credibly accused or not. Aligned to this problem is the lack of any uniform criteria in canon law or elsewhere with which to determine what "credibly accused" means.
242. Fundamental to the issue of the meaning of "credibly accused" and decisions by bishops as to whether accusations are supported or not, is the fact that the dioceses and religious communities conduct internal investigations and issue decisions about whether an accusation is supported or not. These investigations are sometimes carried out by out-sourced professionals such as retired law enforcement personnel. Sometimes they are assigned to church-retained attorneys, and sometimes they are conducted by unnamed clerics. The problem, and it is a very serious one, is the lack of obvious objectivity and the lack of uniform processes. The investigations are carried out by the same institution that produced the perpetrators and enabled them to abuse. The credibility of bishops and church personnel has been low for three decades and it continues to sink, so the credibility of internal investigations is an issue. Another problem is the question mark over their true motivation. Is it to arrive at the truth or is it an attempt to somehow regain a bit of their lost credibility?

## 2. Areas of accountability

243. The accountability of the bishops can be separated into seven areas that are related to the sexual abuse phenomenon:

- (a) Bishops who themselves have sexually abused. Bishops have been accused of sexual abuse in the U.S., Canada, Chile, Peru, Australia, Guam, Austria, Scotland, Italy, Argentina, Uruguay, Ireland, South Africa, France, Germany, Mexico, Poland, India, Brazil, Paraguay, Norway, Holland, the Philippines, and Liberia.
- (b) Bishops who have enabled clerics who sexually abused.
- (c) Bishops who have either re-assigned credibly accused clerics or allowed them to remain in active ministry.
- (d) Bishops who have allowed credibly accused priests to move to other dioceses or even other countries with the approval of the receiving bishop.
- (e) Bishops who hired attorneys to defeat victims at any cost (noting that the fees that bishops have paid out to attorneys in U.S. have now exceeded \$US 643,000,000.00. This sum does not include fees paid to attorneys by religious inst it ut es.)<sup>39</sup>
- (f) Bishops who have opposed any change in civil legislation that would protect all victims, and not just Catholic victims. Between 2011 and 2019, the Catholic bishops in the U.S. spent \$US 10,600,000.00 to fight proposed legislative changes in nine states. This sum does not include the amounts spent opposing similar legislation in at least eight states prior to 2011.<sup>40</sup>
- (g) Bishops who have lied to victims and to the public, and especially bishops who have lied under oath in legal proceedings.

244. As noted above (see **paragraph 238**), in 2002 when the United States Conference of Catholic Bishops (USCCB) approved the *Charter for the Protection of Children and*

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<sup>39</sup> This amount is the total of amounts reported in an annual report published by the U.S. Catholic Conference of Bishops. The reporting period is from 2004 to 2019. There are no official amounts for the years between 1986 and 2003 nor for 2020.

<sup>40</sup> Christina Capatides, "Catholic Church spent \$10.6 million to lobby against legislation that would benefit victims of child sex abuse", June 6, 2019, CBS News. The story cites a report, *Church Influencing State: How the Catholic Church Spent Millions against Survivors of Clergy Abuse*, published by Williams Cedar LLC in 2019.

*Young People* and the "Essential Norms", they intentionally omitted members of religious orders from those subject to the norms, and they also omitted bishops. The norms as they proposed them applied only to diocesan priests. The reasons were valid: religious superiors are not part of the USCCB. They also could not include bishops because at that time canon law stipulated that only the pope could judge bishops in penal cases (any sex abuse accusation is a penal case).

245. After the *Charter* was passed, the Conference of Major Superiors of Men agreed to subject the members of religious institutes to the *Charter* and "Essential Norms", and the bishops announced that they would subject accused members of the hierarchy to "fraternal correction".
246. The bishops' proposal was a farce because there was no assurance of objectivity. It is not known how many times they used "fraternal correction", or who was corrected. In fact, they never even defined what constituted "fraternal correction" since it does not appear in canon law and nor is it an official procedure found in any other church source. They made a public statement about one bishop whom they claim was subjected to fraternal correction and was exonerated. The same bishop was later confirmed by a civilian investigation to have committed the abuse of which he was accused.

***E. Papal legislation directed at accountability of bishops***

1. Pope John Paul II, Pope Benedict XVI and accountability

247. Pope Francis is the first of the popes in our era to take positive steps to hold bishops accountable.
248. Several bishops were accused of sexual abuse while John Paul II and Benedict XVI were in office. Additionally, a cardinal was accused during the papacy of John Paul II. The bishops who were accused were not subjected to any form of canonical investigation or penal process. They were allowed to resign and were not officially removed. After resignation, they were given all the benefits afforded to a retired bishop in canon law. The cardinal was Cardinal Hans Groer, Archbishop of Vienna. He was accused of molesting several boys when he was working at a Benedictine boys'

school prior to becoming a bishop. Although John Paul II accepted his resignation, he continued to support him.

249. Pope Benedict XVI was much more proactive regarding accused bishops. Not long after he was elected, he ordered Marcial Maciel Degollado, the priest-founder of the Legion of Christ, to lead a life of solitude and prayer. Maciel, though not a bishop, had been the subject of worldwide publicity for sexually abusing seminarians. He had been protected by Pope John Paul II.
250. Pope Benedict XVI was also the first pope in two centuries to laicize a bishop. He laicized the former bishop of Antigonish, Nova Scotia, for possession of child pornography,<sup>41</sup> and he laicized Fernando Lugo, former president of Paraguay, reportedly for sexual abuse of minor girls.<sup>42</sup>

2 . Apostolic letter *As a Loving Mother*. 2016

251. On June 4, 2016 Pope Francis issued an apostolic letter, *As a Loving Mother*.<sup>43</sup> The subject of this letter is the accountability of bishops. In sum, it says that bishops can be removed or forced to resign for negligence in office that caused grave harm to others. In other words, bishops can be removed for failure to act appropriately and allowing cleric-abusers to continue in ministry. The terms of the letter also apply to superiors of religious orders of men. The document states that accusations and proofs will be examined by the "competent Congregation of the Roman Curia", which would be either the CDF or the Congregation for Bishops in most cases. The document is not clear on this point, nor does it provide any specific guidance on conducting an investigation at the diocesan level. The competent congregation examines the proofs and makes a decision on culpability and penalty. The pope must approve the final decision and penalty.

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<sup>41</sup> See: "Statement on the Laicisation of Raymond Lahey", by the Archbishop of St John's. <https://res.i.org/wp-content/uploads/2017/09/Laicization-of-Raymond-Lahey.pdf>

<sup>42</sup> The Vatican did not reveal any details about his laicization, but several news reports claim he had at least two and possibly more children and one was by a young woman who was 16 at the time. Cf. *UPI*, 23 April 2009, *Sydney Morning Herald*, 24 June 2009 and *The Guardian*, 14 April 2009.

<sup>43</sup> Apostolic Letter issued Motu Proprio by the Supreme Pontiff Francis, *As a Loving Mother*, 4 June 2016. [http://www.vatican.va/content/francesco/en/apost\\_letters/documents/papa-francesco-lettera-ap-20160604-come-una-madre-amorevole.html](http://www.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco-lettera-ap-20160604-come-una-madre-amorevole.html)

252. The primary value of this apostolic letter is that it gave official papal recognition of the fact that bishops, through their negligence, had caused harm to others. Although a relatively small number of bishops have been accused of abuse themselves, most abuse committed by bishops was and is, in a sense, indirect in that their negligent actions and cover-up of accused clerics enabled further abuse.
253. Prior to the USCCB meeting in Dallas, 2002, at which the sole topic was to be sexual abuse by clerics, the *The Dallas Morning News* published a special issue the day the meeting started. It reported an in-depth investigation carried out by the newspaper that listed the U.S. bishops who had been confirmed to have been negligent, which amounted to about two-thirds of the total number of diocesan bishops. There was no known discussion about this at the meeting and although the media gave the issue wide coverage, nothing happened on the part of the bishops or the Holy See in regard to bishops who had intentionally ignored the mandated preliminary investigation and protected accused clerics. Most of the meeting sessions were closed to outsiders.

### 3. Apostolic letter *Vos Estis Lux Mundi*, 2019

254. As noted above (see **paragraph 179**), on May 7, 2019 Pope Francis issued another apostolic letter, *Vos Estis Lux Mundi*.<sup>44</sup> This document provided more concrete detail for reporting sexual abuse by clerics, bishops or superiors of religious orders. The main points were as follows :
- (a) Every diocese must have a public, stable and easily accessible system of submitting reports of sexual abuse within one year from the date of the document's publication, which will be June 1, 2020 .
  - (b) Presuming a report will find its way to a bishop, the bishop is to send the report to the bishop of the place where the acts took place and to the bishop or major superior of the accused person (if other than the bishop himself).

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<sup>44</sup> Apostolic Letter issued Motu Proprio by the Supreme Pontiff Francis, *Vos Estis Lux Mundi*, 7 May 2019. [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20190507\\_vos-estis-lux-mundi.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html)

- (c) This document makes it a canonical crime for a bishop to interfere with or attempt to avoid civil or canonical investigations against a religious or cleric.
- (d) If a cleric or non-ordained member of a religious institute has information about a possible act of abuse, he is obligated to make a report to the local bishop where the events occurred. (This is important because the obligation to report found in canon law is both unclear and little known. This makes reporting a canonical obligation.)
- (e) Making a report does not violate confidentiality attached to an ecclesiastical office in any way, with the exception of confessional secrecy.
- (f) Any form of retaliation, prejudice or discrimination against a person who had submitted a report is considered to be interference with a canonical or civil investigation and is itself a canonical crime.
- (g) Those who have been harmed and their families are to be treated with dignity and respect and offered spiritual, medical or psychological help as required.
- (h) The section on bishops includes those in office and those no longer in office.
- (i) A report of sexual abuse or negligence by a bishop is submitted to the Holy See and to the archbishop of the ecclesiastical province where the person making the report lives.<sup>45</sup>
- (j) If the report concerns an accusation against an archbishop or papal legate, it is sent to the Holy See directly.
- (k) The archbishop who receives the report must ask the Holy See for a mandate to conduct an investigation.

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<sup>45</sup> The official document uses the term "metropolitan archbishop" because the word "metropolitan" distinguishes the archbishop of an archdiocese and an ecclesiastical province from archbishops who have the title "archbishop" but hold an office in the Church other than head of an archdiocese. It also distinguishes from retired archbishops. For the sake of simplicity, I have decided to only use the term "archbishop".

- (l) The investigation is to be completed within 90 days or a term specified in the mandate sent to the archbishop.
- (m) Once the investigation is complete, the Acts (canonical language for the complete documentation) are sent to the Holy See along with the *Votum* (or opinion) of the archbishop. The Holy See then makes the final recommendation to the pope.
- (n) The reporting laws of the local civil jurisdiction must be followed.

#### 4. Effect of papal legislation

255. The commentators on *Vos Estis Lux Mundi* have both praised it and criticized it. The negative observations include the appointment of the archbishop as the one in charge of the investigation of the bishop. The basis of concern should be obvious: conflict of interest and serious threat to objectivity. Also, the archbishop has the power to reject the report if he considers it unfounded - but in doing so, he does not have the power to terminate the process. He reports his opinion to the papal ambassador (papal nuncio). The norms do not say what the papal ambassador is supposed to do, but given the nature of his office, presumably he is to report it to the Holy See. Also, the archbishop has the option of involving qualified outside experts but is not obligated to do so. Consequently, a report of either misconduct or negligence by a bishop can conceivably be carried out from inside the hierarchical system, which significantly reduces the credibility of the process and the chances of an objective decision.
256. Four dioceses in the U.S. have announced that there have been reports made against their bishops, all of whom have temporarily stepped aside while the investigation is ongoing. The four are the bishops of Brooklyn, New York; Dodge City, Kansas; San Jose, California; and Crookston, Minnesota. The bishops of Brooklyn and Dodge City have been accused of sexual abuse of a minor and the other two of negligence and interfering with an investigation.
257. The overall effect of church (papal) legislation concerning the obligation to report and the investigation of reports remains open to question. Both *As a Loving Mother* and



*Vos Estis Lex Mundi* have been met with skepticism by victims, their supporters and many lay persons in general. The basic criticism is that the Church continues to insist on conducting its own internal investigations.

## PART TWO: THE SYSTEMIC PROBLEM

258. In Part Two, I explore in more detail the systemic nature of the problem of Catholic clergy sexual abuse and its impact on victims and survivors.

### I. WHAT DOES THE "SYSTEMIC PROBLEM" MEAN?

#### A. *The two dimensions of sexual abuse in the Catholic Church*

##### 1. The actual physical violation

259. Sexual abuse involves an act or acts of physical violation. The act of sexual violation by a cleric or non-ordained religious man or woman is not an isolated act perpetrated by a disturbed individual whose pathology is unique to him (or her) and completely distinct from the ecclesiastical institution to which he or she belongs, however. When this issue first became public news in the late 1980s, many in the hierarchy claimed, with absolutely no credible basis, that these isolated acts by clerics or religious were acts of a very small minority of the whole and likened them to a few "*bad apples in the barrel*". Since then, we have learned that these acts are not isolated with no connection in any way to the institutional Church. The analogy of the few bad apples is irrelevant because it is inapplicable to this phenomenon. The root problem is the "barrel".

##### 2. The influence of the ecclesiastical world

260. As described in Part One, the official church teaching is that the visible institutional Church, which is a hierarchical governmental system, is one and the same with the spiritual reality known as the "People of God".<sup>46</sup> The People of God was introduced at Vatican Council II (1962-1965) as a description of the Church or the whole body of the

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<sup>46</sup> Canon 204 of the *Code of Canon Law*, 1983 revised version.

faithful who have an anointing that comes from God. Membership or participation is based on baptism, a sacrament received by all, lay and cleric alike.<sup>47</sup>

261. At the heart of the toxic systemic problem is a fundamental structural opposition between the concept of Church in its spiritual expression and in its hierarchical system: membership in the Body of Christ is based on baptism and not office or function. While there are different "gifts", the members share a fundamental equality. As discussed in Part One, membership in the hierarchical institution is not based on fundamental equality, however, but on a stratified structure that the official Church maintains is willed by God. This tiered society consists of two levels. The first level comprises the vast majority, the lay people (or laity), who, in spite of all the rhetoric that has been produced since Vatican Council II, remain in a subordinate position. The second level is the clerical state which is a world and subculture that is quite distinct from the Catholic culture in which the laity live.

#### **8. *Membership in the clerical world***

262. The clerical state is populated only by those males who are ordained: deacons, priests, bishops. Although the Church permits permanent deacons to be married, they are actually on the far outer fringes of the clerical culture. In actual lived practice, the clerical culture is made up of celibate males, some of whom have illicitly fathered children, some who have been true parents and have become priests after their spouses died, and a very small number of married Anglican priests, most of whom are married with families, who have been accepted into the Catholic Church, re-ordained, and are fully functioning priests. There are also the priests of the Eastern Rites for whom marriage is an option and many of whom are married. But the vast majority of the 440,000 priests in the world are officially celibate and have probably never experienced first-hand what parenthood means.

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<sup>47</sup> "Dogmatic Constitution on the Church", Lumen Gentium, November 21, 1964 in Austin Flannery, Editor, *Vatican Council II: The Conciliar and Post Conciliar Documents* (Northport NY: Costello Publishing Co., 1975): Chap II, p. 359.

**C. *Power in the clerical world***

263. The hierarchical system is based on a power structure that invests all power in individuals who hold specific offices. The two fundamental offices are the papacy and the episcopacy. The power vested in bishops is actually vested in bishops who head dioceses, and not in auxiliary bishops or retired bishops. All power and influence are vested in those who are in Holy Orders. In other words, the power and influence in the institutional Church is actually not in the lay people but in the clergy. Hence, the institutional Church is often identified with the clerical subculture, and such an identification is not inaccurate.

**II. WHAT IS THE "ECCLESIASTICAL SYSTEM"?**

**A. *The institutional Church - an end or a means to an end?***

264. As described above, the "ecclesiastical system" in the narrow or functional sense is the governmental system, which is hierarchical in nature and monarchical in practice. Although the concept is roundly denied by clerics, the fact is that this system has created an aristocracy within the clergy with three levels: priests, bishops and cardinals. In real life, the system - devoid of the clerical rhetoric and convoluted theological explanations and justifications - is made up of monarchical leadership, the mystique of the ordained priesthood, the Church's doctrine on human sexuality, the actual clerical subculture, and clericalism - a complex mixture that permeates the entire Church, including lay people.

265. The ecclesiastical system is justified by a selection of interconnected theological doctrines that are part of the body of teachings that Catholics are expected to believe. These doctrines include the divine origin of the hierarchical governmental model and its immutability, the locus of power in those who are ordained, clerical mandated celibacy (which is unofficially believed by many to be an essential element of priesthood and willed by God based on the belief that Jesus was never married), the belief that priests are different in essence (that is, in the core of their being, rather than in function) and the divine origin of the clerical state.

266. The ecclesiastical system is capable of accomplishing much good in a vast number of areas. Although the elements that make it up are not essential to fulfill the mission and will of Christ, they do, if they are in the right hands, facilitate the goodness that should be the essence of the Christian way of life. Nevertheless, the goodness for which members of the Body of Christ are responsible is not grounded in the hierarchical system but in the essence of Christianity. The pervasive hope is always that the ecclesiastical system and the clerical culture will work toward the ultimate Goal of Christ, best summarized by his words "Love one another", and the lesser goals that arise whenever there is true need. None of this, however, can justify the systemic violation of the most vulnerable members of the People of God by sexual abuse perpetrated by clerics or non-ordained religious, nor can it possibly justify the systemic enabling of this evil in any degree.

267. The visible institutional Church - the hierarchical governmental model - is not an end in itself but a means to the end, which is the living out of the ideals of the Christian message in this life. This message is best summarized by the mandate that Christians love one another without any prejudice arising from race, gender, or rank.

## **8. *Threats to the institution***

268. The uncovering of worldwide sexual abuse by Catholic clerics and religious has posed a serious threat to the institutional Church, the ecclesiastical system and the clerical class from the time it became publicly known in the 1980s. The major stakeholders in the institution, the hierarchy, committed themselves to protecting the system from additional damage. They did this instead of responding to the revelations that children and minors had been sexually abused - instead of providing compassionate outreach and committing to help the victims heal while at the same time working to understand the phenomenon and make the changes needed to bring it to a halt.

269. In spite of the countless promises of concern for the victims, and the creation of administrative procedures and protocols to respond to victims and prevent even more sexual abuse, the priority remains the image and security of the system. The Church's vast expenditures on legal fees to defend its structures (such as dioceses and religious institutes) from the demands of victims for justified compensation is clear

evidence that it seeks to promote the institutional Church rather than help the victims. The hierarchy repeatedly assure victims of their support and their commitment to end or at least control the scourge of abuse, but the unspoken qualification is that it must be done their way. (For example, the legislatures of the States of New York and California passed legislation that would benefit all victims of sexual abuse by changing the Statutes of Limitation. In spite of highly expensive opposition by the bishops in each State, the legislation passed. Nevertheless, the Diocese of Rockville Center in New York challenged the constitutionality of the Child Victims Act, as the legislation was called, in an attempt to have it revoked by the courts. They were unsuccessful.<sup>48</sup> Now, the bishops of the State of California are mounting a similar challenge to the constitutionality of the similar legislation in that Stat e.)<sup>49</sup>

270. The institutional Church has faced widespread violations of mandatory clerical celibacy in the past. The challenges came not only from the sexual abuse of children but concubinage and clerical marriage. Clerical marriage became a threat in the medieval period when bishops began to take a very negative approach to married diocesan priests, which were common until the marriage of priests was prohibited for the entire Church at the First Lateran Council in 1123, and repeated at the Second Lateran Council in 1139 and at the Third Lateran Council in 1179. The Council of Trent (1545-1563), rather than just prohibiting clerical marriages, declared that a marriage by a cleric was invalid. so Every challenge to clerical celibacy in the past has been countered by the efforts of the popes and the bishops. The institutional Church, through its hierarchical leadership, was attempting to fix itself.

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<sup>48</sup> See : <https://www.catholicnewsagency.com/news/ny-judge-upholds-child-victims-act-after-challenge-by-rockville-centre-diocese-63593>

<sup>49</sup> "California bishops challenge state's extension of statute of limitations for abuse", *Catholic News Agency*, February 1, 2021.

<sup>50</sup> Lateran Council I, canon 21; Lateran Council II, canons 6, 7, 21; Lateran Council III, canon 11; Council of Trent, Session XXIV, canon 9. All references to the Lateran Councils are found in H.J. Schroeder, Editor and Translator, *Disciplinary Decrees of the General Councils* (St. Louis: B. Herder Book Co, 1937): pp. 192, 200, 208, 224. The reference from Trent is found in H. J. Schroeder, Editor and Translator, *Canons and Decrees of the Council of Trent* (St. Louis: B. Herder Book Co, 1941): p. 182.

271. In our own era, the most threatening challenge to the worldwide Church has been the revelation of widespread sexual violation by clerics and religious - not only in past years but in the present as well. This time, however, the force for change is being driven by the victims, their families, their supporters and those sympathetic to their cause. This poses an even greater threat to the system than the discovery of the abuse itself because the victims are focusing on the systemic causality and are demanding justice and change.
272. There is scant evidence from the medieval period into the 20th century that the leadership of the Church either engaged in any serious and objective research or encouraged others to do so into why there had been widespread opposition to mandatory celibacy, why there had been widespread violations of celibacy, or why the various attempts at disciplinary solutions through the centuries were never successful on a long-term basis. On the contrary, through the centuries theologians, including priests and bishops, who questioned the value of mandatory celibacy and provided scholarly research to support their opinions, have been regularly criticized and even condemned by the Church's leadership.

**C. Secrecy**

273. Secrecy is both a cultural and canonical reality that has had, and continues to have, a very serious impact on the possibility of dealing with clergy sex abuse in a responsible and effective manner. An element of secrecy is common and even necessary for most institutions. However, secrecy becomes counter-productive and self-destructive for the institution when it hides wrongdoing by members. Such secrecy becomes increasingly more destructive when the wrongdoing is perpetrated by people in leadership roles. In the Catholic Church, the higher up the chain of command the problematic behavior goes, the thicker the layer of secrecy. The clerical world, the enclave of clerics, is enshrouded with secrecy, much of which is grounded in paranoia. The higher up the ladder the cleric ascends, the greater the dependence on secrecy.
274. Traditionally, reports of any improper behavior by priests were always covered in deep secrecy. If a bishop was informed of sexual abuse the informant was enjoined to secrecy by any means necessary, including threats. Cases were always handled

directly by the bishop and one or two of his most trusted advisors. If a priest was quietly transferred to another parish, in most cases the receiving parish priest (pastor) would not be told the real reason for the transfer. Reports of sexual abuse stopped with the bishop. They were not reported to the Holy See unless word of the incident had somehow reached the Vatican. In such cases, the bishop was generally contacted by the Holy See through the papal ambassador (the papal nuncio) and asked to explain the report. Reports to child protective services or to law enforcement were never made. The enveloping secrecy was justified by the absolute need to avoid scandal.

275. In the authentic theological sense, "scandal" means saying or doing something that would lead another into sin. Generally, "scandal" in the context of clergy sexual abuse does not have such a theological meaning. What it really means is any unfavorable information that would in any way tarnish the image of the episcopacy, the priesthood and the institutional Church and the related need to avoid publicity about the subject of this information. Judging by the general reaction to the bishops' collective handling of reports of sexual abuse over the past three decades it is safe to say that the true cause of scandal has not been the public awareness of sexual abuse as much as it has been the cover-up. The systemic attempts to avoid scandal have themselves been the source of scandal.
276. Sexual abuse by clerics has always been protected by secrecy, both canonical or official, and cultural. It is impossible to determine how many cases of sexual abuse were hidden by the culture of secrecy and how many were protected by the bishops' adherence to canonical secrecy. The main issue here is not simply the public revelation of cases of sexual abuse but reporting to civil authorities. As I mentioned previously, the revelations of the cover-up of cases of sexual abuse by the Archbishop of Boston, vividly exposed in a series of articles in *The Boston Globe* in 2002, caused an unexpected reaction of massive proportions in the United States. This was a major, changing "moment" in the unfolding sexual abuse crisis with reverberations not only in the U.S. but worldwide. Every aspect of the way the Church's leadership handled reports of sexual abuse was called into question and high on that list was the issue of reporting to child protective services and law enforcement. Prior to that



time, most bishops in the U.S. and elsewhere did not believe they were under any canonical, legal or moral obligation to report. The courts have thought otherwise.

277. Bishop Pierre Pican, former bishop of Bayeux in France, was convicted in September of 2001 and sentenced to three months in jail (suspended) for failing to report one of his priests, Rene Bissey, for the rape of a 14-year-old boy for which he was sentenced to 18 years in prison. To make matters worse, Cardinal Dario Castrillon Hoyos, at the time Prefect of the Vatican Congregation for the Clergy, wrote a letter to Bishop Pican congratulating him for *"not having spoken out to civil authorities against a priest"*.<sup>51</sup> The letter became public. In response to criticism, Fr. Federico Lombardi, the Vatican spokesman, said it showed how important it is to centralize handling of Catholic sex abuse cases by clerics under the Congregation for the Doctrine of the Faith (a response that made no sense).<sup>52</sup>
278. In the U.S., Bishop Robert Finn of Kansas City-St. Joseph, Missouri, was convicted of the criminal misdemeanor of intentionally failing to report one of his priests, Fr. Shawn Ratigan, for production, distribution and possession of child pornography. Ratigan went to prison for 60 years, and Finn, who claimed child pornography was not child abuse, was placed on probation and made to report to a probation officer once a month. His defense cost the people of the diocese \$US 1.4 million.<sup>53</sup> In 2014, a judge imposed a \$US 1 million dollar fine on the diocese because Bishop Finn's lawyers failed to abide by the non-monetary terms of a 2008 settlement.<sup>54</sup> The Vatican then conducted a special investigation to determine if there were reasons to ask for his resignation - as if his conviction and the multiple judgments against the diocese were not enough. He was asked to resign on April 22, 2015.
279. Some people believed that they were forbidden by canon law to report, and some believed that they were above the obligation to report because the accused were

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<sup>51</sup> "Cardinal praised bishop's silence over abuse priest", BBC News, April 16, 2010.

<sup>52</sup> Tom Heneghan, "Cardinal hailed bishop for hiding predator priest: report", Reuters, April 16, 2010.

<sup>53</sup> Judy Thomas, "Bishop's conviction could compound legal problems for Kansas City Diocese", *Kansas City Star*, October 5, 2012.

<sup>54</sup> July 2, 2014, *Kansas City Star*.

clerics. Some of the confusion on the part of bishops was genuine and some was simply an excuse for their inaction.

280. The whole secrecy issue was rendered moot by Pope Francis with an instruction issued on December 17, 2019.<sup>55</sup> Simply put, the pope decreed that the pontifical secret, which had protected the documentation from being disclosed in civil court proceedings and also provided clerics with a ready excuse for refusing to answer questions, no longer covered any documentation pertaining to processes involving clergy sexual abuse. The same instruction also stated that confidentiality can no longer be used as an excuse for refusing to turn over documents when they are legitimately requested, nor can it be used as an excuse for not fulfilling reporting obligations.

#### **D. Mental reservation**

281. Unfortunately, it has been well established over the past few years that bishops and others in various governmental offices in the Church intentionally lied to the media, other clergy, the laity, the Holy See, the victims, their families, their attorneys, law enforcement, and to civil judges while under oath in court proceedings. This is shocking since it concerns the most trusted members of the Church and some of the most trusted and revered members of our society.

282. The most common excuse for not being forthright about clergy sexual abuse is the avoidance of scandal and the protection of the Church. The image of clergy members, who are some of the most respected members of secular society and clearly were the most revered members of the Catholic Church, sexually violating children and young adolescents was too much for many people to process in the initial period of the "scandal". Bishops and priests who had never encountered it were as stunned as the lay people.

283. In the beginning, it seemed unheard of for church authorities to readily admit the possibility when reports of abuse came in. When reports were confirmed as true, the

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<sup>55</sup> See: Rescriptum ex Audientia SS.MI: Rescriptum of the Holy Father Francis to promulgate the Instruction *On the Confidentiality of Legal Proceedings*, 17.12.2019.  
<https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/12/17/191217b.html>

initial reflexive responses were to deny, make excuses, minimize, shift the blame or devalue the source of the report. It is entirely possible that many bishops and other clergy were blindsided when the reports started coming in and responded reflexively with the protection of the priest and the institutional Church as the first priorities. Lying about something as horrific as sexual abuse of a child is always detestable, but it may be explainable. The bishops and clergy have been conditioned to protect the Church and the image of the clergy at all costs. Apart from self-serving reasons, which are understandable to an extent, most Catholic clergy truly believe in the sacred nature of the institutional Church and are committed to protecting it.

284. A number of bishops and other Catholic clergy have resorted to the practice of "mental reservation". This term has been used in both secular society and in Catholic moral theology. It is a form of deception or equivocation that is not an outright lie. Catholic moral theology teaches that lying is never permitted.
285. The concept of mental reservation has a long history in Roman Catholic canon law and moral theology, yet it has never been given any form of official approval. It was mentioned as early as 1235 by St. Raymond of Penafort, a Spanish canon lawyer who was one of the foremost medieval canonists. In his work *Summa de Poenitentia* (Summa on Penitence), he refers to St. Augustine who said that a lie was never permitted. He then said that some scholars believed that a lie could be told if a person's life was at stake.
286. The discussion about the use of mental reservation has been reopened somewhat in the past few years. Some civil attorneys who knew about the theory surmised that bishops and other church officials might be applying it in their testimony before the civil courts. There have been instances when bishops have admitted to using mental reservation and others in which the witness has been asked to explain the concept. Cardinal Desmond Connell, the retired archbishop of Dublin, was questioned about it when he testified to the Murphy Commission. In his testimony, he provided an explanation that mirrors those given in other situations:<sup>56</sup>

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<sup>56</sup> See: "'Mental reservation': church concept", *The Irish Times*, 27 November 2009.

*"Well, the general teaching about mental reservation is that you are not permitted to tell a lie. On the other hand, you may be put in a position where you have to answer, and there may be circumstances in which you can use an ambiguous expression realizing that the person who you are talking to will accept an untrue version of whatever it may be - permitting that to happen, not willing that it happened, that would be lying . It really is a matter of trying to deal with extraordinarily difficult matters that may arise in social relations where people may ask questions that you simply cannot answer . Everybody knows that this kind of thing is liable to happen. So mental reservation is, in a sense, a way of answering without lying. "*

287. With regard to sexual abuse, some claim that it is morally justifiable to lie in order to protect the reputation of the institutional Church. One cleric, a priest who is a member of the Legionaries of Christ, stated in a documentary that it is acceptable to *not reveal the truth to those not entitled to the truth.*<sup>57</sup> He cited the *Catechism of the Catholic Church* (Vatican, 1992), which in fact does state such a doctrine at no. 2489.<sup>58</sup> The problem is obvious: who decides when a person is not entitled to the truth and for what reasons?
288. Generally, a lie about sexual abuse is formulated in either an active form, such as denying that a person has sexually abused children, or in a passive form, such as failing to inform a bishop or the parish priest of a parish that an assigned priest or cleric is a known abuser. In either case, and under any guise, these instances never fulfill even the most remote circumstances for applying mental reservation. The concept of the "good of the Church" never allows for enabling sexual abuse or covering for sexual abuse since "the Church" is hardly limited to the clerics or the hierarchy but includes the abused and the lay faithful susceptible to abuse.
289. It is difficult to find any justification for any form of mental reservation when one is dealing with sexual abuse of children. On one hand there are the standard excuses

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<sup>57</sup> *The Legion*, Ireland, RTE, directed by Mick Peelo, 2014.

<sup>58</sup> *Catechism of the Catholic Church* : Part Three , Life in Christ , Section Two, The Ten Commandments . Article 8. IV Respect for the Truth .  
<https://www.vatican.va/archive/cccss/archive/catechism/p3s2c2a8.htm>

for withholding the truth: avoiding scandal, protecting the Church's reputation, protecting the reputations of persons involved, and protecting the Church's assets. On the other hand are the reasons for disclosing the truth: justice for the victims and the welfare of children. The "greater good" of the reputation of the governing body of the institutional Church cannot be used at the expense of the most vulnerable members of the People of God. From a canonical viewpoint, nothing justifies defending the perpetrator of a crime as serious as child abuse and leaving open the possibility of the commission of even more such crimes.

### III. THE INFLUENCE OF THE SYSTEM

#### A. *Clerical narcissism*

290. How is it possible that a destructive dynamic that enables the sexual violation of the innocent can prevail in an institution of religion whose explicit purpose is to promote spiritual health? Experience with priest perpetrators demonstrates and confirms that they are a product of, and participants in, a culture that is rightly named narcissistic. An individual clergyman may or may not escape the toxicity of that culture.
291. The veneer of holiness and altruism that cloaks the institutional Church covers a clerical culture infused by excessive narcissism. The institution is not what it appears to be in its public pronouncements, ritual manifestations, and glorious vesture. Self-serving elements have had a pervasive, destructive influence in propagating a toxic spirituality. Such a spirituality enables and fosters sexual assault on vulnerable children and adolescent minors while protecting and projecting an image of perfection and moral purity. One rightfully wonders about the negative effect of clerical narcissism on the conscience of clerics.
292. The clerical culture is the context within which the sexual abuse of minors must be framed. The Prime Minister of Ireland, addressing his parliament on July 20, 2011, said that a recent report on the system of abuse in the Irish diocese of Cloyne: *"excavates the dysfunction, disconnection, elitism-the narcissism-that dominate*

*the culture of the Vatican to this day.*"<sup>59</sup> The cause of abuse by men who sexually violate children and the vulnerable within a church context is that they are products of a formation that inculcates them into the clerical system. The evidence of systemic abuse can be traced from top to bottom. If the culture did not operate in ways that tolerated secret sexual activity of superiors (including but not limited to child sexual abuse) and functioned as a web of mutually supportive secret clerical liaisons, sexual abusers of minors would find no place in the system.

### **8. *The development of clerical narcissism***

293. The men deeply embedded in the clerical system develop a belief in the sacred and closed clerical world from their earliest days in seminary training. This belief can remain and grow throughout their clerical careers. Clerics from low to high conspire to hide officially unacceptable sexual tendencies, forbidden relationships, and knowledge of sexual abuse behind a veil of secrecy. This secrecy is fortified by the pervasive belief that clerics must protect their fraternity from outside scrutiny and prevent public exposure of forbidden sexual expressions. Known sexual activity, including behaviors with fellow seminarians, priest faculty members or formation directors, are dismissed as "growing pains" or passing phases. Former seminarians who left after being approached for sex by a priest or upperclassman have often said that they thought this was a rite of passage or an initiation.

### **C. *Acquired situational narcissism***

294. Some psychologists have referred to clerical narcissism as "acquired situational narcissism".<sup>60</sup> The pervasive belief that upon ordination one is ontologically changed and will thereafter be one of Christ's chosen serves to fuel this trait. The Council of Trent (1545-1563) mandated that every diocese have a seminary to provide both education and spiritual formation for future priests. The sociocultural model of the

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<sup>59</sup> The speech is available from several sources and all are published on [www.bishop-accountability.org](http://www.bishop-accountability.org). See also **Appendix 2**.

<sup>60</sup> Marianne Benkert, M.D. and Thomas Doyle, J.C.D., "Religious Duress and Its Impact on Victims", *Pastoral Psychology* **58(2009)**; Thomas Doyle, Chapter 11, "Clericalism and Catholic Clergy Sexual Abuse", in Mary Gail Frawley-O'Dea and Virginia Goldner (Eds), *Predatory Priests, Silenced Victims: The Sexual Abuse Crisis and the Catholic Church* (Mahwah NJ: Analytic Press, 2007).

seminary that was established remained intact except for the obvious changes required to conform to historical and societal developments. Part of the process of introduction and survival in these ecclesiastical enclaves involves a relinquishing to one degree or another of oneself to an all-male authority system; a regulated, supposedly sexually abstinent group where conformity of mind and will were demanded and prized. Docility, obedience, doctrinal orthodoxy and conformity to the clerical culture were required. The seminaries were "total institutions" which conferred an alternative identity and security in exchange for sacrifice of the person. Little by little, candidates immersed themselves in an atmosphere and function of a group that had all the right answers; one that is more powerful and important than any other entity.

295. As a cleric moves up in the ecclesiastical system, more conformity and obedience are expected and demanded for further advancement. Obedience that binds an individual (even blindly) to authority is the ultimate test of loyalty and proof that the individual can now justly assume institutional identity. There is little psychic distinction between self and institution and thus one's value is subsumed by identification with the power, prestige, and status of the institutional Church. A realistic and not idealistic understanding of the effect of this powerful culture on seminarians and clerics of all ranks explains why the number of priests and religious who have stood publicly in support of victims and have fearlessly criticized the hierarchical system is miniscule and why the number of bishops who have publicly stood in support of victims is even more miniscule. The system prevailed over the vulnerable.
296. Conformity, docility and obedience are also essential elements of the formation of members of both men's and women's religious institutes, however the ultimate goal of ascending the ladder of ecclesiastical power and authority is not applicable for non-ordained men and women religious and far less applicable for religious priests.
297. There are some strong personalities who can escape indoctrination to one degree or another and function maturely in the system. There are not enough, however, to alter the system. A large proportion of priests leave the ministry before the twenty-fifth anniversary of their ordination. Dr. Marianne Benkert, a psychiatrist, former

religious sister and one who has had years of professional experience with dysfunctional clerics, has commented as follows: <sup>61</sup>

*"During my forty-five years in practice as a psychiatrist and a woman who was raised Catholic, I have been privileged to know and consult with a number of men and women who demonstrated the most refined level of spiritual expression within religious life. They were in the clerical culture but not of it. I am not certain how they escaped the toxicity of prevailing narcissism with its lack of empathy but they possessed a depth of character and maturity with flexibility of personality that allowed them to work in a complex environment and culture that does not favor integrity."*

#### **IV. HOW THE INSTITUTIONAL SYSTEM ENABLES ABUSE**

##### **A. Spirituality infused with clericalism**

298. This narcissism has had a pervasive influence on shaping the traditional spirituality common to Catholicism. Although church writings and teachings often refer to the "spirituality of the laity", the institutional Catholic Church does not promote or support an authentic spirituality for lay persons that is rooted in the essence of Christianity. The so-called lay spirituality is a byproduct of the narcissistic spirituality that pervades the clerical culture.

299. The traditional Catholic lay spirituality was, and to a disturbing extent still is, grounded in the relationship of those in Holy Orders to lay Catholics and the influence clerics have over their lives. The exalted and powerful role of priests and bishops is dependent on a theological construct that is, according to official teaching, rooted in the "divine will". In other words, the Church teaches that the way lay people have been taught to respond to clerics is the way God wants it to be. One of the marks of a "spiritual" Catholic is reverence for clerics and unquestioning obedience. Another is

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<sup>61</sup> A. W. Richard Sipe, Marianne Benkert, M.D., Thomas Doyle, J.C.D., "Spirituality and the Culture of Clerical Narcissism", August 2013. Unpublished manuscript.



unquestioning acceptance of not only every official Church teaching but, for many, of every utterance from anyone who works in the upper echelons of the Church.

300. Much of the traditional Catholic spirituality is inordinately tied up with externals: the drama of the traditionally rich Catholic liturgy, the deeply engrained conviction that God in the person of Christ is truly present in the Eucharist, the various vestments used at rituals and liturgies and the elaborate robes worn by the bishops, archbishops and cardinals. The measure of a spiritual experience is often the emotional reaction to a liturgical event, an ecclesiastical personage or a personal experience. Clerics are presumed by the laity to be "holier" than lay people simply because of their clerical status and their ordination. The glorification of the priest or bishop as the elaborately vested central figure of Catholic liturgies supports this erroneous and harmful belief. The higher a bishop or priest rises on the clerical ladder, the holier he is presumed to be, since only holy people favored by the Holy Spirit moved up in the church hierarchy and in the clerical culture.
301. The public response to sexual abuse in our era is unlike anything the institutional Church has experienced in centuries. The credibility of bishops and priests has plummeted. Many lay Catholics were stunned at first at what they were learning on a day-to-day basis. With the shock of these revelations came a variety of responses from priests and from believing lay people. One of these has been anger and denial directed at the victims and their supporters. Some people have expressed their strong convictions that the entire sexual abuse phenomenon is: (a) a gross exaggeration; (b) a conspiracy led by those who oppose church policy on birth control, abortion and non-marital sexual activity; (c) a plot influenced by non-Catholics to destroy the Church; and/or (d) a conspiracy between victims and their lawyers to drain the Church's coffers. Other excuses have been offered, but these are the main ones. All of the above reasons are pure conjecture, but what is very real is the anger.
302. A possible and plausible explanation for this anger relates directly to the overwhelming control that clerics have over lay people and the Church in general. The exposure of the sexual crimes of so many clerics, and the harsh realization that the bishops have been a major part of the problem and not the solution, has shaken

the religious security of many adult Catholics to the core. They are angry that those who directed their religious and spiritual lives and provided spiritual security appear to have betrayed them. Still deeply infused with the magical thinking about clerics, they have turned their anger at those who exposed it all.

303. It must be said at this point that throughout history there have been countless Catholics, lay and cleric alike, who did not permanently internalize the toxic version of Catholic spirituality. Many of these people led good and holy lives and faced a variety of problems and when their deep spirituality came forth and gave them strength, it is because it was (and is) *their* spirituality and not an institutional version assumed without question. Here we see the distinction between religiosity and authentic spirituality. The former is often dominated and evaluated by externals including the expected "persona" of a "holy" person. Authentic spirituality is not evident from some sort of culturally influenced "affect" but by the integrity of one's life.

#### **8. *Enabling sexual abuse***

304. The traditional, clerically infused, spirituality is perhaps at its most toxic in the interplay between a clerical sexual perpetrator and a young victim. Very few, if any, victims are able to distinguish between their faith in God, their faith in the community of the Church, and their faith in the churchmen directly involved with their abuse. Because of the nature of their Catholic training, most are not able to separate the abuse and the abuser from the Church. They are not able to make a fundamental distinction between the Church as the People of God (the community of all believers) and the institutional governmental structures. In the minds and imaginations of many, "the Church" equals bishops, priests, rituals and the clerical culture (though few are able to perceive the clerical subculture as an entity deeply entwined in a toxic way with the Church as a community). Countless victims who were assaulted as very young adolescents or as prepubescent children have said that they had always believed the priest was a stand-in for God who acted through the priest.
305. Victims are often stunned and paralyzed by the sexual violation, but even more so because the perpetrator is a priest. Many believe uncritically everything they were taught about priests. They believe that priests do not sin and that as celibates, they

do not do anything sexual. These beliefs are not found only in children. Many adults continue to believe the magical thinking about priests and highly resist any suggestions that it may be wrong. For far too many victims, all of these beliefs about priests, sex and the institutional Church come together to fuse a deeply rooted feeling of guilt that they, the minor or just barely adolescent child, is the cause of sin for the priest and therefore must carry the priest's guilt as well as their own. Those of us who have worked with victims - especially in trying to help them find their own spiritual core - find this complex web of beliefs and the terrible consequences for the victims extremely difficult to untangle.

306. This toxic clerical spirituality is the most influential factor in the hierarchy's widespread enabling of sexual abuse by clerics. For the hierarchy, it is far more important to preserve the apparent integrity of the institution and to protect God's sacred emissaries, the clerics, than it is to protect vulnerable children and adults. In addition, the process of grooming the victims as a prelude to the actual sexual molestation depends on the victims' subservience to the offending cleric. This belief in the superiority of the cleric is a direct result of the institutionalized narcissism, which also causes significant confusion for victims' perception of their own religiosity.
307. The clash between the dependent, submissive religiosity of the victim and the narcissistic religiosity of the priest-perpetrator is traumatic enough, but the trauma is then intensified if the victim experiences the equally stunning betrayal by the hierarchical leadership of the Church. This betrayal begins on the local level with the victim's own bishop and extends all the way to the Vatican. The victims' complaints of the way they have been treated by their bishops and other church officials and their anger that nothing truly effective was happening at the level of the Vatican is not an unfortunate part of the past when the bishops were climbing up the "steep learning curve", as many have called it. This business-like, administrative response is still happening. When many bishops receive complaints of sexual abuse, they first call their attorney and then refer the person to the victim assistance coordinator. It's all part of doing business - the institutional business of the church hierarchy.

**C. Fear caused by religious duress**

308. Several characteristics of sexual violation by clerics are related to the effect of the key facets of the religious "system" on the perpetrators and the victims. The beliefs of victims about the ecclesiastical system, which consists of their beliefs about the institutional Church, the hierarchy, the priesthood and even about God, have caused them to experience a combination of shame, guilt, deep confusion and fear. Of these, fear has a direct effect on the will. Several people who have developed expertise in the area of the complex psychological and spiritual dynamics of sexual abuse collaborated to find a concise definition of the influence of these emotions, especially fear, experienced by the victims of clergy sexual abuse. The working name for the definition was originally "religious duress", and in time this became the accepted term to describe it.<sup>62</sup>
309. Religious duress is an objective reality, experienced by reasonable people who are so influenced by the power of their religious beliefs that their will is unduly and unjustly constrained to perform an action, or omit an action, that they would otherwise intend to do. Religious duress is the internal pressure experienced by a person as a result of certain religious beliefs. These beliefs are fundamentally about the reaction of an unseen supreme being to something the person either does, or conversely, does not do. In short, religious duress is a very special kind of fear. The ultimate source of this fear is an unseen but all-powerful supreme being. Between the individual and this supreme being are religious institutions and personages who function as advocates or buffers. Religious duress is the condition experienced by countless victims of clerics who have sexually abused them. It explains, among other things, why the majority never disclose the abuse at all and why many who do wait for years or even decades.

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<sup>62</sup> Thomas Doyle, "Roman Catholic Clericalism, Religious Duress and Clergy Sexual Abuse", *Pastoral Psychology* 51(2003); Thomas Doyle, "The Spiritual Trauma Experienced by Victims of Catholic Clergy Abuse", *Pastoral Psychology* 58(2009). The validity of the concept of religious duress has been denied by attorneys who have represented Catholic dioceses because, as they say, it has never been proven. However, the concept has been used in clergy sexual abuse cases in the U.S. and Canada and last year it was validated by a decision of the Supreme Court of Canada, *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.* 2019 SEC 35, June 7, 2019.

310. Although religious systems have been created to relieve or displace the fear engendered by the unknown, these same systems have themselves been the source of much fear. In some instances, well-intentioned religious leaders induce or provoke the fear to influence people to avoid wrongdoing. In other cases, the fear is both unjust and irrational in that it is induced by religious personages who claim it to be of supernatural origins when in reality the object of the fear is not obedience to angry gods but control and manipulation by humans. Thus, the world of some organized religions can be every bit as terrifying as a world controlled by unseen angry supernatural forces. The gloom and fear that seem fundamental to some religions, including expressions of Christianity, can be as mysterious as the unseen supernatural powers. In many ways, religious duress is similar to the notion of "reverential fear", a well-established category in Catholic canon law.<sup>63</sup> This is a fear that is induced not from an unjust force from without but from the respect, awe or reverence one has for an authority figure.
311. Where religious duress occurs, the victim experiences such fear of causing the displeasure or even wrath of the authority figure that the will is significantly impeded. Child or adolescent victims are especially vulnerable to a priest-abuser. First, the priest is an adult with automatic power over the victim. He is also a priest with vast spiritual authority. Another component that often enters into the relationship is secrecy. The seduction process has created a secret and special relationship that entraps the victim.

***D. The direct effect on the victim***

312. Religious duress, and the irrational and deep fear that it engenders, are both a direct product of a deviant religious indoctrination that is unduly permeated with fear, and a toxic outlook that is epitomized by clericalism. The impact on victims of clergy sexual abuse is fourfold:

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<sup>63</sup> Lawrence Wrenn, *Annulments* (Canon Law Society of America, 1983); Charlotte Christensen-Nugues, *Reverential Fear and Consent to Marriage* (Lund University Publications, 2009). Paper presented at the conference "The Cultural History of Emotions in Premodernity", Lund University, October 25, 2008.

- (a) *Seduction and grooming*: It is considered a great honor when the priest singles out the son or daughter of a devout Catholic family for particular attention. Parents have generally been completely unsuspecting of the attention paid to a young son or daughter and have even unwittingly enabled the abuse by allowing and encouraging overnight trips and the like. This process is commonly referred to as "courtship" or "grooming". Eventually, the cleric makes the first sexual move and the young victim is, more often than not, stunned into disbelief.
- (b) *Moral confusion*: Victims reared in an atmosphere that accepted the traditional church teaching on sexuality were convinced of, and could not question, the belief that any form of sexual expression, be it thought, word or especially deed, is mortally sinful. Furthermore, they were taught that homosexuality is officially deemed unnatural, homosexual people "fundamentally disordered", and all sexual expression particularly sinful. In the face of this, the priest, the personification of this stringent sexual morality and one who is theoretically devoid of any potential for sexual temptation, is the very one leading the victim into a forbidden sexual act. The victim is now caught in a powerful dilemma. He or she has been groomed and led along to a place of significant trust. Now, something forbidden has happened. Confusion, guilt and shame set in after the shock begins to wear off. The guilt and confusion are especially toxic if the young victim has experienced pleasurable sexual feelings. The moral theology taught by the clerical world came forth from a source that did not understand, much less accept, the complex nature of the sexual response. This plunges the victim into deeper confusion. The clerical world has also taught the victim that the only acceptable relief from the guilt of sin is confession and absolution given by the priest. But the very source of relief from sin is also the effective cause of the sin, so the victim is immobilized and the guilt, shame and trauma only intensify.
- (c) *Non-resistance to prolonged abuse*: Extensive clinical and legal evidence shows that most sexual abuse is not limited to an isolated act. Perpetrators often claim it only happened once, but subsequent investigations generally discover patterns of abuse over days, weeks and sometimes years. Observers often

wonder, and rightly so, how some victims remain in such so-called "relationships". These are certainly not "relationships", even in the widest sense of the term. Rather, they are toxic entanglements. Many victims have later reported that they felt trapped and increasingly powerless as the abuse continued. Some reported being conscious of a sort of bond with the abuser, which of course further confused the issue by increasing ambivalence and guilt. Uninformed critics have frequently claimed that in such cases the victim was indeed a willing participant and perhaps even an aggressor. The pathological dynamic of the relationship shows that such suggestions are far from the truth and constitute only defensive, wishful thinking by those incapable of accepting the reality of the scandal.<sup>64</sup> The nature of this bond between abuser and abused is discussed in more detail below.

- (d) *Failure to report*: The existence of the trauma bond, as discussed in the following section, also explains why so many victims failed to report abuse after it started or after a single instance. Most victims are unable to disclose for periods of time ranging from months to decades.<sup>65</sup> They did not report because they could not report. Apart from the fear and shame that often arose from sexual abuse, victims had to deal with the entire Catholic institution that loomed before them. Many believed their abusers who convinced them that no one would believe them if they spoke out. Still others succumbed to implied or direct intimidation and threats from church authorities. The clerical elite, incapable of seeing a victim's report of sexual abuse as anything more than a threat to the Church's security, often responded in a predictable manner. The victim was often turned into a potential victimizer and made to feel guilty for contemplating an action that would embarrass a member of the clergy.

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<sup>64</sup> See Shirley Julich, "Stockholm Syndrome and Child Sexual Abuse", *Journal of Child Sexual Abuse* **14(2005)**.

<sup>65</sup> Studies have revealed that the average age at the time of reporting child sexual abuse is 52. See: CHILD USA: The National Think Tank for Child Protection, "Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse", 3(March 2020).

## V. THE TRAUMA BOND

### A. *Relationship or destructive interaction*

313. As noted above, many victims have endured not just one incident of abuse but a prolonged period of sexual violation by a cleric. They have sometimes been accused of co-operating with the perpetrator and some have even been accused of being the seducer and the instigator of the sexual interaction. The same accusations have sometimes been levelled against victims who did not disclose for months or even years after the abuse took place.
314. In truth, what might seem to some to be a mutually consensual relationship is actually a highly destructive bond that developed between victim and perpetrator. This is explained by the psychological phenomenon known as a "trauma bond" or "traumatic bonding". The term was first used by Dr. Donald Dutton, Professor of Psychology at the University of British Columbia. He explained the findings of his research in an article published in 1999, "Perpetrator personality effects on post-separation victim reactions in abusive relationships".<sup>66</sup> Dr. Dutton had done extensive research on spousal abuse, domestic violence and child abuse. The concept has also been explored by Dr. Patrick Carnes, an American psychologist with a particular expertise in sexual addiction.<sup>67</sup>
315. Dr. William Foote, a psychologist from Arizona and a medical expert on several clergy sexual abuse cases, explored the phenomenon whereby a kind of relationship or bond developed between a clerical sexual abuser and his victim. Dr. Foote included Dr. Dutton's explanation of traumatic bonding in his own writings on the issue:<sup>68</sup>

*"... the development of strong emotional ties between two persons, with one person intermittently harassing, beating, threatening, abusing or intimidating the other. Dr. Dutton notes that this phenomenon is based on the existence of a*

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<sup>66</sup> D. G. Dutton and M. Haring, "Perpetrator personality effects on post-separation victim reactions in abusive relationships", *Journal of Family Violence* 14(1999):193-204.

<sup>67</sup> Patrick Carnes, *The Betrayal Bond* (Deerfield Beach, FL: Health Communications, 1997).

<sup>68</sup> W. Foote, Affidavit, *Does I, II, III vs. Catholic Diocese of El Paso, Father Irving Klister*, 9 October 1998, N. 11.



*power imbalance wherein the maltreated person perceives him or herself to be subjugated and to be dominated by the other."*

316. Catholic victims, conditioned by their religious indoctrination, look on the clergy-abuser with a mixture of awe and fear. The cleric's attitude of superiority and power elicit a certain degree of emotional security in the victim. These strong feelings of security and awe at the clerical state nearly always impede victims from recognizing the seductive patterns the abuser is using to groom them.

#### **8. *Abused again by the institution's response***

317. The trauma bond becomes stronger and even more pathological as the exploitive relationship continues. It is often affirmed, in the victim's view, by the Church's apparent approval of the priest's behavior. The clerical world, unwilling or unable to proactively confront clergy sexual abuse, appears to the victim to be unconcerned or, even worse, supportive. The victim feels trapped until either the abuser ends the relationship or some other event from without causes it to terminate. In some instances, the abuse had grown so repulsive to the victims that they broke the bond and fled. A crucial factor in the trauma bond is what the psychologists refer to as the "power imbalance", and this could not be more evident than in the interaction between a young adolescent and a Catholic priest.

318. Young victims are often terrified of disclosing the abuse. In times past, they were convinced that no one, especially their parents, would believe them. Not a few victims have reported being punished by a parent, and some very severely, because they said something bad about a priest. One of the more tragic examples of this involved a young woman from San Diego who had been repeatedly raped as a 13-year-old by a priest. Her father was a permanent deacon and worked at the parish where the priest lived. He blamed his daughter for seducing the naive priest, and as a result father and daughter were estranged.<sup>69</sup> The priest ended up in prison.

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<sup>69</sup> This information was obtained from depositions given by the victim, at the time a 21-year-old woman, and her father who at the time of the deposition was still an active deacon. The depositions were taken in 2007. The names and court docket numbers will not be provided to protect the identity of the victim.

## VI. THE SPIRITUAL DAMAGE

### A. *Treatment needs*

319. Most of the literature published about clergy sexual abuse of children has addressed the emotional and psychological effects of sexual abuse common to all victims. By contrast, the literature published by church-related sources has consistently addressed the impact of clergy sexual abuse on the Church as an institution, as well as the problems and treatment needs of the clergy-abusers. The institutional Catholic Church has done almost nothing in terms of studying the immediate and long-term effects of abuse on the victims, nor has the institutional Church made any organized efforts at responding to the unique pastoral needs of victims. The Holy See, as the central source of official information and guidance on this issue, has yet to publish any comprehensive information about the spiritual damage endured by victims.
320. When victims report abuse, they are rarely, if ever, sought out by the bishop whose exclusive interest and concern should be the spiritual and other harm they have experienced from the abuse. Instead, they are generally contacted by a functionary from the diocesan administration who explains that the bishop is concerned and then shuttles them off to victim assistance coordinators who may or may not offer psychological counseling. Even with this process, some bishops, completely clueless as to the impact on victims, further re-victimize them by insisting they see only professional counsellors approved by the diocese. In other cases, they are allowed only a specific number of therapy sessions and nearly always the Church insists that the victim sign a waiver whereby someone among the diocesan personnel will review the reports and decide whether or not to continue funding. In the U.S. at least, this type of behavior is highly unethical and illegal. Wherever it takes place - whether it be in a U.S. diocese or in Antarctica - it is not only insensitive and ignorant, but cruel.
321. The official voice of the Catholic Church has consistently framed clergy sexual abuse as a moral/volitional issue in keeping with its fundamental teaching on human sexuality. Recent popes have referred to abusive clerics as sinners and abuse as sin. This approach has had a profound influence on the response to the offending clerics and to their victims as well. In keeping with the Catholic theology of penance and

forgiveness, the clergy-abuser is encouraged to acknowledge his sinful actions, seek God's forgiveness, and sin no more. Victims are encouraged to forgive those who have abused them. Some victims have even been told to go to confession and confess whatever enjoyment they received from the abuse, reflecting total ignorance of the phenomenon of involuntary sexual response. (One young woman was told by an archbishop that she needed to go to confession. Understandably angry, she told the archbishop that he was the one who needed to go to confession. She then got up and left.) The fallacy of considering clergy abuse only in terms of sin is that it serves as an excuse to overlook the criminality of the act, which in turn has served as an excuse for some bishops and religious superiors to avoid reporting to civil authorities. It also serves as a distraction from the need for accountability on the part of the abuser as well as the ecclesiastical system that formed, enabled, and in the end, covered for the abusive cleric.

#### **8. *The spiritual damage***

322. By failing to look beyond the moral/volitional dimensions of sexual abuse, the Church leadership (and many others to be sure) has failed to comprehend the complex and often subtle effects of sexual abuse on the victims. In the recent past, it has not been uncommon for churchmen to urge victims to "*put it behind you and move on with your life*". This attitude is as unrealistic and naive as expecting a compulsive pedophile or ephebophile to "*repent and sin no more*". Catholic bishops in general have scant awareness of the nature of sexual dysfunction and even less awareness of the damaging effects of sexual violation on victims.
323. Prior to 1984, there is no evidence that bishops' groups ever sponsored any training or education about the effects of abuse. Between 1985 and 2002, there were several workshops and seminars given around the U.S. on clergy sex abuse. In most of these, a psychologist or psychiatrist was a featured speaker; however, they limited their presentations to the pathology of the abusers. Seminars and workshops or similar events sponsored by official church sources such as universities or colleges or clergy educational events, have rarely, if ever, included presentations on the effects of sexual violation and abuse on victims. A review of the presenters and topics included at six events held at Catholic universities in the U.S. between 2016 and 2019 revealed

that only one had a victim of sexual abuse as a speaker and none included members of the leadership of SNAP, the world's largest victim support organization. Two were made up of Catholic journalists and attorneys who represented Catholic dioceses.

324. The spiritual trauma suffered by victims of clerics is real. Some refer to it as "soul murder" and if one speaks to enough victims this label is tragically apparent. The priest has been an icon of the transcendent, and therefore sexual violation by a priest has consequences that go far beyond the damage potential from abuse by a non-cleric. Two psychologists who have been extensively involved in working with Catholic victims have agreed that sexual violation by a priest has a profoundly traumatic effect precisely because of the spiritual dimension.<sup>70</sup>
325. The point becomes even more real when we look at actual responses. In 2009, I was with a 60-year-old man who had been sexually abused by a priest in a particularly vicious manner for about two years. At the end of the civil trial, a lawyer for the Church asked him if he believed in God. Sidestepping the fact that the question was intrusive and insulting, the man replied, *"How can I possibly believe in a God who would allow his priest to rape an eight-year-old boy not once but over and over?"* I have never forgotten either that man or that response, and both have had a profound impact on my own belief system.
326. Another example came in the form of a question an adult survivor put to me at a survivors' support gathering: *"I have asked many times but have not received an answer yet. In the almost 2000 years that children have been sexually abused by Catholic priests, Where is God?"* And still others ask not *"Where is God?"* but, *"Is there a God?"* There are no adequate or satisfactory answers to these questions. They do, however, verify the cognitive and emotional connection people make between the clergy, the institutional Church and the Supreme or Higher Power.

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<sup>70</sup> Dr. Leslie Lothstein of the Institute for Living, Hartford, Connecticut, Interview with Katherine DiGuilio, June 17, 2002, published in *National Catholic Reporter*, August 9, 2002; and Dr. Mary Gail Frawley-O'Dea, "Soul murder - The Spiritual Sequelae of Clergy Sexual Abuse with Focus on Roman Catholicism and Orthodox Judaism", Paper presented at the 119th Annual Convention of the American Psychological Association, August 6, 2011.

327. The spiritual damage does not stop with the victims or their immediate families. The experience of litigating on behalf of clergy victims against Catholic dioceses and religious institutes has had a profound effect on the belief systems of many of the attorneys who have represented numerous victims over a period of years. I have known at least 300 such attorneys from the U.S., Canada, Ireland and England. Most will represent victims in one case and then decide to avoid getting involved in any further litigation involving the Catholic Church. A sizeable minority have, however, at one point or another, transitioned from viewing clergy abuse cases as "the business of being a lawyer" to a cause seeking justice for the victims. All have been very seriously affected by their experiences. I know of only one of the many who had formerly been practicing Catholics who still attends Mass, and even he said in a recent conversation, *"I'm going for the sake of my kids but as far as my beliefs in the Church are concerned, they are long gone. Now I'm just looking for Jesus in all of this."*

**C. Some symptoms of spiritual damage**

328. Assessing spiritual damage is not easy. It is not covered in any medical books and much of the traditional Catholic writing that would come close is useless and unrealistic. I have seen very few statements from the hierarchy concerning the spiritual damage from clergy sexual abuse and those I have seen were mechanically prescriptive and guilt inducing.

329. From my own experience with victims over 30 years, I have seen similarity among victims across the age, gender and ethnic background range. Educational background has had some influence, but not enough to be relevant. Some of the most common symptoms are:

- (a) *Attitude towards priests:* This often begins with confusion and feelings of betrayal and moves on to intense anger. Some victims experience a painful, traumatic reaction at the sight of a priest - any priest.
- (b) *Anger at, and rejection of, the institutional Church:* Most victims are re-victimized and spiritually damaged by the response of church officials. Any

feelings of trust, love and security are gone and won't return. The official Church's response to victims is pivotal to their spiritual balance, but very few churchmen understand this.

- (c) *Toxic guilt and immobilizing fear:* Priests have used the power of their role to intimidate and guarantee the silence of their victims (often by threatening God's wrath against them and their family) for having been involved in a sexual act, or the assumption of guilt for the perceived sin of the perpetrator. The most debilitating dimension of this guilt is the victim's conviction that he or she has been sexually assaulted by God and therefore has done something terrible to deserve this horrific punishment.
  
- (d) *Loss of spiritual security:* Sexual assault by a Catholic cleric and the betrayal by the Church damages or completely destroys the victim's relationship with Catholicism. However, it can also severely damage his or her ability to find spiritual security anywhere. The victim's life and world, which once included a spiritual and religious dimension that provided security and a source of meaning for many of the more profound and deeply influential moments in life, is radically altered if not destroyed. The radical disillusionment is not only with the institutional Church but with the concept of a loving God. The signs, symbols, rituals and persons that represented spiritual security have become harsh reminders of the betrayal and abuse. After sexual abuse, many victims experience something they never experienced before, and that is the empty feeling that the bond they had with God, a spiritual bond, is worthless because the earthly or finite signs of it are all wrapped up in the betrayal. One victim exclaimed publicly at a gathering of abuse survivors and their supporters, "*I never realized I had any kind of spiritual connection until it was taken away from me.*"
  
- (e) *Experiencing spiritual trauma:* The spiritual pain suffered by one who feels cut off or abandoned translates into depression or, in its extreme, despondence. Often there is a significant amount of anxiety that gradually turns to depression. The abused person continually encounters situations that require some form of spiritual support, such as deaths, births, illness, or loss. Spiritual

support for the person used to come from the external symbols or from the priest or minister to whom he or she turned for support and guidance. But the natural reaction to turn to the Church or a priest is met by a psychological or emotional reaction derived from the abuse. The source of security is now a source of pain and even revulsion. The frustration and anxiety are grounded in the perceived futility of seeking a source of spiritual assistance and finding none.

#### **D. Healing the wounds**

330. Healing the wounds from sexual abuse by a cleric, especially a priest, is a life-long process that is rarely completely successful. In 2010, Pope Benedict XVI wrote a letter to the people of Ireland.<sup>71</sup> While he said much that was honestly sensitive and remorseful, his advice to those who had been damaged was completely inappropriate and would have guaranteed many a painful re-traumatization. The pope, in good faith, urged the Irish to turn to the Church, the institutional Church, for healing and renewal.
331. Pope John Paul II publicly acknowledged victims on several occasions, but his advice too reflected a profound ignorance of the traumatic after-effects of sexual abuse by a cleric. He offered only prayer as a healing remedy. In his very first public statement on the issue, he said in a letter to the American bishops: *"I ask you to reflect together with the priests, who are your co-workers, and with the laity, and to respond with all the means at your disposal. Among these means, the first and most important is prayer: ardent, humble, confident prayer."* He ended the letter with an exclamation of misplaced blame and an insensitive insult to the American people: *"Yes dear brothers, America needs much prayer- lest it lose its soul"* (see **Appendix 3**; emphasis in original.) In 1999, the late pope addressed the Irish bishops, and at the conclusion of his discourse he made mention of the sexual abuse issue. He first expressed sympathy for priests: *"At a time when priests are suffering due to the pressures of the surrounding culture and the terrible scandal given by some of their brother priests ... I*

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<sup>71</sup> Pastoral Letter of the Holy Father Pope Benedict XVI to the Catholics of Ireland, 19 March 2010. [http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf\\_ben-xvi\\_let\\_20100319\\_church-ireland.html](http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html)

*have been close to you in suffering and prayer, commending to the 'God of all comfort' (2 Cor 1:3) those who have been victims of sexual abuse on the part of clerics or religious."*<sup>72</sup>

332. The only spiritual recovery programs for those recovering from sexual abuse trauma that are available from church sources are those involving psychological intervention. My own experience with many victims involved some courageous and radical steps, which I admit that I had to experience myself as I sorted out my own spiritual damage. The goal is helping the abused person find some inner spiritual peace and not reconciliation with the institutional Church or forgiveness of the perpetrator. The basic approach is to help the victim address his or her self-destructive belief system. To do this, I have found the following matters to be essential:
- (a) De-mythologize the magical notion of the priest.
  - (b) Respond to the emptiness arising from the loss of religion.
  - (c) Distinguish between authentic spirituality, passive dependent religiosity, and belief.
  - (d) Affirm the Church's responsibility for the abuse and its aftermath.
  - (e) Explore the victim's concept of God and affirm his or her rejection of that image or even the existence of a higher power.

## **VII. THE FINAL ANALYSIS - WHY THIS HAS BEEN A TRAIN WRECK**

### ***A. The failure of the hierarchy to be pastors***

333. What does it mean to be "pastoral"? How could the clergy have been true "pastors" to the victims of the sexual violation by their own brother clerics? The term "pastoral" is used constantly in the context of the practices of clergy of most religious

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<sup>72</sup> John Paul II, "Address of John Paul II to the bishops of Ireland on their 'ad limina' visit," June 26, 1999. [http://www.vatican.va/content/ john-paul-ii/ en/speech es/1999/ june/documents/ hf\\_jp-ii\\_spe\\_19990626\\_ad-limina-irlanda.html](http://www.vatican.va/content/ john-paul-ii/ en/speech es/1999/ june/documents/ hf_jp-ii_spe_19990626_ad-limina-irlanda.html)



denominations. They are expected to be pastoral in their dealings with people.

Before examining the criticisms of the Catholic hierarchy, it is only fair to understand what the word means in the context of sexual abuse.

334. The word "pastor" means "shepherd". The analogy of shepherds, sheep and lambs has been used in the Christian tradition for centuries to describe the relationship between church leaders and the believing members. Christ is regularly referred to as the "Good Shepherd". The analogy denotes gentleness, kindness and a concern for the most vulnerable (for example, the parable of the lost sheep). In the Catholic context, pastoral care is supposed to be marked by compassion, understanding, and a marked absence of legalism. At one time, prospective canon lawyers (myself included) were taught that if we cannot help a person's problem with a solution within the ambit of canon law, the obligation to help can often go beyond what the law can provide. In other words, "pastoral" is the opposite of legalism. Being "pastoral" can mean going outside or beyond the boundaries of what the institutional Church considers to be the adequate canonical or theological response.
335. The first and most important response should be a face-to-face encounter with the victim. More important than saying anything is listening and making every effort to absorb and comprehend what the victim is saying. Almost without exception, victims have sought an acknowledgement from the Church's leaders that the sexual violation really happened, joined with some expression of emotional support. Perhaps the single most important act a bishop or religious superior can do is offer an honest and sincere apology. In light of my experience over three decades, I am confident victims do not want to hear "*I am sorry for the pain you have endured*", or "*I am sorry that this happened to you*". The only expression of apology that comes close to meaning anything is "*I am deeply sorry that we (or I) have done this to you*". In other words, the church leader must admit the violation of the victim and express responsibility for it.
336. The victims have quite simply not been treated with compassionate pastoral care by the very leaders in the Church who have the ultimate responsibility for the spiritual and moral welfare of all the faithful, but especially those harmed by the Church itself. In spite of the countless statements, pronouncements, policies, protocols and

apologies, the worldwide phenomenon of clergy sexual abuse has been, and continues to be, treated as an administrative issue. The protection of the image and stature of the institution and the hierarchy is still foremost on the Church's list of priorities. The victims are often treated as a nuisance, a threat, or an inconvenience. A bishop's first response to a victim should not be a referral to the diocesan victim assistance coordinator. Victims are not customers. They are men and women whose bodies and souls have been violated by the persons in their lives in whom they have placed the most trust.

337. It is difficult, if not impossible, to believe in the sincerity and basic Christian motivation of bishops when, even today after 36 years of their obvious failure to salvage their shredded image, many are still talking out of both sides of their mouth: assuring victims how much they care for them and then hiring platoons of lawyers to defeat them. A bishop or religious superior cannot outsource their pastoral obligation to lawyers.

#### **8. *The failure of canon law***

338. Although canon law has been marginally helpful because it provided simplified norms for handling cases between 2001 and 2020, it has failed because overall it has not been properly used or used at all. This is hardly surprising given that canon law as a legal system is primarily in service to the hierarchy and the monarchical model of government and not to the membership in general. In the Catholic Church there is no such thing as a government "*of the people, by the people, for the people*".<sup>73</sup> The failure of canon law is based in part on the misguided belief that an administrative or legal solution to a highly complex and deeply toxic human situation would work.

#### **C. *The Church cannot clean itself up***

339. In many ways, the hierarchy continue to believe they can fix this overall problem from the inside. Experience over the last 30 years has shown that this simply can't be

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<sup>73</sup> These are the closing words of President Abraham Lincoln's "Gettysburg Address", delivered at the dedication of the Soldiers' National Cemetery in Gettysburg, Pennsylvania on November 19, 1863.

done. Sexual abuse of minors by anyone is criminal behavior and crimes should be investigated by professionals and adjudicated by real courts. Too many on the inside of the ecclesiastical system continue to act as if they are above civil law. Even if we want to work within the Church, the clergy and hierarchy are not the ones to try to fix this. They caused the problem. The laity are the only part of the Church that would have a chance at doing anything truly meaningful and effective.

***D. Everyone in the Church must accept the central role of victims***

340. In many ways, the Church bureaucracy treats victims as if they don't exist, or at best are at the end of the line because they aren't part of the clerical world. Yet the victims and their lawyers know far better than anyone else how the issue unfolded. They can speak to the attitudes towards victims by bishops and the Church more clearly than anyone else. They also know, more accurately than anyone else, especially the hierarchy, what needs to be done if this debacle is ever to get better.
341. The men and women who have been sexually abused by clergy, whether it was a year ago or three decades ago, are not an abstraction or an unfortunate and uncomfortable byproduct of the failure of several parts of the ecclesiastical system that needs to be attended to and fixed. The victims are the central focus of an unspeakable ecclesiastical phenomenon. They, and not the system, must be the primary concern. They exist not because of the breakdown of part of the system but of the failure of the entire system.
342. Over the years, several Church leaders have claimed that responsibility for this issue is shared by everyone in the Church. Popes and bishops have asked all Catholics to do penance as if the lay people were part of the cause. Perhaps one of the most notable examples is in Pope Benedict XVI's letter to the Catholics of Ireland, March 19, 2010. His letter was a dramatic departure from the standard responses of the Holy See and was, without doubt, a reaction to the publication in Ireland of *The Report of the Commission to Inquire into Child Abuse*, also known as *The Ryan Report* (May 20, 2009) and the *Commission of Investigation: Report into the Catholic Archdiocese of Dublin*, also known as the Murphy Report (November 26, 2009). The pope's letter

revealed an honest realization of the seriousness of the state of the issue in Ireland, but it also reflected the hierarchical tendency to shift blame:<sup>74</sup>

*"I must also express my conviction that, in order to recover from this grievous wound, the Church in Ireland must first acknowledge before the Lord and before others the serious sins committed against defenceless children ... I wish to exhort all of you, as God's people in Ireland, to reflect on the wounds inflicted on Christ's body ... I ask you to offer up your fasting, your prayer, your reading of Scripture and your works of mercy in order to obtain the grace of healing and renewal for the Church in Ireland. I encourage you to discover anew the sacrament of Reconciliation and to avail yourselves more frequently of the transforming power of its grace."*

#### **E. This is not a homosexual problem**

343. There are voices in the Vatican, among the world's bishops, among priests and lay people, who continue to try to lay the source of the problem on the homosexual orientation in general and on gay priests in particular. Coming up with statistics showing that the majority of victims of male priests are young boys means only that the majority of the victims are young boys. Homosexuality does not cause psychosexual disorders. Rampant homophobia will only make the overall problem worse.

344. Some of the literature advancing the anti-homosexual theory is from sources within the clergy and some from lay people. The Holy See held a seminar during the first week of April 2003 at which seven "experts" discussed the issue. The proceedings were published by the Vatican in 2004. The title of the volume is *Sexual Abuse in the Catholic Church: Scientific and Legal Perspectives*. Only one of the presenters was from the U.S., Dr. Martin Kafka, a psychiatry professor at Harvard Medical School. Dr. Kafka said that homosexuality could be a "risk factor" but that it was not the cause of

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<sup>74</sup> Pope Benedict XVI, "Pastoral letter of the Holy Father Pope Benedict XVI to the Catholics of Ireland", March 19, 2010 (emphasis in original). [http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf\\_ben-xvi\\_let\\_20100319\\_church-ireland.html](http://www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html)

sexual abuse. He also questioned whether celibacy could be considered a risk factor.<sup>75</sup>

345. The symposium received very little publicity, other than in the *Catholic News Service* and the *National Catholic Reporter*. In spite of announcing the publication of the proceedings, the volume itself was nearly impossible to find. The audience was restricted to those invited by the Vatican. Two U.S. priests were invited, each of whom had been a director of one of the medical facilities in the U.S. that treated clerics who had abused. No victims or survivors were invited, nor any of the known experts in the U.S. One anonymous cleric from the Vatican expressed the opinion that the reason the symposium received so little notice was that it did not do what many in the Vatican hoped it would do, which was name homosexuality as a cause of abuse.

#### **F. Concluding observations**

346. The harsh reality of sexual abuse of minors by Catholic clerics and religious was forced out of its environ of deep cover in the mid-1980s. In the years since, we have learned that this phenomenon is not an isolated crisis, and not just another problem to be dealt with by the hierarchy. No word or phrase in English adequately sums up the toxic complexity. It is a phenomenon that has existed in the ecclesiastical culture throughout its history.
347. Contrary to the defensive claims of Pope John Paul II and the Vatican establishment in those early years, it is not an "American problem", nor is it restricted to the Church in English-speaking countries. We have learned that it is a dark reality that exists wherever the Church is established. No country has been spared. We have also learned that the most scandalous part of the issue has been the irresponsible, ineffective and harmful response of the hierarchy. This response has been the same the world over. No one episcopal conference, no matter how large or small, has stood out as different from the others. The most common criticism, that the church leadership's priority has been the preservation of its image and power, has proven to

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<sup>75</sup> John Thavis, "Vatican: Church must work with scientific experts to prevent abuse", *Catholic News Service*, February 18, 2004.

be true as the victims from one country after another stand together demanding accountability. The experiences of victims and the uneven reactions of the bishops over the past decades can best be described as the revelation of the dark side of the Church. Throughout its history the Church has shown its dark side in numerous ways, but this manifestation has been particularly odious because it persisted, and it does so with the enabling of the system.

348. Sexual abuse by clerics has been a toxic part of the Church's life since the first century. During the last five centuries it has remained hidden, protected from the light by a thick and nearly impenetrable blanket of secrecy.<sup>76</sup> As I have described, all that changed in the 1980s. Instances of sexual abuse began to surface at an alarming rate and now, 36 years later, it has been exposed and the hierarchy challenged in countries on every continent except Antarctica.
349. Throughout the centuries, the overall direction, or "trajectory" as it is more accurately characterized, was firmly controlled by the hierarchy. The hierarchy lived with the confident assurance that "scandal" would be avoided, a confidence grounded in the deference the institutional Church had enjoyed from its own people and from secular society as well. The unexpected change in the trajectory began when the victims and their families and a small but fiercely determined cadre of supporters refused to keep their heads down and their mouths shut. Before long the victims, without even realizing it, were determining the trajectory. Once sexual abuse by clergy had entered the forum of the judicial systems, first in the United States and then steadily in one country after another, the secrecy that had been crucial to maintaining both image and control began to evaporate.
350. The irresponsible manner in which the hierarchy has handled cases of sexual abuse by clergy and religious in our era has not been an exception that can be explained by, among other things, a "steep learning curve". What we have been witnessing in the institutional Church has been the continuation of behavioral patterns and clerical attitudes that have spanned the centuries.

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<sup>76</sup> See Thomas Doyle, A. W. Richard Sipe, Patrick Wall, *Sex, Priests and Secret Codes: The Catholic Church's 2000-Year Paper Trail of Sexual Abuse* (Los Angeles: Bonus Books, 2006).

351. The key elements that were part of this phenomenon in the third century are still part of the toxic side of the institutional Church's culture. In the early medieval period, the popes and bishops were trying to impose celibacy on the secular clergy and were countered by strong opposition from married priests and priests with concubines. Sexual abuse of minors was not on their agenda, although they were highly sensitive to the fallout from sexual scandals of any kind. In our era, the issues that have deflected concern about child abuse have been abortion and homosexuality. (I recall one crusader for abortion rights proclaiming, "*Catholic bishops love you, until you're born*".)
352. The key elements included the following:
- (a) The victims, mostly young adolescent boys or girls, were devalued in the ancient world and often thought of as the aggressors because they were presumed to be more "worldly-wise" than the celibate clerics.
  - (b) The clergy very early on developed claims of exceptional holiness and social standing because of their priestly office (even though most were illiterate).
  - (c) Voices of opposition to clerical pederasty were ignored, their reputations and credibility attacked, and some were even officially chastised.
  - (d) Bishops were primarily concerned for their image and power and consequently developed sophisticated strategies and tactics for protecting both.
  - (e) Bishops insisted that clerics accused of sexual behavior that was deemed criminal be dealt with by church authorities and not in the secular courts.<sup>77</sup>
353. Reports of sexual abuse of minors by clerics and religious have sharply declined in first-world countries over the past 20 years. This is due to a constellation of factors, not the least of which is the fact that the trust level in clerics has plummeted to depths never before imagined. This decline does not mean, however, that the

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<sup>77</sup> Dyan Elliott, *The Corrupter of Boys: Sodomy, Scandal and the Medieval Clergy* (Philadelphia: University of Pennsylvania Press, 2020). See: Introduction, pp. 1-14 for a concise summary of the author's findings.

"problem is over" as some clueless bishops have exclaimed. The institutional Church has figured out how to put together countless protocols, policies, programs, and educational endeavors, and issued scores of expressions of regret, apology and promises of change. In other words, they have created a bureaucratic, administrative response to what is fundamentally a human problem.

354. The bishops in numerous countries are prone to congratulating themselves because they have, as they say, made the Catholic Church the safest place for children anywhere. They won't say, however, that every program or policy that is geared at guaranteeing child safety was forced on them by the combined forces of the victims, the angry parishioners, and the courts. They have taken steps to protect the children of today and tomorrow, but they have sadly neglected and even spurned the men and women who are still the victims suffering from the scars and torment of sexual violation in the past.
355. When the institutional Church learns how to meet the countless victims of the abuse, neglect and rejection of the not-too-distant past with a solid front of sincere, compassionate pastoral concern, then and only then will we see credible evidence that the system that has created this nightmare is changing.



## APPENDICES

### **Appendix 1: Letter from Archbishop Luciano Storero, papal ambassador to Ireland, to each Irish bishop, January 31, 1997**

Dublin, 31 January 1997

Strictly confidential

Apostolic Nunciature In Ireland  
N. 808/97

To: the Members of the Irish Episcopal Conference - their Dioceses

Your Excellency,

The Congregation for the Clergy has attentively studied the complex question of sexual abuse of minors by clerics and the document entitled "Child Sexual Abuse: Framework for a Church Response", published by the Irish Catholic Bishops' Advisory Committee.

The Congregation wishes to emphasize the need for this document to conform to the canonical norms presently in force.

The text, however, contains "procedures and dispositions which appear contrary to canonical discipline and which, if applied, could invalidate the acts of the same Bishops who are attempting to put a stop to these problems. If such procedures were to be followed by the Bishops and there were cases of eventual hierarchical recourse lodged at the Holy See, the results could be highly embarrassing and detrimental to those same Diocesan authorities.

In particular, the situation of 'mandatory reporting' gives rise to serious reservations of both a moral and a canonical nature".

Since the policies on sexual abuse in the English speaking world exhibit many of the same characteristics and procedures, the Congregation is involved in a global study of them. At the appropriate time, with the collaboration of the interested Episcopal Conferences and in dialogue with them, the Congregation will not be remiss in establishing some concrete directives with regard to these Policies.

For these reasons and because the abovementioned text is not an official document of the Episcopal Conference but merely a study document, I am directed to inform the individual Bishops of Ireland of the preoccupations of the Congregation in its regard, underlining that in the sad cases of accusations of sexual abuse by clerics, the procedures established by the Code of Canon Law must be meticulously followed under pain of invalidity of the acts involved if the priest so punished were to make hierarchical recourse against his Bishop.

Asking you to kindly let me know of safe receipt of this letter and with the assurance of my cordial regard, I am

Yours sincerely in Christ,

+Luciano Storero  
Apostolic Nuncio

## **Appendix 2: Speech of Enda Kenny, Taoiseach [Prime Minister] in the Dail Eireann on the Report of the Commission of Investigation into the Catholic Diocese of Cloyne, July 20, 2011**

**Statement by the Taoiseach on the Dail Motion on the report of the Commission of Investigation into the Catholic Diocese of Cloyne, in Dail Eireann**  
July 20, 2011

I move the motion.

The revelations of the Cloyne report have brought the Government, Irish Catholics and the Vatican to an unprecedented juncture.

It's fair to say that after the Ryan and Murphy Reports Ireland is, perhaps, unshockable when it comes to the abuse of children.

But Cloyne has proved to be of a different order.

Because for the first time in Ireland, a report into child sexual-abuse exposes an attempt by the Holy See, to frustrate an Inquiry in a sovereign, democratic republic.....as little as three years ago, not three decades ago.

And in doing so, the Cloyne Report excavates the dysfunction, disconnection, elitism..... the narcissism..... that dominate the culture of the Vatican to this day.

The rape and torture of children were downplayed or 'managed' to uphold instead, the primacy of the institution, its power, standing and 'reputation'.

Far from listening to evidence of humiliation and betrayal with St Benedict's 'ear of the heart' ..... the Vatican's reaction was to parse and analyse it with the gimlet eye of a canon lawyer.

This calculated, withering position being the polar opposite of the radicalism, humility and compassion upon which the Roman Church was founded.

The radicalism, humility and compassion which are the very essence of its foundation and purpose.

The behaviour being a case of *Roma locuta est: causa finita est* [Rome has spoken: the case is closed].

Except in this instance, nothing could be further from the truth.

### **Victims**

Cloyne's revelations are heart-breaking. It describes how many victims continued to live in the small towns and parishes in which they were reared and in which they were abused ..... Their abuser often still in the area and still held in high regard by their families and the community. The abusers continued to officiate at family weddings and funerals.....In one case, the abuser even officiated at the victim's own wedding .....

There is little I or anyone else in this House can say to comfort that victim or others, however much we want to. But we can and do recognise the bravery of all of the victims who told their stories to the Commission.

While it will take a long time for Cloyne to recover from the horrors uncovered, it could take the victims and their families a lifetime to pick up the pieces of their shattered existence.

### **Papal nuncio**

A day post-publication, the Tanaiste and Minister for Foreign Affairs and Trade met with the Papal Nuncio to Ireland, Archbishop Giuseppe Leanza.

The Tanaiste left the Archbishop clear on two things:  
The gravity of the actions and the attitude of the Holy See.

And Ireland's complete rejection and abhorrence of same.  
The Papal Nuncio undertook to present the Cloyne Report to the Vatican.

The Government awaits the considered response of the Holy See.

I believe that the Irish people, including the very many faithful Catholics who - like me - have been shocked and dismayed by the repeated failings of Church authorities to face up to what is required, deserve and require confirmation from the Vatican that they do accept, endorse and require compliance by all Church authorities here with the obligations to report all cases of suspected abuse, whether current or historical, to the State's authorities in line with the Children First National Guidance which will have the force of law.

### **Clericalism**

Clericalism has rendered some of Ireland's brightest, most privileged and powerful men, either unwilling or unable to address the horrors cited in the Ryan and Murphy Reports. This Roman Clericalism must be devastating for good priests ..... some of them old ..... others struggling to keep their humanity ..... even their sanity ..... as they work so hard ..... to be the keepers of the Church's light and goodness within their parishes ..... communities ..... the human heart.

### **Church & State**

But thankfully for them, and for us, this is not Rome.  
Nor is it industrial-school or Magdalene Ireland, where the swish of a soutane smothered conscience and humanity and the swing of a thurible ruled the Irish-Catholic world.  
This is the 'Republic' of Ireland 2011.

A Republic of laws ..... of rights and responsibilities ..... of proper civic order ..... where the delinquency and arrogance of a particular version ..... of a particular kind of 'morality' ..... will no longer be tolerated or ignored.

As a practising Catholic, I don't say any of this easily.

Growing up, many of us in here learned that we were part of a pilgrim Church.

Today, that Church needs to be a penitent Church.

A church, truly and deeply penitent for the horrors it perpetrated, hid and denied.

In the name of God. But for the good of the institution.

When I say that through our legislation.....through our Government's action to put Children First .... those who have been abused can take some small comfort in knowing that they belong to a nation ..... to a democracy ..... where ..... humanity ..... power ..... rights ..... responsibility ..... are enshrined and enacted ..... always ..... always ..... for their good.

Where the law - their law - as citizens of this country, will always supercede canon laws that have neither legitimacy nor place in the affairs of this country.

### **State/Society**

This report tells us a tale of a frankly brazen disregard for protecting children. If we do not respond swiftly and appropriately as a State, we will have to prepare ourselves for more reports like this.

I agree with Archbishop Martin that the Church needs to publish any other and all other reports like this as soon as possible.

I must note the Commission is very positive about the work of the National Board for Safeguarding Children, established by the Church to oversee the operation by Dioceses and religious orders. The Commission notes that all Church authorities were required to sign a contract with the National Board agreeing to implement the relevant standards and that those refusing to sign would be named in the Board's Annual Report. Progress has been in no small measure to the commitment of Ian Elliott and others.

There is some small comfort to be drawn by the people of Cloyne from the fact that the Commission is complimentary of the efforts made by the Diocese since 2008, in training, in vetting personnel and in the risk management of Priests against whom allegations have been made. Nevertheless, the behaviour of Bishop Magee and Monsignor O'Callaghan show how fragile even good standards and policies are to the weakness and willful disregard of those who fail to give the right priority to safeguarding our children.

But if the Vatican needs to get its house in order, so too does this State.

The Report of the Commission is rightly critical of the entirely unsatisfactory position which the last Government allowed to persist over many years. The unseemly bickering between the Minister for Children and the HSE [Health Service Executive] over the statutory powers to deal with extra-familial abuse, the failure to produce legislation to enable the exchange of soft information as promised after the Ferns Enquiry, and the long period of confusion

and disjointed responsibility for child protection within the HSE, as reported by the Commission, are simply not acceptable in a society which values children and their safety.

For too long Ireland has neglected its children.

Just last week we saw a case of the torture of children, within the family, come before the courts . Just two days ago, we were repulsed by the case of a Donegal registered sex offender ..... and school caretaker .....

Children and young adults reduced to human wreckage.  
Raising questions and issues of serious import for State agencies.

We are set to embark on a course of action to ensure the State is doing all it can to safeguard our children .

Minister Shatter is bringing forward two pieces of legislation - firstly, to make it an offence to withhold information relating to crimes against children and vulnerable adults; and secondly, at long last, to allow for the exchange of 'soft information' on abusers.

As Taoiseach, I want to do all I can to protect the sacred space of childhood and to restore its innocence.

Especially our young teenagers, whom I believe to be children.  
Because regardless of our current economic crisis, the children of this country are, and always will be, our most precious possession of all.

Safeguarding their integrity and innocence must be a national priority. That is why I undertook to create a Cabinet ministry for Children and Youth Affairs.

The legislation 'Children First' proposes to give our children maximum protection and security without intruding on the hectic, magical business of being a child.

### **Conclusion**

Cardinal Josef Ratzinger said:

'Standards of conduct appropriate to civil society or the workings of a democracy cannot be purely and simply applied to the Church.'

As the Holy See prepares its considered response to the Cloyne Report, as Taoiseach, I am making it absolutely clear, that when it comes to the protection of the children of this State, the standards of conduct which the Church deems appropriate to itself, cannot and will not, be applied to the workings of democracy and civil society in this republic.

Not purely, or simply or otherwise.

CHILDREN .....FIRST.

(The above text was posted on the Taoiseach's website. See: [https://www.bishop-accountability.org/news5/2011\\_07\\_20\\_Kenny\\_Statement.htm#on\\_Taoiseach\\_site](https://www.bishop-accountability.org/news5/2011_07_20_Kenny_Statement.htm#on_Taoiseach_site))

### Appendix 3: Pope John Paul II's letter to the U.S. bishops, June 11, 1993

Venerable and dear brother bishops of the United States,

"Woe to the world because of scandals!" (Mt. 18:7).

1. During these last months I have become aware of how much you, the pastors of the Church in the United States, together with all the faithful, are suffering because of certain cases of scandal given by members of the clergy. During the ad limina visits many times the conversation has turned to this problem of how the sins of clerics have shocked the moral sensibilities of many and become an occasion of sin for others. The Gospel word "woe" has a special meaning, especially when Christ applies it to cases of scandal, and first of all *to the scandal "of the little ones"* (cf. Mt. 18:6). How severe are Christ's words when he speaks of such scandal, how great must be that evil if "for him who gives scandal it would be better to have a great millstone hung around his neck and to be drowned in the depths of the sea" (cf. Mt. 18:6)
2. The vast majority of bishops and priests are devoted followers of Christ, ardent workers in his vineyard, and men who are deeply sensitive to the needs of their brothers and sisters. That is why I am deeply pained, like you, when it seems that the words of Christ can be applied to some ministers of the altar. Since Christ calls them his "friends" (Jn. 15:15), their sin - the sin of giving scandal to the innocent - must pain his heart indeed. Therefore, I fully share your sorrow and your concern, especially your concern for the victims so seriously hurt by these misdeeds.
3. Every sinner who follows the way of repentance, conversion and pardon can call on the mercy of God, and you in particular must encourage and assist those who stray to be reconciled and find peace of conscience. There is also the question of *the human means for responding to this evil*. The canonical penalties which are provided for certain offenses and which give a social expression of disapproval for the evil are fully justified. These help to maintain a clear distinction between good and evil, and contribute to moral behavior as well as to creating a proper awareness of the gravity of the evil involved. As you are aware, a joint committee of experts from the Holy See and the bishops' conference has just been established to study how the universal canonical norms can best be applied to the particular situation of the United States.
4. I would also draw your attention to another aspect of the whole question. While acknowledging the right to due freedom of information, *one cannot acquiesce in treating moral evil as an occasion for sensationalism*. Public opinion often feeds on sensationalism and the mass media play a particular role therein. In fact, the search for sensationalism leads to the loss of something which is essential to the morality of society. Harm is done to the fundamental right of individuals not to be easily exposed

to the ridicule of public opinion; even more, a distorted image of human life is created. Moreover, by making a moral offense the object of sensationalism, without reference to the dignity of human conscience, one acts in a direction which is in fact opposed to the pursuit of the moral good. There is already sufficient proof that the prevalence of violence and impropriety in the mass media has become a source of scandal. Evil can indeed be sensational, but the *sensationalism* surrounding it is always *dangerous for morality*.

5. Therefore, the words of Christ about scandal apply also to all those persons and institutions, often anonymous, that through sensationalism in various ways open the door to evil in the conscience and behavior of vast sectors of society, especially among the young who are particularly vulnerable. "Woe to the world because of scandals!". Woe to societies where scandal becomes an everyday event.
6. So then, venerable brothers, you are faced with two levels of serious responsibility: in relation to the clerics through whom scandal comes and their innocent victims, but also in relation to the whole of society systematically threatened by scandal and responsible for it. A great effort is needed to halt the trivializing of the great things of God and man.
7. I ask you to reflect together with the priests, who are your co-workers, and with the laity, and to respond with all the means at your disposal. Among these means, *the first and most important is prayer*: ardent, humble, confident prayer. This whole sad question must be placed in a context which is not exclusively human; it must be freed from being considered commonplace. Prayer makes us aware that everything - even evil - finds its principal and definitive *reference point in God*. In him every sinner can be raised up again. In this way sin will not become an unfortunate cause of sensationalism, but rather the occasion for an interior call, as Christ has said: "Repent" (Mt. 4:17). "The Lord is near" (Phil. 4:5).
8. Yes, dear brothers, America needs much prayer - *lest it lose its soul*. We are one in this prayer, remembering the words of the redeemer: "Watch and pray, that you may not enter into temptation" (Mk. 14:38). Christ the good shepherd calls us to this attitude when he says, "Take courage, I have overcome the world" (Jn. 16:33). United with you in the firm trust that our savior is ever faithful in caring for his people and that he will not fail to give you the strength to fulfill your pastoral ministry, I commend the clergy, religious and lay faithful of your dioceses to the loving intercession of his immaculate mother Mary. With fraternal affection in Christ Jesus, I impart my apostolic blessing.

June 11, 1993

("Letter of his Holiness John Paul II to the Bishops of the United States of America", in *Origins*, July 1, 1993, Vol. 23, no. 7; emphasis in original.)

Appendix 4: Letter from Cardinal Castrillon Hoyos to Bishop Moreno of Tucson AZ, December 13, 1996



CONGREGATIO  
PRO CLERICIS

Vatican City, 13 December 1996

Prot. N. 96002965

CONFIDENTIAL AND RESERVED

**Most Rev. Manuel D. Moreno; DD**  
Bishop of Tucson  
192 South Stone Avenue  
P.O. Box 31  
Tucson, ARIZONA 85702-0031  
U.S.A.

Your Excellency,

This Congregation has received a petition for hierarchical from Mons. Robert Trupia of your Diocese, against certain alleged actions on your part in his regard. As Your Excellency is well aware, this is not the first recourse that has been placed before this Dicastery or indeed, the Supreme Apostolic Signatura, with regard to the relationship between yourself and Mons. Trupia.

While in no way intending to infer that this Congregation is unwilling to evaluate the matter placed before it according to its competence before proceeding to decision, as is the tenor of the law and that also of the letter of Cardinal Sanchez to Monsignor Trupia of 21 June 1995 and that of Archbishop Orcholewski of 5 July 1995, to the same, this Dicastery turns to Your Excellency, once again, to ask you to resolve this matter by means of a reasonable solution.

We strongly invite Your Excellency to enter into meaningful dialogue with Monsignor Trupia regarding the terms of solution he has proposed. In so doing, Your Excellency would also be well advised to be fully informed of the provisions of canon law operative as well as, among other things, of the statements of the Holy See with regard to psychological testing. It must also be borne in mind that the matter of damage is not outside of the purview of any subsequent decision which may be rendered.



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Given the canonical actions which have already taken place and the particular history of the situation, this Congregation feels strongly that the most beneficial resolution of this matter could take place in a written agreement, consonant with the law, between yourself and Monsignor Trupia. Again, we reiterate that the teillDS proposed do not appear unreasonable in the circumstances and are worthy of serious consideration.

We would like to know of Your Excellency's response:to OUR initiative as soon as possible, (you may eveil wish to fax us,.if this ilitates the matter). As you are aware, in matters of recourses pending before us we are bound to a decision 6y the time limits set in law. If, as we hope, further intervention of this Dicastery is not;necessary and there is a written agreement between yourself and Mons. Trupia concludit;J.g affair, we would like to have a copy of it.

We are aware of the difficulties inherent in this situation and we pray for prudence and wisdom for all involved. However, in the absence of a D1\ltial agreement between yourself and Mons. Trupia, this Congregation will have to proceed to decision, with great reluctance.

I take this opportunity to renew my sentiments of esteem:and with every best wish, I remain,

Sincerely yours in

GRO-C

*Pro Pref.*

GRO-C

*Secr*

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Appendix 5: Letter from Bishop Moreno of Tucson AZ to Cardinal  
Castrillon Hoyos, January 6, 1997



Seal OF THE BISHOP

## DIOCESE OF TUCSON.

192 SOUTHWEST AVENUE

P. O. Box 31 • Tucson, Arizona 85702-0031

520 - 792-3410 FAX 520 • 792-8291

### CONFIDENTIAL

January 6, 1997

Prot. N. 96002965

Congregatio Pro -Clericis  
00120 Citta del Vaticano  
via fax 06/69884845

Your Excellency:

Your letter dated the 13 of December, 1996 did not arrive in my office until after the Feast of Christmas. As bishop I have no problem with the concept of retirement. Monsignor presently receives three hundred dollars more than what his retirement compensation would be. The problem is this: Msgr. wants to officiate at services in the Diocese of Tucson as part of his retirement and to exercise a public ministry outside of the Diocese of Tucson. This would present an insurmountable problem for us because of the following reasons:

1. The real and present potential of scandal. The mother of the teenager that Msgr. Trupia abused has stated in no uncertain terms that if he should exercise his priestly ministry in the Diocese of Tucson her son would sue Msgr. and the diocese. I note that the young man in question is still under the care of a psychologist and has been for almost five years. The diocese has borne the expense of this therapy for the young man for the last four years. In addition to this case, another person has contacted me during the last two months who alleges that he was abused by

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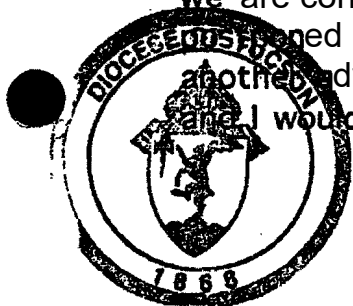
Msgr. Trupia in Yuma, Arizona in the early-to-mid 1970's. This individual has yet to give us details, but has told us that he has retained a lawyer and that he intends to sue both the diocese and probably Msgr. Trupia. By his own account he is in need of psychological help, and the diocese has offered to obtain him such help.

2. The potential civil liability of the diocese. The diocesan insurance company (or any other insurance company for that matter) will not insure the diocese against liability if Msgr. should exercise his priestly office and abuse another teenager or for that matter, any young adult that he might meet as a result of exercising his priestly office. The diocese would be in no position to defend itself since it could not demonstrate that it had had Msgr. Trupia evaluated by professionals and that they had indicated to the diocese that he was no longer a threat. I note that judgments in American Courts in cases not dissimilar to Msgr. Trupia have ranged from the hundreds of thousands of dollars to as much as a million dollars or more.

3. My duty as a bishop and a protector of the People of God would not permit me in conscience to permit him to officiate in this diocese or elsewhere until and unless I knew that he did not constitute a threat to others.

4. I note that no other diocese would permit him to exercise his priestly ministry on the basis of the record that we have presented. If a bishop after being fully informed of the Msgr.'s record would choose to accept him, I would continue to be responsible for his retirement, medical and other benefits. I would be less than honest if I did not state that, even given the shortage of trained canonists in most dioceses, I do not believe there would be such a bishop or diocese who would choose to employ Msgr. for his canonical expertise given risk it might entail.

In all events I wish to be represented before the Congregation by an advocate who lives in Rome. We have been retaining - Mr. Carlo Gullo for the work before the Signatura until now and if he is free to continue with us, we are content to continue with him. I would request that the matter be postponed at least a month until I can be sure of his help or have acquired another advocate. In addition, the file in this matter is quite extensive and I would want to make sure that the Congregation has all of the



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relevant material that would be of use in making a decision in this matter.

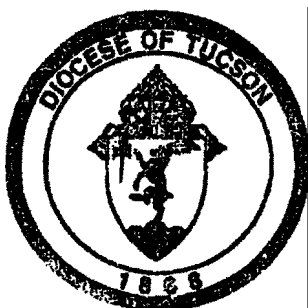
In so far as contacting Msgr. Trupia, I have only an address that was his temporary address in Los Angeles. The last time I attempted to contact him at his Washington, D.C. address I was told that he no longer resided at that address.

Please contact me by FAX if there are any other materials that are needed pending the contacting of an advocate.

Sincerely yours in Christ,

J G R O - C

Most Rev. Manuel D. Moreno, D.D.  
Bishop of Tucson



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J G R O - C

PRIEST - NOTARY

**Appendix 6: Letter from Cardinal Castrillon Hoyos to Bishop Moreno of Tucson AZ, October 31, 1997**

CONGREGATIO  
PRO CLERICIS

Vatican City, 31 October 1997.

RECEIVED

LJWL. J O 1997

BISHOP'S OFFICE

Prot. N. 97002724

Most Rev. Manuel D. Moreno, DD  
Bishop of Tucson  
192 Southstone Avenue  
P.O. Box 31  
Tucson, ARIZONA 85702-0031  
U.S.A.

RECEIVED

DEC 18 1997

BISHOP'S OFFICE

Your Excellency,

This Congregation has reached a decision in the matter of the recourses presented to it by Mons. Robert Trupia of your Diocese and has found in his favor. This being the case, we would ask that you revoke the decisions and consequences communicated to Mons. Trupia by letter of 2 June 1995, as these seem to be without canonical basis.

It would appear beneficial to all concerned to enter into discussion with Mons. Trupia according to the proposal already made by him and referred to, by us in our letter of 13 December 1996, Prot. N. 96002965.

As to the matter of the recourse concerning damages arising from the imposition of an illegitimate decree, it is the mind of this Dicastery that Your Excellency is liable for these from 2 June 1995 onwards. It would appear best that this matter form part of the aforementioned discussion between the parties and that it be resolved in an equitable fashion.

I take this opportunity to renew my sentiments of esteem and with every best wish,

I remain.

Sincerely yours in Christ

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Appendix 7: Letter from Bishop Moreno of Tucson : Z to Cardinal  
Castrillon Hoyos, December 22, 1997

CONFIDENTIAL

## DIOCESE OF TUCSON

192 SOUTH SIENNE AVENUE

P. O. Box 31 • Tucson, Arizona 85702-0031  
520 - 792-3410 FAX: 520 - 792-0291



OFFICE OF THE BISHOP

Prot.N. 97002724

December 22, 1997

Most Rev. Dario Castrillon Hoyos  
Congregation for the Clergy  
Piazza Pio XII 3, 00193  
Rome Italy

Your Excellency:

On December 18, 1997, (letter dated October 31, 1997) I received the enclosed decision/letter from your Congregation making certain findings concerning sgr. Robert Trupia and matters that he has had pending before the Congregation. My advocate Mr. Carlo Gullo had contacted me on December 15, 1997, and on December 16, 1997, filed an appeal to the Supreme Tribunal of the Apostolic Signatura and sent copies of my letter and mandate appointing Mr. Carlo Gullo to the Congregation. I am sending a copy of this letter to the Signatura so that the matters under appeal may be clearly set forth.

As the bishop charged with the care of this diocese, I cannot in conscience submit to the

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on the terms set forth in his communications to me. I again state them here:

1. He requires that if any other diocese in the United States makes inquiry concerning him we are to merely respond that he is in good standing. If I do that and he commits an offense in that diocese both this diocese and myself would be personally liable not to mention the scandal that would be caused among the People of God and the harm that might result to an innocent party.

2. -He wishes from time-to-time to return to the diocese and celebrate Eucharist and other celebrations. The same dangers outlined in 1. above could **OCCUR** here. In addition we have informed you that the mother of one boy (now a man), whose complaint started this process, has threatened to go to the newspapers and I would be in no position, to state that the problem would not arise again.

I cannot take these risks with the lives of others and the patrimony of this diocese without an evaluation of Msgr. Trupia which would indicate that he is no longer a threat to the

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ProtN. 97002724

People of God. As I informed the Congregation last week, we have now been served with a lawsuit concerning actions of Msgr. Trupia in the mid 1970's concerning a then minor altar boy. These risks are not just imaginary, but real.

I am at a loss to deal with the finding of the Congregation concerning damages. I have paid Msgr. Trupia a full salary plus his medical and car insurance at all times, as the Congregation was so informed. I have been given no details so that we can even defend what other damages may have arisen. **Msgr.** Trupia has resigned his office and has no right to it. Besides, offices in our diocese do not carry extra salaries other than the normal salaries of active priests. Msgr. Trupia has been compensated as an active priest with over 20 years seniority the entire time that this case has been in process.

Lastly at all times in this matter I have followed the canonical advice of my Advocate in Rome as to the nature of the demands that might be placed on Msgr. Trupia in regards of a psychological examination.

I have deep respect for the works of the Congregation for the Clergy, however, I have appealed the decision to the **Signatura** in this matter.

Sincerely yours in Christ.

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**GRO-C**

Rev. Manuel D. Moreno, D.D.  
Bishop of Tucson

cc. Supreme Tribunal of the Apostolic Signatura  
Mr. Carlo Gullo

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