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February 11, 2014: The UN Committee on the Rights of the Child

Bruce Ledewitz

Duquesne University, ledewitz@duq.edu

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Title: The UN Committee on the Rights of the Child

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2/11/2014—Mark Movsesian, professor of law at St. John's University, has a good column on the Center for Law and Religion Forum. Mark is critiquing last week's report by the UN Committee on the Rights of the Child on the response of the Vatican to the pedophilia crisis in the Church. The critique centers around calls by the Committee for the Vatican to change its position on abortion, contraception and gay rights in order better to protect children. These matters have no obvious connection whatever to the treaty language—the Convention on the Rights of the Child—nor to the specific wrongdoing of pedophile priests. I think Mark is right that this aspect of the report amounted to an attack on the Roman Catholic religion by an aggressively secular human rights group. But I am more interested in another aspect of the report—the criticism of the Vatican for its handling of the pedophilia itself: “the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators.” Now, as far as I know, no one is claiming that sexual abuse of children is going on today, except in some isolated act by a criminal priest, much as it might go on in isolated cases in many other institutions—Penn State for example. No one seems to be claiming that today the Church is just moving priests suspected of abuse around to other posts. The criticisms seem to center around three issues: the failure of the Vatican to take responsibility for the prior actions of priests worldwide, the failure to turn all suspected priests over to authorities for prosecution and the failure of the Church to open up its records. What seems to me to be at issue here is legal responsibility, which could include financial responsibility and a kind of jurisdictional disagreement. I believe the Vatican rejects direct responsibility so it cannot be sued civilly by victims. Maybe sad, but just the sort of thing large institutions worry about. As for transparency, the Church maintains a kind of jurisdictional apartness and always has. The Church is reluctant to set a precedent in which government authorities, rather than the Church, will decide who should be prosecuted. Unless this stance is leading to protection of current child abuse, this is a separation that Americans should welcome. Americans have always looked to strong civil society as a necessary foundation for a free society. A certain amount of separation of church and state is to be welcomed as part of that foundation.