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Critique of the Vatican's role in recent child protection practice: A brief report

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Abstract

The current report aims to clarify the practices and implicit intentions of the Holy See in addressing child sexual abuse (CSA) by clerics in the twenty first century. Church investigation reports, United Nations reports, press coverage and academic literature were explored to understand the relationship between church intention and practice. Various types of literature highlight the Roman Catholic Church (RCC) as an organisation that is self-referential and self-defensive with the implicit aim of protecting the reputation of RCC at the expense of children. Organisational responses are seen as promoting the protection of perpetrating clerics resulting in the spread of CSA by clergy nationally and globally. Recommendations are made for the introduction of modern day management practices in RCC filtered through a faithful understanding of gospel principles. The authors suggest that the United Nations may be an important vehicle for fostering leverage for change in RCC child protection practice.

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Critique of the Vatican's role in recent child protection practice: A Short Report

The current study extends a review of literature that explored the laws and guidance of the organisational Roman Catholic Church (RCC) in the 21st century in relation to child sexual abuse (CSA) by clerics (blinded for review). The initial review found RCC continues to respond to clerics CSA in a defensive, managerialized and bureaucratic way more characteristic of secular organisations and corporations. The review, focusing on the secretive and coercive behaviour of bishops, failed to analyse the role of the Vatican in relation to the most recent managerial practices in response to the CSA crisis. The current study addresses this omission.

United Nation observations

A recent concluding observations report by the UN Committee on the Rights of the Child (2014) held the Holy See responsible for the adoption of policies that allowed priests to sexually abuse children and cover up their crimes. The committee challenged the Holy See to open up files and provide records to state authorities for lawful action against clerics who abused tens of thousands children worldwide. The report criticized the practice of shifting abusing clerics from one parish to another, and abroad, thus placing children at risk in many countries. As a positive way forward for children and families in the Church and beyond the UN committee sought the removal of all priests involved in CSA and called on the 'Vatican commission on clerical child sexual abuse' to investigate the conduct of the Catholic organisational hierarchy in dealing with abusing priests.

Bones (2013), along with other press reports, uncovered the Vatican for turning down the UN committee's initial request for data on abusing clerics. A year later the Vatican also refused to provide statistics on Australian catholic priests to the Royal Commission investigating institutional child sexual abuse in Australia (AAP, 2014), citing legal provisions from the Canon

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law “not to disclose information on religious discipline in order to protect the accused, witnesses and integrity of the Church process.” A different human rights committee, the UN Committee Against Torture report (2014) held Vatican authorities responsible for failing to report abuse to statutory authorities and moving abusing clerics from one place to another in order to evade the application of state laws. In addition, the Vatican was criticized for not ensuring adequate compensation to the victims. The report, in making reference to specific case outcomes, criticised the Vatican’s proclaimed policy of zero tolerance towards abusing priests, by highlighting that pledges made in this regard did not always ensure action on the part of the organisational Roman Catholic Church (RCC). The committee expressed concerns regarding the resistance and reluctance of clerical authorities towards mandatory reporting of abuse cases to statutory agencies and challenged the Vatican to ensure cooperation with civil authorities in a way that “no hierarchical connection exists between the investigators and the accused priests” (2014: 6). The UN committee was also critical of the non-existence of accountability to reprimand Bishops who actively covered up abuse or failed to report it, and stressed the necessity for an independent complaint investigation mechanism. The committee further expressed concerns over the use of diplomatic immunity for non-cooperation to state sponsored investigations, for example, the Royal Commission inquiry into institutional abuse conducted by the Australian government (2014), and criticised the Holy See for effectively allowing suspected priests to seek sanctuary in Vatican City.

Minimal Vatican response

Formicola (2011) criticised the response of the Holy See as characterised by confusion, a reluctance to adjudicate in cases of clerical CSA and an over-focus on confidentiality. The consequences of which were the plethora of legal challenges to RCC and the undermining of the

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safety and welfare of children. In 2014, Zaimov and the Associated Press (2014), in what appeared to be a positive action by the Vatican, reported that the Holy See for the first time provided a figure ($n = 848$) for clerical dismissals from priesthood along with other disciplinary penalties for clerics ($n = 2572$) involved in CSA since 2004. There was, however, limits to what was reported by the Vatican, as no further information was revealed regarding details of the number of pending cases and proceedings. In contrast to the response to the UN, the Vatican refused to provide details on Australian Catholic clerics involved in CSA to the Royal Commission in July 2014. Moreover, the number of cases brought to the notice of the 'Congregation of the Doctrine and Faith' (CDF) from all over the Catholic world since 2001 and the figures stated by the Holy See for the UN committees were relatively very small (around 3500). This figure was considerably lower than the figures established by previously conducted Church inquiries in Ireland, the Netherlands, and the USA (Ferns, Ryan & Murphy/CICA, 2005/2009; Deetman Commission Report, 2011; Jay report, 2004 respectively). There are no mechanisms to independently confirm these conflicting Church statistics. In relation to the United States conference of Catholic Bishops, Formicola (2016) has referred to the response as ignorant and arrogant because of the acceptance of poor psychological advice, the giving of conflicting legal and religious advice, and the underestimation of State concerns for the safety and welfare of children

Self-protective and serving response

Apparently absolving RCC from global responsibility, The Holy See asserted that obligations to UN charters did not extend beyond the Vatican City, particularly in CSA cases in which the accused clergy were subject to national laws of their countries. The Holy See contended that the RCC could not take organisational responsibility for what were 'individual

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actions' of abusing clerics. This clearly visible self-serving view was rejected by the UN who termed it the responsibility of the organisational Church to monitor the conduct of its members under her effective control worldwide. In other words, if clergy CSA were individual actions and the Church was not aware and did not cover up the large scale abuse as claimed by the Holy See, then why did the canon (2359:2) of the Code of Canon Law 1917 explicitly address clerical CSA as: "[Clerics in major orders] if they have committed an offence against the sixth commandment with minors under 16 years of age or being guilty of adultery, rape, bestiality, sodomy, traffic in vice or incest with blood relatives or relations by marriage in the first degree, they shall be suspended, declared infamous, deprived of every office, benefice, dignity, or position that they may hold or in more grievous cases they shall be deposed." The question can therefore be asked what was the need for the organisational Church to frame secret laws aimed at addressing deviant clerical sexual behaviours, such as the '*Crimen Sollicitationis*' in early 20th century (1922/1962) if this was a clerics individual action problem? The existence of this document may indicate that RCC authorities were not only aware of clerical CSA being practiced throughout the Catholic world but that the Church had also devised secret organisational laws over an extended period of time.

Failure to accept responsibility, provide justice and support victims

As part of RCC's denial of CSA by perpetrating priests, Gledhill (2002) criticised RCC for not accepting organisational responsibility for the consequences of abuse for children and families. Franz (2002) criticized the Church for failing to providing victims with any form of emotional and spiritual support, and healing, leaving them helpless. The investigative report by the attorney general of Massachusetts (2003) produced evidence to suggest widespread CSA was due to an institutional acceptance of abuse on part of church authorities who played a wilful role

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in ignoring both the problem of CSA as well as the support needs of victims. Similar views regarding the failure of Dioceses to provide justice for child victims as well as create opportunities for healing, had been expressed by the grand jury of Suffolk County, New York (2002) about the Diocese of Rockville and more recently by the attorney general of Pennsylvania (2016) who held several Bishops in the Altoona Johnstown Dioceses responsible for covering up sexual crimes against hundreds of children committed by at least 50 priests or religious leaders over at least four decades. In both reports RCC's actions were seen as placing the primacy of responsibility on protecting the reputation of the Church rather than the safety and wellbeing of children.

Despite RCC's recognition of CSA within the Church and the promise of future control by Bishops, Steinfels (2003) saw this as a strategy as another way to avoid a scandal in order to protect the reputation of the Church. The evidence for such a strategy leading to action for the protection of victims was not apparent as Steinfels viewed the behaviour of Bishops covering up decades of old known abuse as a career oriented approach and that primarily focussed on institutional loyalty. A conclusion also reached by the John Jay report (2004). Other examples of Bishop cover ups were included in the reports by the attorney general of the state of Maine (2004) and the attorney general of New Hampshire (2003) on the Diocese of Manchester. The latter established that due to the failure to address abuse concerns appropriately and wilfully, the Diocese breached its duties required to be carried out under the organisational charter and repeatedly placed children in danger of assault. Kochansky and Herrmann described this response of the church as "institutional narcissism" (2004: 301) based on self-protection against the threat of the abuse scandal to "overshadow the dedication and service of the vast majority of the clergy and to compromise the work of the Church itself" (2004: 301).

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Harassment, denial, and silence

Dockeki (2004) highlighted that RCC not only covered up CSA but also responded aggressively towards complainants to silence their voice. The second report by Philadelphia grand jury (2011) found Archdiocese officials responsible for continuous harassment, bullying and pressure to keep victims silent. The Ferns Commission report in Dublin (2005), held the Bishop of the Ferns responsible for his non-supportive attitude towards the complainants and Doyle (2010) uncovered how church authorities convinced victims to become part of their own cover up.

Numerous investigations and reports highlight RCC's use of denial and silence as strategies to save the Church's reputation at the expense of victims. The Ireland Murphy report (2009) specifically revealed the Archdiocese of Dublin for remaining silent and the Ryan report (2009) in Dublin went further and blamed clergy responsible for protecting perpetrators in order to safeguard the reputation of the institution. Martinez and Macsweeney (2009) saw this as a wide spread issue for Church authorities. In the Netherlands the Deetman commission report (2011) established that a culture of silence and secrecy over sexual abuse of children was maintained within different orders and dioceses. Riordan (2011) concluded that the Church ecclesiastical authorities in remaining silent acted contrary to their aim to save the reputation and respect of the Church in society and instead harmed both the common good and the laity's' faith in the Church. Bandes (2007) argued that the institutional denial and cover up of abuse was actually a greater concern for moral panic than the abuse itself. Chang (2005) asserted that the primary goal of Church authorities, to preserve the authority and respect of the institution and its priests, showed little to no concern for betterment of its members.

Problems of institutional management

The problem of secrecy and the protection of perpetrating priests has been seen by various studies and reports as a result of management failures with RCC. Doyle (2006) blamed clericalism and the church authorities for holding the institutional welfare ahead of the safety of its most vulnerable members (Cozzans, 2006). Gluck (2003) suggested the absence of performance, planning and human resource management systems were major causes for the inappropriate organisational strategy to the CSA scandal with O' Mally (2002) referring to this as a 'crises of authority.' The attitude of clerical authorities and ecclesiological beliefs were suggested by Pope (2004) as underpinning the widespread failure of organisational accountability and Barber (2005) identified gaps between organisational responsibilities and the social environment as a primary reason for poor management decisions. Piquero et al., (2008) stated that analysis of clerical abuse from an organisational perspective remained invisible and unaccountable to its stockholders and government regulations in the corporate sense, with few incentives to face accountability. With a future focus, Maier (2005) argued that a more responsive and openly attentive approach would have let the Church deal with the crises of sexually abusing clerics in a more systematic manner rather than an approach characterized by confusion, ambiguity and defensiveness. The latter were factors perceived, by Maier, to be driven by internal politics within RCC's organisational and management hierarchy. Gluck (2004) saw the difficulties as embedded within an outdated feudal model of management and governance in RCC, stating such an approach was bound to miss benefits of modern management. Gluck advocated a managerial overhaul of the church's organisational hierarchy and argued for corporate practices and management mechanisms to be brought into RCC's organisational structure

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Recent response – avoidance of mandatory reporting

In response to criticisms, RCC had instructed Bishops, through Congregation Pro Doctrina Fidei (2011), a circular letter issued from the Vatican under the signatures of William Cardinal Levada 'Perfect of the Congregation for the Doctrine of the Faith' (CDF), to follow and respect relevant local laws in regard to allegations without making it mandatory for the Bishops to report clerical CSA cases to the statutory authorities as had been earlier instructed to ensure mandatory reporting to the 'CDF' since 2001. In March 2014, the Vatican announced formation of a 'Pontifical commission for the protection of minors' which received its statutes in May 2015. The commission's role was unfortunately confined to suggest measures to enhance protection of children within churches and develop best practices in an advisory capacity. The process was also inherently flawed as amongst the founding eight members of the commission were two abuse survivors namely (i) Peter Saunders (Britain) who was forcibly removed from the Commission in Feb 2016 for being critical of the slow pace of working of the commission and for criticizing nominations of Bishops who had allegedly covered up clerical CSA on key positions and (ii) Marie Collins (Ireland) who resigned from her position in March 2017 citing lack of cooperation from the Roman Curia. Again the formation of this commission could be construed as a whitewash to counter international criticism of RCC's management hierarchy to take any meaningful action against abusing clerics and ensure justice and compensation for victims, as evident from the unceremonious departure of the only two abuse survivors working on its panel. To date, the commission has failed to justify its purpose of existence and has not been able to play any commendable role to produce any concrete results. Allen (2016) reported that in the most recent training program conducted by the Vatican for new bishops to apprise them of procedures and best practices regarding protection of minors, no one from the 'Pontifical

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Commission for protection of minors' was involved and the presentation was conducted by French Monsignor Tony Anatrella, a consultant to the Pontifical Council for the Family and the Pontifical Council for Health Care Workers. The Monsignor during the presentation stated explicitly that the prime responsibility to report CSA to state agencies still lay with the victim and the family; not the Bishops.

Insufficient action against abusing clergy

The organisational church has not only refused to share important information on abusing clerics with secular governments, but consistently restrained from issuing instructions to Bishops around the world to ensure mandatory reporting of sexual crimes of clergy against children to the statutory authorities. The Philadelphia Grand Jury report (2005) held the church authorities responsible for widespread CSA by trying to cover up reports of the problem and further transfers of such priests to other parishes terming their action to be as immoral as the abuse itself. Doyle (2017) in his testimony before the Royal Commission investigating institutional child sexual abuse in Australia submitted that the Church authorities ignored the crime, tried to silence the victim by every possible means and defended the abuser facilitating abuse through moving him to another place to continue abusing, hence terming the approach of the RCC to be secrecy, cover ups and betrayal of the victims. (Browne: 2017). Higgins and Kevangah (2010) noted similar patterns of silencing the victims and shifting abusing priests in order to avoid a scandal.

Moreover no agenda, terms of reference and operative mechanism were declared by the RCC for the working of the Vatican Tribunal established in June 2015 to conduct trials of bishops found to have been involved in cover ups for the abusing clerics and no action against any such Bishops has been taken so far. No laws have been made by the organisation to sustain membership of abusing clerics or to have a global registry to maintain data on such clerics. Such

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behaviour is self-evident of the protection provided by the organisational RCC to abusing clerics which still continues to treat the issue of CSA with confidentiality, silence, and secrecy.

Possible ways ahead

In light of the above discussion, it can be argued that to fulfil the requirements of natural justice, it is necessary that all those who indulged in clerical CSA or covered it up must be removed from priesthood and referred to secular authorities for criminal prosecutions globally. Revelations of clerical CSA continue to dominate the ecclesiastical authorities at the Vatican who continue to have concerns about their clerical stature, effectively blocking legal moves through non-co-operative attitudes and behaviour at public and international forums. Pretexts are put forward on the intrusion in internal affairs, diplomatic immunity, canon law and limited jurisdiction on priests at universal level as noted by the UN Committee Against torture report (2014) and the UN Convention on the rights of the Child Report (2014). It is argued that The Holy See needs to be pressurised through diplomatic forums by secular nation state governments to ensure justice for victims, co-operation with investigations conducted by secular authorities and the bringing of perpetrators of CSA or tried to cover it up, to criminal investigation.

Renne (2011) identified the escalation of legal, diplomatic, and financial tensions between the Vatican and secular authorities in a number of states because of persistent confusion created by the Vatican, papal reluctance to adjudicate abuse cases appropriately, and a prevailing culture of confidentiality over CSA cases. The most recent report of UN committee on the rights of child (2014) has not explicitly held the Holy See in violation of their charter of duties. Instead, the UN has remained confined to the building up of non-technically enforceable pressure and recommendations. If, however, the organisational Church continues to demonstrate non-cooperation and violation of international responsibilities, the UN could consider other legal

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measures including the diplomatic status of the Holy See. This is not an unreasonable suggestion in light of the organisational Church showing little to no concern for the plight of hundreds of thousands of victims of clerical CSA committed all over the world. It is perhaps timely for secular nation states to take the initiative and redefine the limits of the organisational church to ensure that the rights of children and their citizens are protected. This is more of a question of sustainability of the modern secular nation state model of democratic governance in its present shape and fulfilment of the United Nations charters on protection of children rights and against sexual exploitation and torture, than to protect and retain the traditional organisational structure of the institutional Catholic Church (Doyle, 2011).

Conclusion

It can be argued that the organisational RCC has failed to adopt measures to stop, firstly, clerics sexually abusing children and secondly, others within RCC covering up the abuse. The organisation has explicitly refused to disclose details and provide data to secular authorities on abusing clerics citing its own organisational canon law as the reason. The authors argue this equates to an explicit abetment to sexual crimes against children. The organisational Church has failed to form any global registry for detected abusers and has let thousands of perpetrators roam freely in different parts of the world, despite having detailed information on their activities putting countless children at the risk of CSA worldwide. In severe cases, the organisational RCC has provided refuge to absconders who are wanted for sexual crimes against children before secular law. It has consistently refused to make it obligatory for Bishops worldwide to report sexual crimes against children to local police and law enforcement secular authorities. The organisation has adapted more cosmetic measures rather than solid enforcement mechanisms to bring the perpetrators of sexual crimes against children to justice. In spite of the establishment of

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a tribunal in mid-2015 to conduct trials of Bishops involved in covering up sexual crimes against children, no such trial has been conducted so far and the whole functional process of the terms and conditions and operative mechanism of the tribunal remains unclear to date.

It can be concluded that the organisational RCC remains resistant to any move aimed at prosecution of Catholic clergy in different states through non-cooperation, withholding of important information, delaying tactics, invoking of diplomatic immunity, and non-acceptability at organisational level. The organisational Church has done this by terming acts of CSA committed by her clergy as individual actions over which the Holy See has no jurisdiction to control as it could exercise jurisdictional control over her public employees within the Vatican City State only; a stance taken in front of the UN Committee on the rights of the child and categorically rejected by the latter. (UNCRC 2014). This is in spite of the Church being held responsible in various inquiries, investigations and research conducted in different countries for covering up clerical CSA at organisational level for reputational stakes, and for the efforts to force victims into invisibility and silence. There has been little evidence for exhibiting any concerns for provision of care, support or justice to victims. It is argued, it is therefore necessary for secular governments to pressurise the Holy see to comply with international obligations and to develop better enforcement mechanisms to safeguard children against clerical abuse in order to provide justice to the victims and effectively establish the 'rule of law'. Further, it is argued that nation state governments need to respond with conformity, conviction, and clarity to make the clergy realise that their religious stature will no longer provide them a cover to evade application of criminal laws and secular justice in the modern world. Clerics need a clear message to make them aware that, "they are not only members of the clerical state of the organisational Catholic Church, but more of the nation states; to which they owe their physical

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existence and subsistence ... secular governments will not allow them any special privilege or protection in the garb of organisational canon law, for sexual crimes committed against innocent children all over the Christian World.”

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