

UNCRC January 2014

United Nations Committee on the Rights of the Child

Delegation of the Holy See

transcript of the questions from the Committee and the answers of the Holy See's delegation

[Here and there a footnote or website address has been added for extra clarity]

Video 1

<https://drive.google.com/file/d/OByQTJxfUHGjUU280Nk9RN05udmc/edit?usp=sharing>

00:00 to 2:18 not transcribed - chairperson speaking

2:18 to 21:18 not transcribed; the Head of Delegation a pre prepared written statement which was made available online. http://www.vatican.va/roman_curia/secretariat_state/2014/documents/rc-seg-st-20140116_tomasi-child-rights_en.html

Madame Chairperson,
Members of the Committee,

At the time of the ratification in 1990, the Holy See made the following declaration.

"The Holy See regards the present Convention as a proper and laudable instrument aimed at protecting the rights and interests of children, who are that precious treasure given to each generation as a challenge to its wisdom and humanity."

"By acceding to the Convention on the Rights of the Child, the Holy See intends to give renewed expression to its constant concern for the well-being of children and families. In consideration of its singular nature and position, the Holy See, in acceding to this Convention, does not intend to prescind in any way from its specific mission which is of a religious and moral character."

The protection of children remains a major concern for contemporary society and for the Holy See. The UN report on Violence Against Children, issued in 2006, cited shocking WHO estimates that 150 million girls and 73 million boys under 18 "experienced forced sexual intercourse and other forms of sexual violence involving physical contact".^[1] Even if they contain a significant margin of error, these estimates should never be ignored nor overshadowed by other priorities or interests on the part of the international community. Moreover, this estimate does not include projections on the number of victims of child labour and child trafficking, whether for sexual exploitation, forced work, sale of organs, and other shameful reasons. Although little is known about the magnitude of the problem, the International Labor Organization, in 2002, estimated that there were 1.2 million children being trafficked each year.^[2]

Abusers are found among members of the world's most respected professions, most regrettably, including members of the clergy and other church personnel.^[3] This fact is particularly serious since these persons are in positions of great trust and they are called to levels of service that are to promote and protect all elements of the human person, including physical, emotional, and spiritual health. This relationship of trust is critical and demands a higher sense of responsibility and respect for the persons served.

Confronted with this reality, the Holy See has carefully delineated policies and procedures designed to help eliminate such abuse and to collaborate with respective State authorities to fight against this crime. The Holy See is also committed to listen carefully to victims of abuse and to address the impact such situations have on survivors of abuse and on their families. The vast majority of church personnel and institutions on the local level have provided, and continue to provide, a wide variety of services to children by educating them, and by supporting their families, and by responding to their physical, emotional, and spiritual needs. Egregious crimes of abuse committed against children have rightly been adjudicated and punished by the competent civil authorities in the respective countries.

Therefore, the response of the Holy See to the sad phenomenon of the sexual abuse of minors has been articulated in different ambits.

On the level of the Holy See, as the Sovereign of Vatican City State, the response to sexual abuse has been in accord with its direct responsibility over the territory of Vatican City State. In this regard, special legislation has been enacted to implement international legal obligations, and covers the State, and its tiny population.^[4]

On the international level, the Holy See has taken concrete action by the ratification of the Convention on the Rights of the Child in 1990. In 2000, the Holy See acceded to the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, as well as the Optional Protocol on the Involvement of Children in Armed Conflict. The Holy See then promotes and encourages these international instruments.

At the same time, the Holy See as the central organ of the Catholic Church has formulated guidelines to facilitate the work of the local Churches to develop effective measures within their jurisdiction and in conformity with canonical legislation.

Local Churches, taking into account the domestic law in their respective countries, have developed guidelines and monitored their implementation with the aim of preventing any additional abuse and dealing promptly with it, in accordance with national law whenever it occurs. Reference to examples of such measures by local Churches are cited in paragraph 99 of the Holy See Periodic Report. For example, the Catholic Church in the United States adopted a Charter for the Protection of Children and Young People and a series of related measures.^[5] Other practical initiatives have been undertaken, for example the production of e-courses by the Pontifical Gregorian University in Rome together with the University of Munich and the promotion of good practices by Catholic-inspired NGO's, and these have a transnational accessibility.

The result of the combined action taken by local Churches and by the Holy See presents a framework that, when properly applied, will help eliminate the occurrence of child sexual abuse by clergy and other church personnel. Given the unique standing of the Holy See within the international community, and the presence of the local Churches in so many parts of the world, the Catholic Church is keen to become an example of best practice in this important endeavour as required by the high values and ideals incorporated in the Convention and its Protocols.

The Holy See's Periodic Report on the CRC is divided into four Parts: Part I deals with general considerations, including the nature of the Holy See as a subject of international law. Part II responds to the concluding observations of the Committee to the Holy See's Initial Report, and, in particular, questions concerning reservations; the Committee's four principles and the duties and rights of parents, the education of girls, education about health, and education on the CRC. The Holy See also discusses the principles it promotes concerning the rights and duties of the child within the context of the family. Part III

presents the international contributions of the Holy See in advancing and promoting basic principles recognized in the CRC on a full range of issues pertaining to children (e.g., the family, adoption, children with disabilities; health and welfare; leisure and culture; and special measures to protect children, including questions pertaining to sexual abuse, drug addiction, children living on the streets and minority groups). Finally, Part IV addresses the implementation of the Convention in Vatican City State.

Today's meeting constitutes an important opportunity to thank the Committee for its questions. The Written Replies include new information about the Holy See's initiatives concerning the promotion of essential principles regarding child victim assistance and child safe-environment programs.

The Holy See's Initial Report on the OPSC is divided into six Parts. Part I gives a brief introduction including a discussion about the Committee's Reporting Guidelines. Parts II and III explain the nature of the Holy See and reiterate the Holy See's three reservations and declaration to the CRC. Part IV discusses the contributions of the Holy See in affirming the rights of the child through the speeches and addresses of the Holy Father, directed to all persons of good will, believers and non-believers alike. Part V discusses the Holy See's international activities. Finally, Part VI addresses the implementation of OPSC in Vatican City State. The Written Replies, offer updated information on the implementation of the OPSC in Vatican City State, including the amendments of its penal laws to define and criminalize the sale of children, child prostitution and child pornography as well as other crimes mentioned in the OPSC. Since the time of the submission of the Written Replies, a citizen of Vatican City State has been placed under investigation for alleged sexual crimes committed against children outside the territory of the Vatican City State.

The Holy See's Initial Report on the OPAC is divided into four Parts. Part I contains an introduction giving basic information about ratification and other matters. Parts II and III discuss the role of the Holy See and present considerations regarding the CRC including the reservations, declaration and seven basic principles of policy of the Holy See regarding children. Part IV gives an overview of the statements and activities of the Holy See which affirm the rights of the child and the principles set out in OPAC as regards prevention, prohibition, protection, recovery and reintegration. The Holy See's Report on OPAC contains little information about Vatican City State since there are no armed forces, within the technical meaning of the term, but a body of guards (the Swiss Guards), who protect the Pope, and a body of police (Corps of Gendarmes), who guarantee the public order of this State.

The Reports, as previously mentioned, also articulate seven key principles which the Holy See promotes as an authentic perspective of the rights and duties of the child according to international law. They may be articulated as the following: 1) the child has inherent dignity as a human being and human person from the moment of conception until natural death; 2) the child's rights and duties must be viewed within the context of the family; 3) full respect of the child's rights and duties require special protection and promotion of the family's rights and duties; 4) the child's well-being is the primary responsibility of his or her parents and family; and 5) the child has rights and duties with respect to the protection of his or her own life and parents have co-relative duties and rights to safeguard the child's life, from the moment of conception until natural death; 6) the child has a right and duty to be educated and parents have corresponding duties and rights to educate the child; and 7) the child has rights and duties concerning religious freedom taking into consideration the parents' duties and rights to educate their child according to their own moral and religious beliefs.

Various institutions of the Catholic Church around the world have been engaged in assuring a broad range and scale of vital social, health, and educational services, thereby accompanying families to form and protect children. One need only think, for example, of the network of Catholic schools, from elementary to secondary to higher education levels, sponsored by Catholic religious orders, and dioceses, and local

parishes, that provide vital formal and informal education to more than 50 million children worldwide, often delivered in rural areas and among marginalized populations.[6]

In the end, there is no excuse for any form of violence or exploitation of children. Such crimes can never be justified, whether committed in the home, in schools, in community and sports programs, in religious organizations and structures. This is the long-standing policy of the Holy See. For example, [Pope John Paul II](#) stated that abuse of young people is "by every standard wrong and rightly considered a crime by society; it is also an appalling sin in the eyes of God".[7] For this reason, the Holy See, and local Church structures in all parts of the world, are committed to holding inviolable the dignity and entire person of every child - body, mind, and spirit.

[Pope Benedict XVI](#), speaking to the Bishops of Ireland in 2006 had these important words to say: "In the exercise of your pastoral ministry, you have had to respond in recent years to many heart-rending cases of sexual abuse of minors. These are all the more tragic when the abuser is a cleric. The wounds caused by such acts run deep, and it is an urgent task to rebuild confidence and trust where these have been damaged. In your continuing efforts to deal effectively with this problem, it is important to establish the truth of what happened in the past, to take whatever steps are necessary to prevent it from occurring again, to ensure that the principles of justice are fully respected and, above all, to bring healing to the victims and to all those affected by these egregious crimes." [8]

Likewise, [Pope Francis](#) clearly stated his intentions to follow the careful attention given by his predecessors to this serious problem by sharing his own deep concern with the Bishops of the Netherlands and offering them some strong counsel: "In particular, I want to express my compassion and assure my prayers to all victims of sexual abuse and their families; I ask you to continue to support them along their painful path of healing, undertaken with courage." [9] He undertook new action and has announced the creation of a Commission for the Protection of Minors, with the aim of proposing new initiatives for the development of safe environment programs for children and improving efforts for the pastoral care for victims of abuse around the world.[10]

In conclusion, the Holy See looks forward to welcoming any suggestions from the Committee that would assist the Holy See in promoting and encouraging the respect of the rights of the child, and to ensure efficient implementation of the provisions of the Convention and its Protocols.

1. Cfr.,

<http://www.unicef.org/violencestudy/l.%20World%20Report%20on%20Violence%20against%20Children.pdf>.

2. Cfr., International Labour Office. Every Child Counts New Global Estimates on Child Labour, Geneva: 2002. Difficult as it is to collect reliable statistics in this area, they could at least indicate the vastness of the problem. For example, global statistics provided by ARC of Hope for Children present the following picture in 2013:

- 40 million children subjected to abuse each year
- Suicide is the third leading cause of death among adolescents worldwide
- 30% of severely disabled children in special homes in the Ukraine die before 18 years of age
- Approximately 20% of women and 5–10% of men report being sexually abused as children, while 25–50% of all children report being physically abused.
- Statistics indicate that 3 million young girls are subjected to genital mutilation every year

3. Cfr., John Jay College Research Team, *The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010*, Washington D.C. : 2011.

4. The competent Judicial Authorities of Vatican City State shall now also exercise penal jurisdiction over these crimes and according to the laws transformed in Vatican City State Law No. VIII, of 11 July 2013, containing Supplementary Norms on Criminal Law Matters; in Vatican City State Law No. IX, of 11 July 2013, containing Amendments to the Criminal Code and the Criminal Procedure Code, when such crimes are a) committed by persons deemed "public officials" (e.g. persons working within the Roman Curia and related institutions as well as diplomatic personnel in missions around the world); b) committed by the same in the exercise of their functions; and c) if the perpetrator is physically present in the territory of Vatican City State and has not been extradited. (See in particular, Vatican City State Law No. VIII of 11 July 2013, containing Supplementary Norms on Criminal Law Matters and Vatican City State Law No. IX of 11 July 2013, containing Amendments to the Criminal Code and the Criminal Procedure Code).

5. The revised Charter for the Protection of Children and Young People was developed by the Ad Hoc Committee for Sexual Abuse of the United States Conference of Catholic Bishops (USCCB). It was approved by the full body of U.S. Catholic bishops at its June 2005 General Meeting, and this second revision was approved at the June 2011 General Meeting. The revised Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons was developed by the Ad Hoc Committee on Sexual Abuse of the USCCB and by the Vatican-U.S. Bishops' Mixed Commission on Sex Abuse Norms. They were approved by the full body of bishops at its June 2005 General Meeting, received the subsequent recognition of the Holy See on January 1, 2006, and were promulgated May 5, 2006. The revised Statement of Episcopal Commitment was developed by the Ad Hoc Committee on Bishops' Life and Ministry of the USCCB. It was approved by the full body of U.S. Catholic bishops at its November 2005 General Meeting and then again in 2011. This revised edition, containing all three documents, is authorized for publication by the undersigned.

6. As of 2011[update] the Church operates the world's largest non-governmental school system. Gardner, Roy; Denis Lawton, Jo Cairns (2005), *Faith Schools*, Routledge, p. 148, ISBN 978-0-415-33526-3. Cite uses deprecated parameters (help)

7. John Paul II Address to the Cardinals of the United States and Conference Officers, April 23, 2002.

8. Benedict XVI, [Address to the Bishops of Ireland on their Ad Limina Visit](#), Consistory Hall Saturday, 28 October 2006.

9. Pope Francis, [Address to the Episcopal Conference of the Netherlands](#), Vatican City, 2 December 2013, http://www.vatican.va/holy_father/francesco/speeches/2013/december/documents/papa-francesco_20131202_presuli-paesibassi_fr.html.

10. Cfr., [Briefing on the Meeting of the Council of Cardinals \(Thursday, 5 December 2013\)](#)

At the briefing on Thursday morning, 5 December, at 1 p.m., alongside the Director of the Holy See Press Office, there participated Cardinal Sean Patrick O'Malley, archbishop of Boston, member of the Council of Cardinals, who gave the following Declaration:

"Continuing decisively along the lines undertaken by Pope Benedict XVI, and accepting a proposal presented by the Council of Cardinals, the Holy Father has decided to establish a specific Commission for the protection of minors, with the aim of advising Pope Francis on the Holy See's commitment to the protection of children and in pastoral care for victims of abuse. Specifically, the Commission will:

1. study present programmes in place for the protection of children.
2. formulate suggestions for new initiatives on the part of the Curia, in collaboration with bishops, Episcopal conferences, religious superiors and conferences of religious superiors.
3. indicate the names of persons suited to the systematic implementation of these new initiatives, including lay persons, religious and priests with responsibilities for the safety of children, in relations with the victims, in mental health, in the application of the law, etc.

The composition and competences of the Commission will be indicated shortly, with more details from the Holy Father in an appropriate document."

Cardinal O'Malley then quoted some of the lines of action proposed by the Commission under constitution.

[repeat of final par. of intro remarks -]

Head of Delegation:

In conclusion, the Holy See looks forward to welcoming any suggestions from the Committee that will assist the Holy See in promoting and encouraging the respect of the rights of the child, and to ensure efficient implementation of the provisions of the Convention and of its Protocols [sic]. Thank you Madame Chairperson.

[20.19]

Madame Chairperson:

Thank you very much, Your Excellency Msgr Tomasi, who is Head of the Holy See Delegation as I said. I would now give the floor to the first of the Rapporteurs, Sara Oviedo Fierro.

Ms Oviedo Fierro [Vice Chairperson] interpreted:

A very good morning to everyone. I wish to extend a very cordial welcome to all of the delegation from the Holy See. It truly is a warm welcome I wish to extend to the delegation – we know that those who have come here to be with us are experts in this field, and we do think that this is a precondition for a successful dialogue here.

Now, I want to look beyond the pressure that might be exercised on the meeting here, be it because of the presence of the communication media, be it because there are victims present, or because of the sheer importance of the delegation that is here. I think that it is our duty to have a mature attitude to this dialogue – I think that would benefit everyone, everywhere in the world, but particularly children and adolescents.

[21.44]

Now, starting my questions – I want to start by saying something that's been said by this committee but by other institutions as well. We welcome, in other words, the fact that the Holy See ratified the Convention, and in fact was the fourth state party ever to ratify the Convention. So, we also pay tribute to the moral influence and to the influence that the Holy See has in many sectors throughout the continent. I would urge you to double your efforts to ensure that in every country, the Convention is fulfilled. However, you will be familiar with this kind of dialogue and so you will know that the dialogue serves to highlight those sectors which, in which the problems need to be overcome. Turning to the representative that leads the delegation, then I would say that in the light of the openness he demonstrated in this statement, I believe

that we can tackle certain issues head on, and therefore draw some beneficial conclusions. And before I get started with the questions, let me emphasize the shared vision that we have with you, and that in fact I believe that we share with the majority of countries in the world, and that is the view that the rights of children arise from their intrinsic dignity as people, as human beings, as social beings that are endowed with intelligence and dignity. This is a dignity that, as we all know, in certain economic, social, political circumstances, are not guaranteed for the vast majority of children in areas of the world, and it is, it does fall to us to ensure that these rights are guaranteed. That's why all of us on an ongoing basis must revise our strategies and our concepts, our views, and in the light of the precepts of the Convention on the Rights of the Lives of the Child we must revise our principles and convictions.

[23.48]

I read the information that the State Party has sent in to us with very great interest, but I've also had access to other kinds of information and that is the Committee's obligation to consider other sources of information too [sic]. That's why I've particularly had my attention drawn to the highly specific interpretation that the Holy See has in the light of its reservations, stemming from its views and principles. I don't want to refer to them – I know that other colleagues from the Committee will raise such concerns because you know that the work a Rapporteur does is not a one man or one woman show, we do act as a body – I don't want to refer to them for one reason. I actually come from the continent that has the largest number of Catholics in the world – I'm from Ecuador, from Latin America. I know that these Holy See reservations are related to the issues that we're discussing where maturity hasn't yet been reached and we need to keep pressing on and making headway with them.

[24.52]

To start with my questions, I want to start with Catholic education institutes and health organisations. Now, the gentleman who spoke earlier already said that there are more than 50 million children attending Catholic education institutes throughout the world, 195,000 Catholic schools, and these are figures in fact from 2008, not the most recent figures. Now, this obviously involves the management of huge resources and the responsibility of managing all of this is huge as well, and that's why we want to ask these questions. First of all, we would like to know more about what the Catholic Church can specifically ask of these Catholic education institutes or vice versa. Now, I spent 12 years of my own educational life in a Catholic education institute and I pretty much know what is involved there, but I would like you to spell it out for everybody else. Why are these called Catholic education institutes? So, that's my first question.

[26.20]

Secondly, I know that the Church has often called upon Catholic education institutes and health organisations to circulate information about the rights of the child and to pay particular attention to education for girls, to not discriminate against non-natural and illegitimate children, to ensure that there is no act of violence against children, to ensure that there is no sexual abuse, to curb punishment and negligence. So, that being so, what outcome have all these initiatives had? We have had some information in this respect, but we are extremely interested in knowing whether any of the Holy See's instructions are yielding results, and then perhaps there could be a revision of how all of this is tackled.

[interpreter changes, Spanish heard during change; 'la atención']

[27.23]

I would also like to draw attention to healthcare facilities in these institutions, and particularly those providing services to children in orphanages as well as in rehabilitation centres. I...I was not aware in fact that these services were offered and I was wondering if you could, I was wondering if you could provide

some reasons or justification for these institutions [sic], and...if we take into account the fact that children are often given directly to orphanages and other such institutions, is this, are they required to provide healthcare? Can you provide more information about that?

[28.10]

I would also like to ask another question. I see that with regard to fulfilling your mission, within the Holy See you have a number of Pontifical Councils and many of them address issues affecting children and childhood, but there is not a specific Pontifical Council *for* children. So, you look at the role of the child and the situation of the child within the family but you do not have a specific Council for the child, and as part of our approach as a Committee we are always looking for the existence of coordination bodies. The Pontifical Councils undertake a number of initiatives related to children according to your report, so I'm wondering how do they coordinate among themselves [sic], what is the coordination mechanism? A follow up question in this regard...pertains to efforts to promote children's participation, to ensure that children's voices are heard, to ensure that children have a latitude in which to make proposals, to put forward their own ideas. Now, they're...another series of questions and I think none, we can't fool ourselves, I think there are, there were a number of references to the points I'm going to raise in the opening statement.

[29.46]

Now, what I'd like to do with these questions is to simply give the Delegation an opportunity to provide further details on what they have already said, and this is the purpose of our dialogue. We need to focus on the issues that require further detail, and I fully agree that sexual abuses have occurred and they have been perpetrated by some clerics, and these abuses have occurred in various institutions as well as within the Church, and I think that the example that the Holy See needs to set for the world must indeed set a precedent, it must mark a new approach. Reference was made to – if I remember correctly – to some 73 million children who had experienced some form of terrible sexual abuse. So, so given that, given those figures, given those statistics, how can you start, how can you take a new approach?

[30.59]

So this is why we are giving you an opportunity to provide more details in that regard to our Committee. There was an international symposium that was referred to in the State Party's report and it was held in 2012 in Rome, and in that symposium the Church was able to provide information about good practices and positive experiences and efforts it had made to overcome this situation as part of that symposium, and we would like to know why the results of this symposium have not been better publicised. What type of follow up has been carried out, particularly to the circular letter that was sent by the Episcopal Conference, and that was sent by the Congregation of the Doctrine of the Faith, rather, to the various Congregations, with regard to measures that could be taken to avoid incidents of sexual abuse in churches? So, how many guidelines in this regard have been drafted? I'd also like to ask about the content of these, of these guidelines – what is the specific content, what are the details?...I'd also like to know if children safety programmes are also being implemented? In the Episcopal Conferences- *Episcopal* Conferences are there measures being taken to ensure children's safety?

[32.47]

[Long pause] Now, as you well know and I am well aware, these incidents of sexual abuse did occur and they run counter to a series of provisions and articles of our Convention, so I'd like to know what actions have been taken by the Holy See with regard to Article 3 of our Convention, because what has happened is that the best interests of the child have been sacrificed and precedence has been given to the interests of the members of the clergy instead. I think it's worthwhile to look at this more closely. What actions has [sic] the Holy See taken with regard to Article 14 of the Convention? It has been pointed out that the Holy See

has not established any mechanisms to investigate those accused of perpetrating acts of sexual abuse and to prosecute them. What about Marcial Maciel¹ and that case and about the case involving the cleric in the Dominican Republic [sic]? I believe that each of us, each member of the Committee could remember a specific- the details of a specific case. Have...what progress has been made with regard to these cases? With regard to Article 34 of the Convention we have received complaints that not all measures that could be taken are being taken to protect children from sexual, sexual abuse so that was why I was asking earlier about safety mechanisms for children in the Church.

[34.37]

What is the Holy See doing with regard to Article 39 of our Convention which refers to reparations, both psychological and financial, to children who have been victims of sexual abuse? Despite the extensive protest and the condemnations of sexual abuse by higher officials in the Church and the comments made by His Holiness Pope Francis, we would like to know what specific changes have been carried out within the Penal Canon Law to deal with these issues. You referred to this very generally in your, in your report so I am simply, as I said earlier, asking these questions to give you an opportunity to provide more details. I'd like to know what changes have been made with regard to the Code of Conduct in order to prevent the sexual abuse of minors...Are there provisions by which individuals- by which perpetrators must be reported and held directly accountable for their actions? There was a quote that [garbled, sc. 'the Head of Delegation'] mentioned from His Holiness Pope John Paul II and I'd like to ask for further details on that in this regard. I think it would be good to have further explanations on that. What steps have been taken with regard to sanctions and punishments for clerics who have engaged in inappropriate conduct? The punishments that have been handed down never seem to reflect the magnitude or scope of the offences. What about cooperation with local authorities? Are there effective mechanisms in place for reparations, for remedies to these victims [sic]? Are these reflected in the Penal Canon Law?

[36.56]

I would like to conclude my questions with a few more. What actions are being taken by the Church and its members to deal with this issue and to change the situation? We know that some progress has been made but we would also like to know whether actions have been taken to empower the children themselves. Are children being given the skills that, the skills that they need and the opportunity to ensure that their voice is heard, especially if they have been victims of sexual abuse? And to whom would these children report such an incident? Are there mechanisms in place for them to do so? Another question – could you provide any information about the commissions of experts that you referred to in your opening statement? When will it begin operations? Who are its members? What will its functions be? Could this commission also have members from civil society? Because civil society has organised in the wake of past events and it should have an opportunity to have its voice heard as well, so I am wondering if civil society could be represented as well. There is...you have said that there is zero tolerance for these types of incidents, so I would like to ask about the situation in which there seem to be efforts to cover up and to obscure the facts of these cases. So, what is the scope of the problem? In, at the symposium reference was made to specific data and figures, so it's not that the statistics are not available. We know that these cases have been registered and recorded so why not make, why not make a greater effort to be transparent and to publish more data on these cases? With regard to Archbishop Gerard Muller², he- at this- he had stated that the Church should act directly to deal with the priests and other Church officials who have been accused of sexual abuse and

¹ http://en.wikipedia.org/wiki/Marcial_Maciel

² http://en.wikipedia.org/wiki/Gerhard_Ludwig_M%C3%BCller

other such, other such offences. What efforts are being taken by the Holy See to deal with priests and Church officials who have perpetrated such acts – are they reported to local police? Is there any coordination or cooperation with local, local law enforcement officials?

[40.02]

Finally, I'd like to know what measures the Holy See has taken to- with regard to moving priests from one parish to another if that priest has been accused of misconduct. Could you please provide more information on this and also on the measures that might be taken *instead* of this approach? In your opening statement, the, the Head of Delegation touched on a number of issues, many of the main issues, and as I said earlier I simply, I wanted to ask these questions to you to lay the, lay the groundwork for an opportunity in which you could provide more detail so that we can understand better, so that we can begin to heal the wounds of the past, and, and we would like to join you in this effort. I thank you.

[41.04]

Madame Chairperson:

Thank you Miss Oviedo Fierro. I then give the floor to the other Rapporteur who is Ms. Hiranthi Wijemanne.

Ms. Hiranthi Wijemanne [Vice Chairperson]:

Thank you very much Madame Chair, and let me join my colleagues in welcoming very warmly the distinguished Delegation representing the Holy See to this joint endeavour with the Committee to promote, protect and fulfil the rights of children as enshrined in the Convention of the Rights of the Child. I would like to start off by saying that we in the Committee do recognise the distinct difference between the Holy See and other State Parties, but we also believe that the Holy See as the supreme body of governance of the Catholic Church and its functions as a sovereign judicial entity under international law has great power and influence, which can support the effective implementation of the Convention. In over – I think the estimated number is 200,000 Catholic schools which provide education to over 56 million children in many parts of the world, as well as in the thousands of childcare institutions administered by the Catholic clergy in all parts of the world [sic]. This also includes influencing of over 1.2 billion people in the world who profess the Catholic faith and who need to be aware and fully cognisant of the rights of children as enshrined in the Convention. So, we look at this dialogue with eagerness and anticipation for your support to give children their due rights as subjects of rights, and therein also reiterate our request to you to withdraw the reservations you have made to the CRC with this respect. My questions might overlap with my colleagues but nevertheless I would like to pose them to you.

[43.05]

My first question is – have you given consideration to according [sc. affording?] the CRC its due legal status in your own legal system, so that it has precedence over internal laws? We believe that this is important to strengthen your authority, to fully comply with and implement the Convention, and I think this issue is of particular relevance to Canon Law. Next – are there initiatives to establish independent monitoring mechanisms on child rights? This is of particular relevance and importance in Catholic schools and institutions for children. It should also include confidential complaints mechanisms which are accessible to all children so that they could report child rights violations when they occur, and they could do so in confidence which means that they have the, have the, they are empowered to be able to do so. Another question is – are there initiatives to incorporate the Convention into the curriculum of Catholic schools, including training for teachers and awareness among students about the Convention, and efforts to eliminate discriminatory expressions and one particular one I would like to highlight is the use of the word

'illegitimate' children and children born out of wedlock [sic]? Is there any possibility of removal of these words from Canon Law?

[44.40]

We regard active participation, which my colleague also mentioned, of children themselves in the Convention as an essential prerequisite. Is this promoted by the Church? Are there efforts to promote respect for the views of children, provision of opportunities for them to be heard in their families, starting from the family going on to communities, schools and training institutions for them? What initiatives have you undertaken to pay greater attention to and adopt the principle of best interest – which was mentioned earlier by my colleague – of the child as a primary consideration, integrated and applied in the formulation of all policies relating to children, their programmes and services including administrative and legal processes? Are you planning to identify criteria to evolve and develop new procedures for persons in authority over children, so that the best interest principle influences decision-making? This is particularly critical in cases of child sexual abuse.

[45.50]

I would like to know – are you planning priority on the rights of the child to be known and...and continued by their own parents and families, actively preventing – I think this is an important part of preventing – anonymous abandon...abandonment and the use of baby boxes by Catholic organisations under your jurisdiction? What efforts are being made to restrict root causes of such abandon...abandonment? Because I think that an the important thing including, among others, access to reproductive health services, counselling and the prevention of unplanned pregnancies which is one of the factors contributing to abandonment. Another question is – what action are you proposing to eliminate the growing violence against children which includes torture, cruel and degrading treatment or punishment, and – as was mentioned earlier – the use of corporal punishment? Instead, are you proposing the promotion of non-violent forms of discipline? We do know that children need to be disciplined, but discipline should not be violent, it should be of a non-violent nature and there are non-violent methods of discipline which could be used. In this connection, we seek to draw your attention to our previous recommendation to prosecute and punish all perpetrators of violence against girls in the situation of the Magdalene Laundries with penalties commensurate with the gravity of their offences.

[47.29]

In the context of globally-reported occurrences of child sexual abuse by the Catholic clergy, who function under the authority of the Holy See and have done so for decades, we would like your clarification of the following issues, some of which might overlap with those mentioned by my colleague. One is – is there a database on the offences, outcome of investigations and action taken against perpetrators, compensation paid to child victims rehabilitation and psychosocial support given to child victims who have suffered as a result of these offences? We would also like to know if the case of sexual abuse, the cases that are publicised and are known are only the tip of the iceberg and if this is so for sexual abuse in all situations – for the thousands who have reported globally there must probably could be many thousands more who have not done so but who suffer in silence. I think this is something we need to keep in mind. I would like to emphasis that even more than physical abuse, the scars of sexual abuse remain from childhood to adulthood and may never even leave the victim, so what action is being taken in this regard as it is an issue which has importance for the child right throughout the life of the child, even as an adult?

[49.11]

We do regret that the Holy See hitherto has not given this particular child rights issue the priority it deserves, and I do welcome the comments made in the opening address by the Head of Delegation that

this area is an area that will be given priority in the future, and therefore I would say that adequate measures need to address this gravest of child rights violations, which would be regarded as a zero tolerance and non-negotiable child rights violation which has an action taken in a manner that has not been done before but in a more comprehensive and complete way [rambling, meaning unclear]. There is I think quite a lot of documentation which has revealed that child sexual abuse- abusers are transferred – again, mentioned earlier – sometimes – I would not say every situation – from parish to parish, and are sometimes also allowed to be in contact with children if they change their location. I think this type of tactics needs to be ceased [sic]. I would like to know why is the jurisdiction on child sexual abuse under CDF, the Congregational Doctrine of Faith I believe it's called, which assists removing the heinous- the perpetrators of this heinous crime against children from the jurisdiction of criminal law enforcement systems [meaning unclear]. Why are such proceedings confidential and not done in accordance with the gravity of the crime, and why is concealment provided for, and to be- and for the perpetrators to be exempt from justice? Why is there a strict code of silence observed on all members of the clergy under penalty of excommunication when it entails that only a few are reported to law enforcement authorities, and why is there no mandatory reporting to judicial authorities in individual countries when such crimes occur? Why is this not compulsory but on the contrary, explicitly rejected? Why is there no provision for the participation of child victims...who have to be protected and interviewed through child-friendly procedures in such situations where their evidence is necessary, and why is there no support for judicial action, for judicial action and also for national commissions of inquiry, to ensure that justice is meted to child victims?

[52.08]

These are some questions that I would like to pose, but I am sure – Head of Delegation, from your opening address – I think these are some issues that you have already taken cognisance of and perhaps will enclose in some reforms that you are proposing. In your commitment to the Convention, which we believe is very sincere, and there is a lot of commitment because we are certainly aware of a lot of services that the Catholic Church is providing all over the world for children, whether it be in schools, in childcare institutions, and in other situations [sic] so therefore I think it is vital that we seek your highest level of cooperation and support to investigate all reported cases of child sexual abuse, examine the conduct of the relevant Catholic hierarchy in world [sic], remove suspected and proven abusers from posts, actively support law enforcement and prosecution and be accountable. I think this is a very important part of prevention. Preventive action can be taken in situations but meting justice and taking action against perpetrators are also part of it. We would also like to...ask you [garbled] clarification why sexual abuse is termed as – I think the word is delicts against the moral, delicts against the moral – some clarification about it, rather than designated as crimes against children which is what we believe it is under the Convention. We would also like to know the possibilities of introducing reporting obligations to religious personnel in relation to Canon Law, and also including awareness to overcome the stigmatising of child victims and providing opportunities for confidential reporting for such victims. We would like to know if the Holy See has ratified the 1993 Hague Convention on the protection of children and cooperation in respect of inter-country adoptions. This is because we are aware that the Holy See is providing a lot of services in the case of babies and institutions which care for babies, and there are reports of sometimes these babies being taken abroad for adoption, we do not know whether legal procedures have been followed or not so we believe that the Hague Convention is protective to prevent such situations occurring [sic] so those are some of my questions and I would like to end with that, and we look forward to your responses. Thank you very much.

[55.06]

Madame Chairperson:

Thank you very much Ms Wijemanne...I'm now going to give the floor to Mr Kotrane but I would also like other members in the meantime to notify if they want the floor. Mr Kotrane, you have the floor please.

Mr Kotrane interpreted:

Merci Madame- [translator cuts in] Thank you very much, Madame Chair. At the outset let me say how happy I am to be able to take part in the discussion of this report, and of course I extend a welcome to the high-level delegation that has come here today to discuss the second periodic support of the Holy See. My thanks go out to Msgr Silvano Tomasi for his introductory statement. My thanks to the Delegation for submitting the report and also for submitting answers to the list of issues...I'd like to ask a first question forthwith in relation to the ratification of international instruments.

[56.21]

We are very much aware of the special nature of the Holy See and we also believe the Convention on the Rights of the Child occupies a, a special position amongst the instruments – in fact the Holy See has only ratified three of the nine major instruments and ours is one of three that has been ratified in this way. Of course, we are concerned about the Convention on the Elimination of all forms of Discrimination Against Women – this is of course very closely connected to our own Convention on the Rights of the Child. Is there any intention of ratifying the CEDAW Convention or is this just going to be postponed sine die? And I also have a question on the, on the nature of reservations – I believe that there must be some reflection on these reservations. In the view of the Committee, the reservations call into question values which are cross-cutting – in other words, the belief that children are rights-holders. We have just celebrated the 21st birthday [24th?] of the Convention and we are looking forward to our 25th celebration. Now if we look at Article 13, the Right to Freedom of Expression, Article 14, the Freedom of Belief or 15, the Freedom of Association, Article 16, the Respect of Private Life, all of these revolve around the idea that children are human beings and precious and have rights, that their personal dignity and the best interests of the child must be protected, safeguarded, promoted. Now, our Rapporteur said that she came from a region which is most Catholic – well, I come from Tunisia and in our country we're having wide-ranging discussions at the moment, our new Constitution hasn't yet been adopted but our very first Article...affirms certain statements as a Muslim country. I know that there are many reservations in this respect. My question is the following, and it hinges on an idea which is present in this report but in all reports too, we will certainly find it again when we discuss the optional protocol on children in armed conflict – this is about the child being raised within their religious identity by their parents and the state having no right to intervene or intercede in this respect. In fact, since independence, people of my generation had been educated differently, educated in respect and certainly with pride in belonging to their own religion but in a spirit of openness and tolerance of other religions. So I think we understand the implicit risk of developing such discourse where States simply have to abstain from interfering when it comes to questions of freedom of belief and conscience, so that's why this is an important question.

[1.00.46]

My second question relates to discrimination...and to the broad principle of non-discrimination defended both by our Committee and by our Convention. Msgr, we are happy by the position expressed by Pope Francis, particularly in his statement of July 2013 – he has a progressive attitude to children born outside wedlock, but we continue to have very serious concerns in respect of the Church's position vis a vis children born outside marriage. Now, it's a good thing to defend the family as the cement of society but what measures are taken to ensure that children born out of wedlock have the same rights as children born in-within marriage, and what to do [sic] with respect of Canon Law 1139 which does seem to provide for

discriminatory treatment vis à vis these children? And what are you intending to do to eliminate certain school textbooks, Catholic textbooks, on sexual stereotyping? I'm sure we'll come back to this later – there is the question of the difference between boys and girls, we know that the Church has the principle of equality in fact and in law, equality between all children regardless of their gender, be they boy or girl and whatever their sexual orientation they are equal, but what is your position on equality in law and in fact and non-discrimination over and beyond this idea of complementarity. Now...Madame Chair, I hope you'll forgive me if I raise these issues, this is a matter that is of very grave concern in my country, for example. It is a sensitive issue, we want to defend all principles of equality between men and women and the principles of non-discrimination – there are very many voices in my country which say for example that there's no *equality* between men and women or boys and girls, there's a *complementarity*. So, equality or complementarity in law? That's my question – how does it happen in the Holy See? And over and beyond how it happens in Catholic countries, there are many other countries in other regions where positions that are contrary to these universal principles of equality continue to be defended. The Catholic Church says that...the position of the Church and the position of certain rather fanatical religious thords [no idea what this word is] are in fact rather similar. Thank you, Madame Chair.

[1.04.00]

Madame Chairperson:

Thank you Mr Kotrane. I then give the floor to Ms Khazova.

Ms Khazova:

Thank you Chair. Let me also express my warm welcome to the distinguished Delegation, it's really a great honour for me to participate in this dialogue. I wanted to raise the issues that were partly already raised – a concern with one of the reservations with regard to parental rights and the approach of the Holy See to the whole sphere of interests, best interests of the child, parental rights and the rights of the child to express his opinion. In the State report it is said 'the source of the rights of the child is his inherent dignity as a human being created in the image and likeness of God. The child's rights and duties flow from this source and therefore precede any Convention or political agreement. This means that the child has inherent dignity as a human person, by nature a human being endowed by intelligence and free will having fundamental right to life, survival and development. These natural rights and duties in turn are intrinsically linked to the natural duties and rights of the child's parents.' This was quotation.

[1.05.39]

I don't see in this statement anything that in fact contradicts recognition of a child as autonomous subject, with his own, or his or her own rights and particularly the right to express his or her opinion. The right to have a say or...or to be heard is one of the most crucial components of the human dignity and the child's dignity in particular, even if it- if, as it is stated in the State report, the inherent dignity of the child is founded on something more profound than his ability to express his views. In this statement, I have to repeat, there is nothing in my point of view that undermines the idea that the right to express one's views is a constituent part and one of the most important parts of human dignity. A child, being a human being with inherent dignity, whatever the ground or the basis of this dignity is, does not differ from adults in this respect. Of course we understand that there are certain limits and that the child, and I will quote from the State report, 'by reason of his physical and mental immaturity, needs special safeguards and care including legal protection'. However again, in this statement, there is nothing that is incompatible with the child's right to express his or her opinion provided, of course, the child is capable of forming his views, and taking into account the age of the child, and the child's rights to have a say doesn't undermine [sic] in my opinion the parental rights at all...it just transfer, and this is very important, it just transfer the child from being a

property [sic] of his or her parents to be a human, autonomous human being with its own dignity. More than that in my opinion this promotes friendly relations between parents and children in the family. So, my question is – what is your explanation of such a restrictive approach to one of the most important cornerstones, provisions of the Convention on the Rights of the Child and whether you see any possibility [sic] of changing the approach of the State Party on this matter.

[1.08.19]

And in this regard the second question – what are the obstacles to accepting the principle of the best interests of the child, another cornerstone of the Convention. In my opinion again, there is nothing there in this concept that undermines the rights of the parents. Thank you.

Madame Chairperson:

Thank you Ms Khazova, then I give the floor to Mr Cardona and I would have to ask all of the remaining members to be brief because time is passing quickly.

Mr Cardona Llorens interpreted:

Muchas gracias- [translator cuts in] Thank you very much, Madame Chair. I too, of course, wish to start by thanking the Delegation and bidding them welcome. I pay tribute to the work that they've been doing for children over the past centuries – very many of the steps they have taken have helped advanced the rights of the child. It has been thanks to the Catholic Church over ages. A dialogue with the Holy See is not an easy matter – it is in fact different to the dialogue that we [sc. habitually?] have with other State Parties. You as a State have a dual nature – we have a Vatican City State and the Holy See, two legal personalities but different personalities, and this is a problem for us, this dual nature.

[1.10.01]

We are of course going to refer to the Holy See, not to the Vatican City State, which has 36 child residents, and I can't imagine that there's much paraphernalia of state institutions in Vatican City State to look after 36 children so our attention is focused on the Holy See. The Holy See has a legal personality, it is- it does have a personality in international law. It does have a legal setup that is different to that of a State but the fact that it has ratified a Convention – well, perhaps this is one of the instruments that the Holy See is most comfortable with. We know that the Convention of the Rights of the Child pursuant [sc. pursuant?] to Article 2 is not just applicable within the territories of a State but much more broadly than that, and the Holy See exercises a jurisdiction and it exercises control over activities carried else- carried out elsewhere and all of this pursuant to the provisions of the Convention, and all enshrined in Article 2 and there are very many such activities conducted. The Holy See also has a political or moral authority and this is very important because of the leadership that it exercises throughout the globe.

[1.11.27]

This political or moral leadership goes hand in hand and entails certain responsibilities – it is used as a reference point and as a guidance by many authorities, but in fact just like Caesar's wife, there are more responsibilities – it's not just virtue, one has to be having virtue, one has to be seen to be virtuous. And the Holy See certainly has this moral influence and therefore this moral responsibility when it comes to exercising rights. So we've said something about this dual nature, the political and the moral influence, I wish to start by referring to Article 4 of the Convention on the Rights of the Child, which is particularly important when we consider this dual nature – Article 4 establishes the legal responsibility of the State Parties to adopt all legislative or other measures that are necessary to ensure that the rights enshrined within the Convention are respected. And here we have a number of general obligations and general measures that are envisaged that the Committee has tried to shed light on through its general observations

– Number 5 on General Measures of Implementation and the comment that it made on human rights institutions, etcetera. Now, my colleagues have already made reference to some of these general measures and I won't refer to them myself as a result, such as the reservations – I do want to refer to the need to review domestic legislation. This is something that has to be done when there's ratification of the Convention – domestic legislation has to be brought into line and the Convention has to be transposed within it.

[1.13.21]

Now, I know that when it comes to the Convention that there is no constitutional problem with Canon Law because it is pursuant, but there ought to be a revision – my colleague the Rapporteur raised the question of the terminology used. Now, I know that there's no difference in- there's the question of legitimate and illegitimate children and how this is viewed within Canon Law and to ensure pursuance with the Convention this must be looked at and perhaps the definitions broadened. The question of training and information provided on the Convention has been raised. To what extent is information and training on this provided in Catholic schools? Something has been said about this but I'm concerned about how, within its exercise of jurisdiction, how the Holy See goes about training its clerics and priests. In their seminary training, how is there education and training provided on this? Now, 95% of clerics will have contact with children so how is information about the Convention impacted unto them? What training is given them as professionals who will then come into contact with children once they are ordained, and what about training for all of the staff that work for the Holy See? Training for Holy See State officials.

[1.15.02]

Now, my colleague Hiranthi Wijemanne has raised the question...of convenience. Now, in order to adopt all the necessary measures it is appropriate for appropriate bodies to be set up to ensure that this can be done – for example, bodies that can receive complaints. It is important for children to be able to file a complaint – for example, when they believe that their rights have been violated. It is not an obligation under the Convention but it is a general measure of implementation that has shown itself to be a huge advantage in making these rights effective in practice. My colleagues have raised a question that lies at the heart of my own concerns – I'm just going to refer to it in very broad terms. It's the question of the definition of the child and the child as a rightsholder. Now, I am particularly concerned about this issue because it's something that has been said very often in Holy See Declarations – the rights of the child must be seen within the context of the family. Now, obviously in order to be a child you don't just have to be within a family, although as a Committee we really do try and make sure that children do live within a family in as far as possible, and try to get them out of institutions and into families. Under Article 18 we try and ensure that parents can exercise all of their rights to children within the family, but – we are the Committee on the Rights of the Child, after all – but children have rights over and beyond this and children as rightsbearers must therefore be considered outside the context of the family too, they are rightsholders independently of the family [sic].

[1.17.18]

Let me conclude by referring to the best interests of the child but in a different context to the one which has been mentioned so far. Now, as you well know, pursuant to Article 3 and as this Committee tried to explain through General Comment 14 adopted last February, it's a question of trying to determine and assess the best interests of the child when any decision is taken that affects a child. This is not just a decision about a specific child – it's decisions that affect a child in general and there are very many decisions taken that affect children, that have an impact on their lives although they're not specifically about that child and in those decisions the best interests of the child must be taken into account. Now,

colleagues who have spoken before me have said much already about the incidents of sexual abuse, parental obligations vis a vis their children – I would like to emphasize the Holy See defining specific criteria to evaluate and *put in place* the best interests of the child. The best interests of the child is not just about the person taking the decision considering what is best for the child – the best interest of the child has to be based on an *objective* criteria. A child cannot be adopted by a family simply because the decision is made that that family will be better than their birth family. There is the question of the comprehensive respect of the child's rights as a whole and the Committee has tried to help put this in place by establishing criteria. So it's a question of procedures to determine the best interests of the child – there are very good intentions that we come across and these are complex to evaluate. Now, this afternoon we're going to protocols in situations of sale of children and some situations that have come up in some countries including in my own country, Spain, but I would like to know more about how you intend to regulate this question of the best interests of the child – I can see the Chair gesticulating, I'll stop there.

[1.19.56]

Madame Chairperson:

Thank you Mr Cardona and could I please ask the remaining members – I still have six on my list – to be brief please. Mr Madi, you are the next on my list.

Mr Madi:

Thank you Madame Chairperson. I would like also to very warmly welcome the Delegation of the Holy See and thank the Chairman of the Delegation for his introductory statements. In fact, this room has never been packed as it is today, particularly with the presence of international media which shows the important role played by the Holy See in promoting and protecting children's rights and the role of this Committee to assure the implementation of those rights enshrined in the Convention. I would like to raise two issues. One of them has been already raised, in respect of the views of the child.

[1.21.10]

I would like to add in this context that the views of the child are not confined to judicial and administrative proceedings – it is pertaining to all matters affecting children and State Parties have the obligation to assure the exercise of this right by children. I question whether the Holy See is promoting this right and have certain instructions of guidelines [sic] to teachers and persons responsible for children in Catholic schools and institutions around the world. The second issue with the corporal punishment. In fact, corporal punishment is the minimum form of violence against children and it has been recognised as a term being used by all State Parties to the Convention – over 190 states – which means that this term is becoming part and parcel of the jurisprudence in international law *and* in domestic law in those countries.

[1.22.51]

I would like to raise the issue in this respect whether the Holy See acknowledge [sic] this- the existence of this term *and* have certain guidelines – again, instructions for the persons dealing with children around the world in Catholic schools and institutions...There is a big difference between not promoting the corporal punishment, which in fact I will never expect a State, party or non-party to the Convention in the 21st century that promotes corporal punishment [sic]. Is there any intention to prohibit corporal punishment in schools and institutions- Catholic schools and institutions around the world – and again difference between non-promoting and prohibition is very wide in this respect. Thank you very much.

[1.24.09]

Madame Chairperson:

Thank you Mr Madi. I give the floor then to Mr Nogueira Neto.

Mr Nogueira Neto interpreted:

Bien. Pues, la primera- [interpreter cuts in] Well, this is the first time that I'm taking the floor, addressing the distinguished Delegation from the Holy See. I wish to extend a warm welcome to them and express my hope that we will have a fruitful, sincere, open dialogue without any positions being established in advance. I hope that the Delegation will take our greetings to the Holy Father and express our hope that all bodies within the United Nations system will continue to have broader, deeper relations with the authorities of the Holy See, that we work together peacefully in the interests of the bonds of peace, that we will be commonly engaged to fully bring about the rights of children as rights bearers as enshrined within the Convention of the Rights of the Child.

[1.25.45]

Now, my first question relates to the right of children's views to be heard and respected. Now, in its norms and guidelines extended to so-called Catholic schools – in other words, schools that are connected to Catholic orders and other similar schools – will such guidelines say that boys and girls must have the right freely to express their personal views and convictions, as is in fact stated in the Convention. Secondly, in its norms and guidelines and recommendations for families that follow the Roman Catholic faith throughout the world, say, also say, that children must have the right freely to express their personal views and convictions. Three – is there an active role played by all of these schools and institutes to ensure that children properly fulfil the school curricula? The- does the Holy See allow children to choose freely their religion even while attending Catholic schools anywhere in the world?

[1.27.22]

And finally, and this is pretty much a follow up question of- asked by Mr Madi, prohibiting corporal punishment – is this part of the ongoing reform that's underway of the Canon Law? Thank you.

Madame Chairperson:

Thank you, Mr Nogueira Neto. Ms Parsi, you have the floor, and if you could avoid repeating questions from other members, please, that would save time.

Ms Parsi interpreted:

Gracias señora- [interpreter cuts in] Thank you very much, Madame Chairperson. I have the great pleasure of also welcoming the members of the Delegation of the Holy See...Our Convention speaks through the words of the children of the world and Jesus always- Jesus Christ always speaks through the children of the world. Now I would like to refer to the issue of paedophilia which prevents children from developing...from developing properly and it affects them throughout their lives [sic]. A child who is subjected to paedophilia not only loses- they lose their life but they also lose their connection with religion. Religion is one of the great defences of human kind against anguish and other such emotions. It [sic] causes psychological and physical pain. I would like to know whether the Holy See believes that paedophilia is something that can be [Ms Parsi cuts in; 'a la iglesia'] is something that can be successfully addressed and overcome.

[1.29.36]

Has consideration been given to establishing a network of priests who could- or individuals who could provide psychological counselling to priests at the international level are there mechanisms or steps that could be taken to address this problem? If these events continue to be hidden and covered up to what extent will children continue to be affected? These children need to have hope, they need to have hope that they can overcome the pain caused by these types of abuses...If...Is the abuser going to be held fully

accountable? Are they going to be held accountable for their actions and in turn what about any psychic- any psychological concerns that may be affecting the abusers themselves? What efforts can be made to address those? I thank you.

Madame Chairperson:

Thank you Ms Parsi. I now give the floor to Ms Winter.

Ms Winter:

Thank you very much, Chair, and welcome from my side to the Delegation as well. My question's a legal one – taking into consideration the fact that the privileges and the duties of the members of the Holy See as well as their staff are different in the different countries according to different Concordats and Treaties it would be important for us to know about those privileges and duties in order to give pertinent recommendations concerning the legal follow up against those who break the law in different countries. Is it possible to get this information, legal information about Treaties and Concordats in the different countries, with the different countries concerning the follow up for people, members of the State-members of the Holy See and also staff of the Holy See when they break the law in the countries they live [sic]. Thank you.

[1.32.06]

Madame Chairperson:

Thank you Ms Winter. I then give the floor to Ms Aldoseri.

Ms Aldoseri [Vice Chairperson a.i.]:

Thank you Madame Chair, and I would like to extend a warm welcome to the Delegation from the Holy See. Initially I had three questions – the first two were addressed by Ms Khazova and the second one on training was addressed by...Jorge [Mr Cardona Llorens]. My third question is on data collection and as apparent from the State Party's report, there was no reference on any data collection mechanism. My question is – is there any plan to develop a comprehensive data collection mechanism to include information on the fulfilment of the rights of the children in all areas, to include different types of violence committed against children, including sexual? Thank you very much.

[1.33.10]

Madame Chairperson:

Thank you Ms Al- thank you Ms Aldoseri. I give the floor then to M. Gastaud as the last speaker from the Committee in this round.

M. Gastaud interpreted:

Merci Madame- [translator cuts in] Thank you very much, Madame Chairperson. I will be very brief as some of the questions I was going to ask have already been put forward by Committee members. I would like my colleagues to also warmly welcome the members of the Delegation of the Holy See and I would like to thank the Head of Delegation for his opening remarks. My question pertains to cooperation with civil society. Under the Convention- children benefit from the provisions of our Convention, and particularly, this is the case because the Convention has been ratified, ratified by the Holy See. Now, we have seen from the information that we have received that the children are not consulted, children are not asked to provide their views or their opinions. Now, this...there's a question that was asked by several of my colleagues so I won't dwell on it but I would like to ask about children's status as beneficiaries of the prevention of the Convention [sounds wrong. Meaning unclear] and I would also like to refer to the Third

Optional Protocol to our Convention on Individual Communications which will enter into force in the near future. I would like to ask what position the Holy See takes with regard to that Third Optional Protocol. I thank you.

[1.34.54]

Madame Chairperson:

Thank you Mr Gastaud. We will now have a 15 minute break to- and we will re-adourn at...five minutes to 12, so you all have the time to look at the questions and to give answers – you don't need to give the answers in the same sequence that they were asked, especially if you can group the answers according to themes. So, five minutes to 12 please.

Video 2

<https://drive.google.com/file/d/0ByQTJxfUHGjUdk5ncHIBLW1kRnM/edit?usp=sharing>

Madame Chairperson:

[introductory remarks] Tomasi

Head of Delegation:

Thank you, Madame Chairperson. First of all, I would like to thank all the people who presented questions and comments. Some are more substantive in the sense that they require more technical answers, some are more immediate, and not all the questions, because very many questions have been raised, can be answered right away. But I will try to answer some of them immediately, and our colleague Bishop Charles will also answer some, and then we will see how we can continue.

First of all I would say that one of the substantive issues is that the Holy See has jurisdiction beyond Vatican City State. It is a real jurisdiction, but it is a free and voluntary kind of jurisdiction. It cannot be imposed. It's a different - it's not like a state imposing through penal laws or through mandatory provisions its will. So in substance the Holy See is trying to facilitate, support, encourage the family of believers to be responsive and to carry out all the [other?] measures necessary for the protection and the well-being of children.

There has been talk of the new commission established by Pope Francis. This commission is a separate mechanism, so it's the beginning of responding to what has been suggested, that there be some mechanism that is more independent where direct complaints can be sent, for example.

[02.17]

The priests are educated to understand the implications also of the convention on the rights of the child but the most important point perhaps to keep in mind is that priests are not functionaries of the Vatican: the priests are citizens of their own state, and they fall under the jurisdiction of their own country. There has been a reference to the case of Nuncio Wesolowski³ as the first rapporteur has mentioned. He is a citizen of Vatican City State, and therefore the procedure are [sic] are under way for him to be judged according to new laws, and due diligence will be carried out because the case is still open, and in process, and it will be judged with the severity that the crimes might demand.

[03.30]

³ former Nuncio to Dominican Republic now recalled

Regarding the reservations that the Holy See placed at the time of ratification of the convention on the right [sic] of the child, there is a study under way in view of [sic] reconsidering maintaining these reservations or not and as soon as this process is finished, the committee will be [muffled - sc. informed?].

There is also - also a question has been raised about the Koranic [?] schools and Catholic schools... I think that there is probably a misunderstanding - I think, from what I am able to judge, a substantive difference. Catholic schools normally follow a programme of teaching that the state approves - that's the first observation. The second is that 60% of the children in Catholic schools are not Catholic. It's a service to society in the formation of the child according to his dignity and his future role in society.

[04.43]

So there is an added component in this observation, that state [sic] have a responsibility to prevent incitement to hatred, and incitement to divisiveness in society, so if a school, a madrasa or another school teaches hate or in any other school I think that there is the responsibility according to international law that the state should prevent this.

Madame Chairperson:

[interrupts]

Excuse me. I should have informed you that we, the members, may pose follow-up questions during the dialogue to have you clarify things in answers you have already made, and I now have a follow-up question from Ms Oviedo Fierro, one of the rapporteurs.

[05.40]

Head of Delegation:

OK

Ms Oviedo Fierro [interpreted]:

Now you're going through the questions rather quickly and I'm going to look back a minute. Now you said something to us about the commission, and in relation to the commission you've told us about one of the functions it will have, in other words, receiving complaints and it'll be an independent function, but we also asked about the composition of that commission, and we asked about civil society, and civil society that has become more mobile and that has representatives who've been - whose rights have been abused by some of these clerics, whether they will be included in this commission.

Now we've heard about the nuncio who will be sanctioned and punished very severely, but I would also like to ask whether he will be handed over to the justice systems of the countries where his crimes were committed, or under which law will he be sanctioned.

Thank you

[06.49]

Head of Delegation:

Muchas gracias a Usted. [interpreter continues]

Thank you, Madame. Well clearly, the Nuncio will be judged under the law of the Vatican City State - he's a diplomat, and therefore falls under that jurisdiction, and it's according to that system that diplomats are judged.

Ms Oviedo Fierro [interpreted]:

Could I also know what sanctions could be handed down to him, possibly. Are they on the same lines as sanctions that are meted out by justice systems in countries pursued [?] for those crimes he committed?

Head of Delegation [interpreter continues]:

While the trial is under way, we'll have to see how matters evolve, before there has to be a decision on what crime was committed and then the sentences and the punishments will be handed down. I don't think it's a good idea to comment further because the proceedings are under way before the court. The commission is being established at the moment, so the names of people who will sit on the commission have not yet been published. As soon as the names are publicly known then we will all be familiar with them.

[He switches to English - Chair interrupts]

Madame Chairperson:

Excuse me - she also had a question on the functions of this commission, apart from receiving complaints. And Mr Kotrane would also like a follow-up question.

[08:45]

Mr. Kotrane interpreted:

Very briefly, Madame Chair, thank you very much, and to Monsignor for his answer. As to the role of the state to control religious teachings and to try and prevent teachings that run counter to the principles of the universal principles: I'm very happy to hear you spell this out. You have very clearly said that the state has a duty to step in, in these cases. I'm surprised to hear this because it's not what I see when I read the state party report, particularly when looking at page 9 under 23 sub paragraph k when it talks about the rights and duties of parents when it comes to children's education. There's the question of the free choice of school by the parents and the right and duty of parents to make decisions as to the education of their children, but it says that the curricula, etc put in place by schools against parents' decisions are not pursuant to this principle of the state intervening.

Now the convention asks states to ensure that education aims to achieve certain objectives and that children, for example, should be protected from religious proselytising. Now, what you say is very good; it does allay our fears, but it runs counter to what we read in the Holy See's report in respect of the role of parents and state. It spells out clearly here that the state does not have the right to intervene. Now, obviously, the state must protect parents' rights but it also must intervene when necessary.

[10.55]

Head of Delegation [interpreted]:

In reply to that I would say that the parental right has primacy. Parents have the right to bring up and educate children and transmit their beliefs, whether religious beliefs or other beliefs, to their children. There's no doubt that the state has a role to play within that. That role is to prevent schools becoming, for example, incitement to hatred, but parental rights are the priority. It is in some way [garbled] that way within the convention, too. I see no contradiction between the report and what I have myself said here. I think priorities must have a hierarchy, if there are social problems, for example, within a family then the state does intervene there.

Head of Delegation [continues in English]:

[12.13]

About statistics: unfortunately - I don't know how many of you read Italian, but there are some statistics available [only ?] in Italian, published in the annual report of the activities of the Holy See, beginning from 2006 - from 2005, actually. For example, for the year 2012, there were 612 new cases begun, of these 465 [\[Bishop Charles whispers correction\]](#) ... 612 cases, as rightly Bishop Charles reminds me, of sexual abuse, and of these 465, ah, more serious, and of these 465, 418 are abusers of minors.

So for every year since 2006, statistics are available and they are published.

One final comment: like most states, also the Holy See is revising its language regarding children born out of wedlock to avoid any discrimination, any connotation that the children are not responsible for the fact they were born out wedlock, right?

And finally, children ever are able to express themselves even outside the context of the family; they have a certain - for example, the Catholic tradition, children receive sacrament and [sic] their own choice, independent of the context of the family.

But on the first point, on regarding some related issues regarding the jurisdiction of the Holy See vis-à-vis the Universal Catholic Church: Bishop Charles is going to clarify a bit further from the canonical point of view the position of the Holy See.

[14.46]

Bishop Charles:

Concerns have been expressed about the policy of the Holy See as the central government of the Roman Catholic Church. This government is expressed in terms of jurisdiction as his Excellency Msgr Tomaso [sic] explained, it is spiritual and voluntary. It is very important from the outset to state that this jurisdiction does not substitute or override the jurisdiction of states, and so it is a spiritual jurisdiction, and when church - local churches, bishops or superiors of religious congregations are faced with a report of sexual abuse of a minor by a member of the clergy, they have to do an investigation, they have to report it to the Congregation for the Doctrine of the Faith, but this procedure does not substitute and does not override the legitimate role of the domestic law of the country, of the territory, of the sovereign state where sexual abuse of a minor is rightly considered an egregious crime.

[16.15]

And so when the Holy See in its guidelines from 3 May 2011 stated that local churches, dioceses, or religious communities have to follow domestic law concerning mandatory or non-mandatory disclosure to the state authorities, it is saying the obvious, but it is something that needs to be pointed out and said very, very clearly.

The Holy See facilitates the role of the diocesan bishops and religious superiors in confronting questions of church discipline and the question of a role in the community of the faithful of a person who has been found guilty of an egregious crime such as the sexual abuse of children.

[17.14]

[\[to a questioner\]](#) Shall I wait for the chairman to give you the word ?

Madame Chairperson:

Yes please. I would like a follow-up question myself

In 2001 the Vatican⁴ congratulated a bishop - Bishop Pierre Pican of Bayeux-Lisieux for refusing to inform police about a pedophile [sic] priest and for giving him parish work. I wonder .. your statement just now seems to denounce this kind of congratulating attitude [[Bishop Charles speaks over](#)]

Bishop Charles:

Thankfully enough I quoted a document from 2011, which is ten years after that, and I think I am also here to say that the Holy See gets it .. probably a bit - I dunno - the Holy See gets it - let's not say too late or not, the Holy See gets it, that there are certain things that need to be done differently. I would talk about cover-up, for example, for this is a very important concern. The states who are cognizant of obstruction of justice need today to take action against citizens of the country who obstruct justice in such an egregious crime as sexual abuse of minors, whoever these people are. And it is not a policy of the Holy See to encourage cover-ups - this goes against the truth; only the truth will help us go - move on to a situation when we can start being an example - not **the** example - an example of best practice. I think the international community looks, as has been rightly said, looks up to the Holy See for such guidance, but it's not only words, it has to be, you know, commitment on the ground at the level of the local churches.

[19.13]

There was also a comment on confidentiality .. sorry [[Chair interrupts "Excuse me"](#)] I think there was a follow-up from ..

Madame Chairperson:

I'm very happy to hear this about the change of attitude and not only attitude but also in the practice, the work on the ground. Ms Oviedo Fierro ?

Ms Oviedo Fierro [interpreted]:

Well I think you've answered the first part of the question already - you've already spoken to that. But I wanted to ask something else. I know that you've been compiling statistics since 2006. Can you give us statistics which illuminate us as to this change of attitude in 2011? In other words, how many members of the clergy have been brought before the justice systems in each of the different countries for this kind of crime?

Bishop Charles:

That statistic is not published, only the new cases are published in the *Annuario Statistico della Santa Sede*, which is a book everybody of you buys every year, I'm sure, [[Tomasi laughs](#)], and it has all the reports from the different, er, departments of the Holy See, and there is obviously every year the report from the Congregation of the Doctrine of the Faith, which gives the amount of new cases concerning sexual abuse of minors, committed by clergy, reported to the Congregation of the Doctrine of the Faith.

[20.45]

Now we don't have statistics of how these procedures have developed. That doesn't mean that we shouldn't have them or that they should not be published. I think it is in the public interest to be transparent when it comes to outcomes of procedure, because the community needs to know, for example, that using due process, a priest has been found either guilty, or has been found innocent, or that his guilt has not been proven. In canon law, in fact, we are following a triple distinction in order to

⁴ in the person of Cardinal Dario Castrillon Hoyos, then Prefect of the Congregation of the Clergy, regarding the case of René Bissey, and, according to [this](#), having consulted Pope John Paul II

safeguard our communities, and I will repeat, this does not substitute the legitimate jurisdiction of the states according to domestic law.

But since we have to cater for our communities, and we have ensure the safety of our adolescents, our kids, our young people, we distinguish in an outcome of an internal procedure which we call Penal Canon Law Procedure between an outcome of guilty, an outcome of innocent, and an outcome of not proven guilty because there are cases where you cannot prove the guilt but there are concerns. And so it's not simply to say the fact you're not proven guilty means that you are innocent, you didn't do anything. So there may be a person who is not found guilty, concerns are expressed and that is very important [in order] to know what assignments to give such a person.

The other important development is in 2010 the Holy Father Benedict XVI revisited the law from 2001, which was promulgated by John Paul II, and made procedures more expedite when it comes to cases that are so egregious, even for example for cases that have been judged according to domestic law of a sovereign country, and a judgement has to be expressed on the admissibility to the exercise of orders [sic] by one of these people condemned by the state because Canon Law sees to the role of a person in the Community of The Faithful. So if you are a member of the Clergy and you are entrusted with the sacraments, with preaching, with pastoral contact with people, the Church needs to defend the community from any people who may harm the community and so we have a penalty, we would call it, but we don't send people to prison and since I worked as a, [sic] I can't be called a Grand Invisor [previous word not entirely clear] because there is very little of me – I am not grand in any way, but I always tell people I don't have matches anymore [sic]. We used to, you know, use matches a lot in the 16th Century, unfortunately.

[24:03]

So we have spiritual and pastoral penalties and one of them is to tell a person who is a clergy: 'You are not authorised to exercise your role as a priest anymore'. And this is what we call dismissal from the clerical state. Now in 2010 Benedict XVI decided to make these procedures expedite in order to be able to give an adequate response to communities who need to know the status of their spiritual leaders. Another thing that Benedict XVI introduced in 2010 is a system whereby, on a case by case basis, the Statute of Limitations (because our Canonical system also has Statute of Limitations) [sic] can be actually waived in order to continue with the process because we need to know exactly where we are irrespective of procedural technicalities.

However, every procedure has to follow the principles of natural justice: there is no presumption of guilt; there is a presumption of innocence; there is the right of defence; and there is also an opportunity for the local church to listen to the people who are bringing the report before the case starts.

[25:37]

Um, there was also concern about rehab – rehabilitation – and there was a very important point made about rehabilitation of people who are convicted or who are at least found guilty either by the State if they are members of the clergy we have to take care of them even if they have been legitimately punished by the State they are still our members of the Community. Sentences, you know, are spent in prison and then people get out of prison and rehab is also a very important aspect of prevention. And so there is a, an initiative in communities and local churches that thinks about rehab of offenders but also of victims. I think the main concern has to be, as Benedict told the bishops in Ireland, the pastoral care of victims.

[26:35]

First of all, listening to them [the victims] with respect; giving them all the necessary help in order to bring people to justice, but also not forgetting them after processes have been concluded. They are, and remain, part of the community that has been egregiously hurt and they need special attention.

Madame Chairperson:

Thank you. I have a couple of members on my list. First Mr. Cardonna and then Ms. Herczog will take the questions in one round. Mr. Cardonna.

Mr. Cardonna [interpreted]:

Thank you very much Madame Chairperson. Very quickly I'd like to go back to the 2011 Guidelines. You have mentioned that in those guidelines the Ecclesiastical Authorities are directed to respect the law of the given state, and also to pay attention to good practices. But I don't think this consists in solely informing the authorities that a crime has occurred or an offence has occurred. I think that if a crime occurs and it is not reported, that is also a crime. Do the Guidelines not refer to the fact that in all cases these crimes must be reported? I think this would be beyond a good practice, it would be showing full respect for rights. You have said that some individuals have been prosecuted or have been tried, but you have said also that there is a ruling of not proven guilty. I'd like to know if there are any mechanisms in place to ensure that individuals who are given that ruling do not come into contact with congregations in the future. You have just highlighted the need for pastoral care of victims. Now because these rulings are often not public, I'm wondering what type of communication there is with the victim in this regard. Could you please provide further details? Thank you. [Bishop Charles chuckles due to a small 'slip of the tongue' by the interpreter]

Madame Chairperson:

I would like Ms. Herczog to ask her question also.

[29:10]

Ms. Herczog:

Thank you Madame Chair. Warm welcome to the Delegation of the Holy See. As I am speaking for the first time, two very quick questions. One is that as you have just indicated the practice has been changed since 2011; however, in an interview you gave in 2011 to Johnny Cardinale [? guess] you stated that during the last year sexual abuse cases have become greatly overused. My question is: how do you know? [Ms. Herczog, after saying 'how do you know?' says either 'the decreasing numbers' or 'there are decreasing numbers'. It is unclear whether this is part of the question or not] And what is the situation, um since 2011 since you said knowledge the role of local national investigation procedure [?] and what is the cooperation between you and the national authorities in these cases.

In the same interview you also indicated that 60% of sexual abuse were attracted towards same-sex adolescents, 30% heterosexual relationships um and only, you said, 10% are considered as paedophilia in true sense. My question is that do you think that this is relevant in this context because according to the CRC and the National Legislation all children are considered children under the age of 18 and although we can discuss the terminology of paedophilia the question is whether you are in agreement, according to the Canonical Law, that these other cases (the 90%) can be by [translator's note: I think she said 'included', though cannot be sure: *presumably "excluded" ? - BT*] by the church as they are not considered as paedophilia.

Thank you.

[30:42]

Madame Chairperson:

Thank you for these questions [Bishop Charles interrupts]

Bishop Charles:

Let me start with the last one because it is a question of substantive law. Um the motu proprio, which is of course a special law made by the Pope for the Universal Church, defines sexual abuse of a minor as an external act of a sexual nature perpetrated against a minor under 18 years. So in the Canon Law there is no distinction between um the distinction can be psychological can be interesting when you doing a psychological profile of the perpetrator, but it does not have any um influence on the substantive law, um in Canon Law the motu proprio, because [sic] it actually the position in 2001 was to extend the definition of minor from 16 years to 18 years. And I would go to some other questions if I remember them and please ask them again if I don't.

[31:59]

[Bishop Charles mumbles, it is difficult to hear his words]

But there is, for example, a concern about cooperation with the civil authorities. Our guideline have always said the domestic law of the country where the local churches and religious orders operate needs to be followed. The prudential indication is always to be proactive with this cooperation. But I think it is very important to state that there are distinctions and differences within domestic laws and our guideline is to follow the domestic law. There was another concern and I can't remember it from um um

[Mr. Cardona interrupts]

Mr. Cardona [interpreted]

With regard to this same issue, I have mentioned firstly that I wondered whether or not the guidelines should contain more information. Should they not refer to the fact that cases should always be reported. The second point I made was pertaining to victim communication...

[Bishop Charles begins talking. It is clear from the video that he tried to talk while Mr. Cardonna's interpreter was translating, though it is unclear what he [Bishop Charles] said. The following starts from the first word Bishop Charles said which could be clearly understood]

Bishop Charles:

..has to be the empowerment of the community. And empowerment derives from education on all levels. And so the local churches [sic] one of the guidelines from 2011 is to make safety programmes a policy on the local level. It starts from the families, schools, parishes. I think that there is no real policy of protection of young people without education because education is the key to empowerment. And certainly I think every local church, every diocese, every organisation [? guess] has a moral duty to instruct people who come with disclosures about all of their rights. And I would insist that that is a moral duty which the Holy See has to promote - that these people need to be educated about their rights and the way they could exercise them.

[34:26]

Madame Chairperson:

Thank you very much for these answers. And I would like to ask members not to take the floor without having been given it by the head, by me. [Bishop Charles chuckles]

Bishop Charles:

So I will not answer questions if not authorised by you.

Madame Chairperson:

Exactly. But I was actually talking to my own members just as much. But we will now have to go on to the questions under the two optional protocols which we need to pose to you before [interruption by one of the clergy] I'm sorry we need the time. If we finish the questioning before one you can answer them before one otherwise we will come back and will continue at three o'clock. There will be lots more answers to be provided, I'm sure. Um, I would like to [sic], myself, the Rapporteur, under the optional protocol on the sale of children etc. and also on the OPAC actually. Um, we would like to take up the issue of data under the optional protocol. As you know, data is one of the general measures that are crucial to the fulfilment of the obligations under the optional protocol as it is under the convention itself and it has already been raised and you have said something about data in your answers, but not comprehensively.

Um, you say in your written replies that providing data is up to the states where the prosecution takes place. But it is extremely important that you, as the highest authority of the Catholic Church, do not wash your hands of the violations of the protocol by clergy. Giving out data would help in clarifying the facts, it would help to have the offenders prosecuted and possibly prevent further violations. And you do have this data so you could provide them. We ask again that you do give us information on all cases of sale of children, child prostitution and child pornography gathered by the Holy See and the congregation for the CDF, the congregation for the doctrine of the faith since 2001. And also the other data that has already been asked for under the convention. Um, we have already had the question about the centralised data collection system, which hasn't been answered yet by you. But you did say in your written replies on the optional protocol that it would be a good practice for better information sharing. So even if you don't regard it as an obligation, why not do it? Are you planning to do it [mumbles] – you think it is a good practice.

[37:03]

Um, on allocation of resources you say under again the written replies to the optional protocol that activities um [sic] where you refer to one specific provision on resources in the optional protocol itself which deals with international promotion, but you say that you haven't any allocation of resources for promoting the optional protocol internationally. And I wonder if you intend to allocate resources specifically for this purpose? And also other activities under the optional protocol may require the use of resources even if it's not specified in the optional protocol itself. So I wonder what human, financial and technical resources you are going to allocate for the activities to fulfil the optional protocol in the future.

Speaking about coordination, you don't have one specific body responsible for coordinating activities under the protocol, it seems. Um, anyway I would like you to explain what is the body responsible for this in the Holy See. Uh, children's views have already been touched upon several times, I'll just ask specifically under the optional protocol: when you have become aware of cases where children have been abused in pornography by members of the clergy, have you sought the children's views on the way they have been treated and what assistance they might need? Have you taken the best interests of the child into account as a primary consideration when deciding how to proceed in such cases, and in other cases under the protocol?

[38:49]

Then to prevention. We asked you in the list of issues to indicate the measures in place to prevent the children who are particularly vulnerable to the offences under the protocol become victims. I must say your answer to this is not very specific. Um, and in the view of the committee the best way to prevent the offenses is to reveal the old ones and to remove the offender from positions where he or she will have the opportunity to reoffend. So openness instead of sweeping the offenses under the carpet. Cooperation with

the states involved and with private persons to clarify what has really happened and to have offenders punished under the state laws has already been mentioned but is also important under the optional protocol.

I also, um, when you talk about your own laws to sanction these kinds of behaviour: what about transparency regarding the process when you do so. Could you say something about that? It seems to date that your procedures are not very transparent and also that victims do not take part in the processes. So please could you say what you intend to do in line with this and to prevent new offences with revelations of the old ones and with providing data as I have mentioned before.

Um, you mentioned that the new commission would be a kind of complaints mechanism for children. So if you could confirm that it will be possible for children to complain about offenses under the optional protocol also to this new commission, that would be good.

Then to a couple of specific instances of sale of children. We have the Magdalene Laundries, which have not been specifically mentioned so far in this dialogue. [muttering] Yes, it was mentioned but it was mentioned in a different context, actually, than the context of the optional protocol. Um, in these laundries, which were residential laundries, for profit laundries, which were operated by four orders of Catholic Nuns in Ireland from 1922-1996, babies were taken away from their mothers, whether the mothers were pregnant on arrival or later. Um, up to 2000 children were illegally exported from the Magdalene Laundries in Ireland to adoptive in the United States, and mainly to wealthy families. And we asked you in the list of issues to provide more information, more data, on this, but we didn't get it in your written replies. So we would like to know the number of babies taken away from their mothers in these laundries, who were placed in Catholic orphanages or given for adoption as well. And specifically on measures taken to reunite mothers with their children.

[42:06]

And the efforts to ensure full disclosure of all information on the whereabouts of these children, all these children. And what you do to hold, or have done to hold, the perpetrators responsible. Then to the case of Spanish babies: thousands of Spanish babies have been stolen from their parents and sold for adoption over a long period, which has been revealed in a rather new investigation. The children were trafficked by a secret network of doctors, nurses, priests and nuns in a widespread practice that continued until the early 90s. Mothers said, say, that they were told that their first born children had died during, or soon after, they gave birth, but in reality these children were sold to childless couples who were seen as more appropriate parents.

Official documents were forged and in many cases it's believed that the adoptive parents were unaware that these babies were actually stolen. Um, you say in your written replies, and we commend you for this, that the Holy See supports and encourages the investigations by Spanish authorities into the possible crimes. So my question is: what would that mean in more practical terms? Do you give them information? What do you do practically? How do you also ensure that members of the local church and Catholic institutions are not able to commit such crimes again?

[43:36]

Then to assistance to victims. In your written replies your answer that the Holy See has not had the occasion to directly cooperate with state parties in the assistance of child victims, although it does support such initiative, as contemplated by article 10.2 of the optional protocol which says that states should promote national cooperation to assist child victims in their physical and psychological recovery, social integration and repatriation. I wonder, you say you have not had the occasion to cooperate but I wonder why do you not take the initiative yourself towards the other states to cooperate on such support? – that

would be part of encouraging the implementation of this optional protocol as you say you do around the world. Or you could set up an assistance programme yourself.

I have a question on impunity: um, the vast majority of priests and clerics have benefitted from impunity, those who have committed acts of child pornography etc. Um, under Canon Law and proceedings that impose an obligation of silence on victims are still enforced as far as I understand, and applied. Um, and as I said before the Holy See has on several occasions refused to cooperate with law enforcement authorities and [? refused] to give information to prosecutors and national commissions of inquiry. Uh, so I wonder: has this changed now, with what you told us about the change from 2011, and if not what do you intend to do with this?

Well, to extradition. I would I would like to just hear if it is correct that the Holy See does not seek extradition of persons to other countries for the purposes of prosecution. That would be my [garbled] under the OPSC. We have a few questions by other members under this optional protocol and I'll come back to the other protocol. Um, Mr. Cardonna is the first one to speak.

[45:47]

Mr. Cardonna [interpreted]

Thank you very much, Madame Chairperson. Very quickly, first of all I would like to focus on prevention measures and training as well as dissemination of information on the optional protocol. You have said that the Holy See has taken steps to ensure that the clergy and priests and other church personnel [and] officials are aware of the provisions of the optional protocol. But I was wondering exactly how that occurs? What steps have been taken to ensure that this information reaches religious orders that, for example, run orphanages. What type of training is offered in the rights of the child and particularly with regard to the crime of the sale of children. Now with regard to the 1994 document with regard to adoption that was adopted in Seville, reference is made to [sic] in consistent with the principle of dignity of the child. Adoption cannot be used for purposes of profit. And I was wondering, what have been the results of this particular issue? What steps have been taken? What type of instructions have been given to local churches in this regard? Are local civil authorities, are they informed? What measures are taken to ensure that the sale of children does not occur?

[48:04]

And the other questions that I have, I believe the Rapporteur has already asked, so I thank you Madame Chair.

Madame Chair

Thank you, Mr. Cardonna. I give the floor then to Ms. Oviedo.

Ms. Oviedo [interpreted]

Thank you, Madame Chair. I would like to highlight the similarities between the two phenomenon [sic] that have been referred to and also follow up on the questions that were asked earlier this morning about the crime of sexual abuse, the crimes that have been committed, and how they relate to the optional protocol. Obviously there are similarities and I would like to highlight the questions that have already been asked by out chairperson as Rapporteur on the optional protocol. I would like to know if you have information on the prevalence of incidents involving the sale of children, particularly those that are linked to sexual abuse perpetrated by the clergy. I remember the case, and I mentioned it earlier, of the in the Dominican Republic and the members of the clergy who were involved in these cases of sexual abuse were also found to have in their possession pornography, child pornography, and children who were sexual abused had also been

photographed as part of those offenses. So I'd like to know about the...what type of relationship is there between these two phenomenon? Thank you.

[49:59]

Madame Chairperson

Thank you Ms. Oviedo Fierro. Then to Ms. Herczog.

Ms. Herczog

Thank you, Madame Chair. Coming back to the Chair's question on the Irish and the Spanish examples, the same applies, applied, in Canada and Australia and the reason behind that was that um the church had a very strong standpoint on the [garbled] being in the best interest of the child based on the family status of these women or young girls who were giving birth. So my question is primarily [sic] how, and obviously these are leading to many complicated family situations not only because of the adoption, but also because those children who end up in institutions and deprived of family care are becoming much more vulnerable to become victims of sale and exploitation of any forms. So my question will be whether you have changed also your approach and perception to the family forms, different family forms, because, considering the reality, most of the children today are facing different kind of family situations um lone parents, same-sex families, and many other divorced families and [garbled] families are becoming more and more frequent, and so the question is whether you are supporting in any way the families and the children, primarily, to cope with these situations instead of being judgemental and um obviously we don't have the time to go back to the good old times when, in principle, all these perfect families existed. I don't personally think that it has ever been a reality, but this is another discussion obviously.

[51:54]

On the other hand, it is also closely related to domestic violence issues and abuse within the family because we know that statistically, based on research and evidence, many children who are experiencing domestic violence are also becoming much more vulnerable when it comes to sale, exploitation or sexual abuse, so my question is related to that. In March 2013, when the UN Commission on the status of women in New York generated this huge debate raising issues concerning these questions, then the Holy See had a very strong standpoint opposing the facts of the final report and the recommendations and resolution considering the domestic violence issues and rape of wives within the family. So I'm just wondering what is your standpoint in this context, especially because these are closely related issues. Thank you.

Madame Chairperson

Thank you. Then the last one to speak before the lunch break will be Ms. Wijemanne and Ms. Winter also. Ms. Wijemanne.

Ms. Wijemanne

Yes, mine will be a very quick question. It relates to the issue of the children from the orphanage in Spain who have been sold, sale of children. I just want to ask a question with [sic] um um, you know, under the Catholic Church, you know, is orphanages or institutions where children are placed whether you have some kind of independent monitoring mechanism because most of the time uh [garbled] for children tend to get incarcerated and they cannot talk for themselves so is there some monitoring going on which is independent, which check on what is going on? This kind of sale and other forms of abuse can take place because children don't have a voice to speak. So I just want to know whether there is a practice of that being done in any of your institutions anywhere in the world? Thank you.

[54:12]

Madame Chairperson

Thank you, then I give the word to Ms. Winter.

Ms. Winter

Thank you. A legal question, once again. The definitions of crimes in the two protocols are slightly different from all the other definitions. Has the Vatican, 'cause this now concerns the Vatican, has the Vatican changed its law in relation to those two protocols that have been [sic] I mean completely changed to its law concerning those two protocols. Thank you.

Madame Chairperson

Thank you. I think the related question is whether the law which now deals with the optional protocol on the sale of children in the Vatican City State. But it is confined to this city state only. Have you also taken these, or have you considered taking these, definitions into your Canon Law.

Um that would be all for this round. We'll have the questions on the OPAC after lunch so you can have the short coffee break in the afternoon to consider those questions. Now we'll have a lunch break until three o'clock.

[mumbles]

Video 3

[much muttering for the first minute]

[01:00]

Madame Chairperson:

Good afternoon, everybody. We are ready resume this dialogue with the Holy See on its second periodic report and the two initial reports on the optional protocols. We'll continue to ask a few questions under the optional protocol on children in armed conflict, so that you'll have all the questions presented to you, and then we can come back to answers to the CIC and the option protocol on the sale of children as well, after we have asked the questions on the OPAC.

Since I am also the Rapporteur for the OPAC I'll ask a question - I don't have a lot of questions in this option protocol.

We welcome the criminalisation of the recruitment and use of children under fifteen years as a war crime under your law number 8 on complementary norms on penal matters, but we wonder why you've not criminalised the recruitment of children all the way up to eighteen. So I would like to hear your comments on that.

I know Ms Winter would like to ask a question under the OPAC and if any other members have questions under the OPAC please raise your hands during Miss Winter's presentation.

[02:20]

Ms Winter:

My question is the international assistance incorporation [sic] in order to assist people in other countries where UN staff might be working. It's one of the points in the OPAC. If there is any possibility or if you have

considered to be of assistance in other countries as well where you are involved - not as a party, of course, in armed conflict. So, for instance, is the Holy See [garbled] linked [?] through its people in the concerned countries to assist the demobilised child soldiers and so on. This kind of possibilities exists [sic] - there are possibilities of having treaties with these countries - is this envisaged or not. Thank you very much.

Madame Chairperson:

[03:15]

Thank you. There's a question from Mr Madi.

Mr Madi:

Thank you very much. Well, my question is a simple one, whether in countries where armed conflict do exist, that the Catholic churches or institutions, house, or host, child soldiers escaping from the conflict - armed conflict area or not. I mean, do you have any information about this. If the answer is yes, how are you dealing with those child soldiers in terms of partial [?] rehabilitation, reintegration into society and so on. Thank you.

Madame Chairperson:

Thank you, Mr Madi. I can see no other members who would like to raise questions on this issue, so then we'll turn to his distinguished Head of Delegation, Signor Tomasi to continue with answers, and I believe under the CRC to start with? or under the OPAC - it's up to you actually, to organise your answers. Anyway, you have the floor.

Head of Delegation:

Thank you Madame Chairman - or Chairperson, actually. We start with the last question which is - which relates to child soldiers and their rehabilitation. This is done by the local churches, for example, in Uganda there are programmes taking care of soldiers that are dismissed - that were dismissed from the Lord's Army - the so-called Lord's Army, and others that were recruited by separate non-state or even state actors, and the rehabilitation consists in reintroducing progressively into normal life, if possible through recontacting the family of origin of these children, and then to provide them with an education, so that slowly, psychologically they may be in a position to lead a normal life

[06:00]

On the question of criminalisation of ..

Madame Chairperson:

Excuse me: may I just ask, you mentioned Uganda as an example, is this something you do systematically all around the world or is it only up to the initiative of each local church. Do you encourage all the churches round the world where this is a question at all, do you do this kind of follow-up programmes?

Head of Delegation:

It's the local churches that are encouraged to take initiative, because the situation is better known locally. For example - yes I mentioned Uganda but I could mention Mozambique, another area, or even in Congo. So the problem is better addressed where it starts. It starts locally, and we feel that the local culture, the local possibility of finding family or relatives is much greater.

There were questions regarding the cooperation of the Holy See with national authorities, with civil authority regarding investigation crimes affecting children, especially sexual abuse. The Holy See willingly cooperates with states. For example, recently there has been a case with Australia, but the communication has to come through the proper channels. The embassy of Australia to the Holy See can present a request of particular documentation or information and the Holy See as far as possible, and it is in a position to do it with the evidence available, is willing to collaborate.

[pauses to consult papers]

There is a ..

Madame Chairperson:

Ms Winter?

Ms Winter:

Sorry, there was a question on OPAC again, fifteen to eighteen years .. what happens.

Madame Chairperson:

[to the Head of Delegation in explanation]

It was just a reminder of the OPAC question on criminalisation, but we can come back to that whenever you like.

[08:50]

Head of Delegation:

Earlier there was a question about the third protocol to the convention on the rights of the child. So far, the Holy See has not taken a position, and it's studying the protocol and looking at the eventual consequences for the Vatican City State for its role in the international context, and after the study is over, the decision will be taken.

Again, on the concern for the family: it might be of interest to know that children within the context of the family are going to be dealt with in a very specific way in October when there will be a special international synod or gathering of delegates or bishops from the various countries of the world to deal specifically with the family, and Pope Francis has convened a meeting of cardinals for the month of February, around the 20 February, again to focus exclusively on the family and the needs of children within the family and their relation with the family.

[pauses]

[10:29]

Madame Chairperson:

Excuse me - does that mean that you cannot say anything at this stage about the question that Ms Herzog raised about accepting new family forms and supporting children in such families ...

Head of Delegation:

I'm coming to that.

Madame Chairperson:

Oh, you're coming to that. Ms Wijemanne had a question too.

Ms Wijemanne:

Thank you, Madame Chair. Just to clarify: are you saying that if the country concerned makes a request between your embassies that the priest concerned or whoever it is would be .. do you have some kind of extradition treaty with these countries and also ... secondly, what kind of support do you give supposing the country concerned would like to take steps in terms of a prosecution and law enforcement... is there some support given by you in terms helping with the collection of evidence or the whole process towards a prosecution or do you entirely leave it to the law enforcement authorities within that country to do something?

Head of Delegation:

It will be mostly the responsibility of the local authority - the national authority - for domestic law to be applied to citizens who have committed a crime against children, so there is the encouragement and the position of the Holy See to say that collaboration in the solution of problems and pursuing crimes is a moral and even legal obligation.

[12:22]

Madame Chairperson:

But more specifically ... I think you said earlier that you would provide information if you're asked to [\[Tomasi: If ..\]](#) if it's part of a prosecution and if it's done through the right channels.

Head of Delegation:

Yeah, whatever is available, obviously, yes.

About the discrimination of children from different types of families... I think the priority is the interests of the child, and we look - the Holy See looks at the protection of the child first of all, independent of the context in which the child is situated, because we believe as the convention states the interests of the child should take precedence.

On the adoption issue, which was also raised as a question for the Holy See, different Catholic institutions around the world are competent in this matter following state law, because different states have different arrangements for adoption, and we have to respect this legislation, again keeping the interests of the child first.

Madame Chairperson:

Then this is a question from Ms Herzog.

Ms Herzog:

Thank you Madame Chair. With respect to adoption, my colleague here Ms Hiranthe Wijemanne was asking about baby boxes. In many countries, despite the lack of local legislation, church-run NGOs are operating this, so to say, medieval tradition that babies can be abandoned anonymously, and according to the committee's previous concluding observations we are opposing very strictly this method as not serving the

best interests of the child, so I'm just wondering whether you've got any opinion as the Holy See on this programme or whether you have considered looking at our concluding observations and reconsidering the operation.

[14:53]

Head of Delegation:

I must say that I'm not very informed about this topic, but I would say the problem of children being abandoned creates a response of immediate necessity to the survival of the child and the protection of the child. So in that sense, some religious NGOs and some institutions respond by taking this responsibility independent of the policy implied or developed in relation to that.

[pause]

Madame Chairperson:

I think I would like to add on my own part that there are different ways, other ways also to support mothers who get a child instead of having to abandon them - abandon the child; there may be different forms of support that may be given to that family and to that woman, if it's the mother it turns out that there often are other members of the family that prefer to take the child to [sic: sc. out of ?] the baby boxes. There are many aspects of this issue; it's not as easy as to say that those children would otherwise be killed or abandoned to themselves; there are other possible solutions to that actually and support to pregnant mothers, for instance, is one possible solution.

And also the possibility of giving anonymous birth, which would that they would give birth under proper circumstances and would not have to reveal to the world around that they have actually given birth.

Mr Cardona has a question?

[16:45]

Ah no.

Head of Delegation:

If I may, Madame Chairman, I fully agree with you; in fact, I know one case personally in the diocese New York City, where there is a house developed for mothers who want to give up their child, but want to bring it to birth, and they are helped, protected, housed until the child is born and then together with them a decision is made about the child. Yes, I think that's much better.

Madame Chairperson:

I'm happy to hear that, thank you. There's also a question from Ms Wijemanne.

Ms Wijemanne:

Yes, just to add to what you were saying: I think, also er, is there some kind of, er, thought given to prevention of this, because one of the reasons that these children are abandoned are because of, perhaps it's due the fact they [sic] have - may have got pregnant because they have had no access to reproductive health services, or they are under age, or, you know, so it's not dealing with the child but also maybe looking at access to reproductive health services. I know the Holy See has certain policies related to family

planning and reproductive health, so is that [garbled] which you are also looking at, making sure that it does not happen, the preventive part of it, because most of these babies are abandoned because the mothers are not married and they have got pregnant for whatever reason.

Head of Delegation:

Well, the position of the Holy See is that priority should be given to life, and therefore any effort to help these women independent of their marriage condition to bring their child to birth, if they so want, is to help them. Yes, there is an effort, depending on different countries to educate and insist on this aspect.

[19:20]

There was also another question on the responsibility in the Holy See for children if there is a central point of reference that deals with children. Actually, there are different pontifical councils -departments in the government of the church - that have some competence depending on the specificity of this department on children.

For example, the pontifical council on the family is promoting some of the issues we have just been talking about; the pontifical council on migration is very concerned with, for example, the movement of minors across borders, as, for example, in Europe in the last year there were several thousand minors that moved without any family relations and there is an effort to try to do something in terms of policy, to have states to look at this phenomenon, and in terms of immediate assistance, so that these minors, these children may not be totally exploited.

Another department is health, catholic education - these have different segments of concern regarding children from the perspective of their specific mandate.

Madame Chairperson:

Thank you for that answer. This is something that we see with states parties, that they have different sectors of the government that deals with different parts of the convention, but what we often lack is an overall ... an oversight of this by one specific body that has a coordinating responsibility, so I wonder, what body, what person, whatever, has that kind of responsibility for the CIC and also for the optional protocols in the Holy See. Is there anybody?

[21:36]

Head of Delegation:

For the implementation of the CIC and its protocols, the secretary of state is primarily responsible, and then it [sic] allocates responsibility, so to say, for different segments of this implementation to different departments, but perhaps this is good advice that we should take home, that one form of coordination may be developed, that we can advise out government, quotation marks, and see that, for example, the new commission that Pope Francis has established, may take on more direct coordinating responsibility for the protection of children.

Madame Chairperson:

I could add that that coordinating body could also have a monitoring function to follow up for instance, every year, regularly, what is being done, to have regular meetings with everybody that has a responsibility

for what goes on with children's rights in different parts of the government, so, monitoring and evaluation of the efforts is a good thing in that respect.

Head of Delegation:

Yes, thank you, that's good advice.

Madame Chairperson:

Thank you for saying so. Ms Oviedo Fierro would like the floor

Ms Oviedo Fierro, interpreted:

I'd simply like to clarify one point. Is that I don't think you can comply with the functions of that commission. I wanted to clarify that point with the Head of the Delegation. The commission being set up by the Pope is being established to have an operational space which will enable him to move expeditiously with issues pertaining to sexual abuse and other issues. And now we can recognise and acknowledge the fact that several of the pontifical councils do a lot of things for children. How will all of these councils be coordinated so that there is no overlap between activities?

So once ... I think it would be useful to see if there is a body that could help with this.

Head of Delegation:

Right now, there is a coordination of the different departments depending on the type of activity that is involved and this coordination is done according the organisation of the Curia - which is the government of the Holy See - by the secretary of state.

There was also a reference to the role of civil society and how civil society has contributed to the preparation of the response of the reports of the Holy See. Some Catholic NGOs have been consulted. There are NGOs that have an inspiration from the Catholic tradition, and they have been dealing regularly and for years with children special problems [sic] with relation to education or assistance or protection of orphans and things like this, and as well, some of these NGOs share and highlight good practices that they have experienced over the years, and they can be useful to share with the rest of society. And so [garbled - "we've" ?] taken [?"taking" ?] into account the experience and the contribution of these entities we have used their knowledge and their up-to-date information.

[25:43]

Madame Chairperson:

Excuse me? I wonder, coming back to Mr Gastaud's question, I would also like to know if children have been involved in any of these organisations or in any part of the reporting by the Holy See.

Head of Delegation:

Children have not been directly consulted, but indirectly through these organisations that are in touch with them.

Another question was the specific education of priests and other church personnel about their work with children. Usually there is an effort - not just an effort, but a very plain and articulated decision to train special people in pedagogy and medicine and in some other disciplines, so that they can take a

responsibility for institutions that deal directly with children, and this is done normally in a kind of systematic way, and the benefits is [sic] obviously to give an ever more professional assistance and care for the children that come under the responsibility of church institutions.

Madame Chairperson:

Mr Cardona would like to ask something.

Mr Cardona Llorens, interpreted:

Thank you very much. I'd like to thank the delegation for their answers also. You spoke to us about pedagogical information also health information. I was referring - in the question I put, I was referring to training -training in terms of rights, in respecting the rights , in respecting the content of the convention, not as to how to teach health matters , etc, but how to teach matters that are linked to identity, freedom of expression and the content of the rights themselves with concrete instructions such as ... for example, do you have a significant NGO, or rather the guidelines, you know, you mustn't remain alone in a room with a child with the door closed - the door needs to remain open, etc. So all of this information that takes the form of instructions or guidelines, that ensure that rights are respected, so that potential violations of the conventions are precluded.

Head of Delegation:

To prevent cases of abuse of minors is a real immediate concern, and there have been some measures taken in this direction that you mention, like, for example, before entrusting work with children to a church person, be it a lay person or a cleric, there is some examination of this person, certain objective criteria that have been put in place to know exactly the background and the attitude of this person, and this is done in a very systematic way now in several countries. At least the United States has begun to implement it, and some other countries are doing the same thing.

Madame Chairperson:

Ms Herzog.

Ms Herzog:

Chair, I highly appreciate this answer. The other part of the question was though, I guess, Mr Cardona's question, was whether you are also training those working with children to recognise child abuse and neglect, whether they are there or for [sic] the different methodologies used when children are asking help, for instance, in cases of sexual orientation of children, reproductive health issues, unwanted pregnancies and other questions, so that the question is how are you training your staff or those working with children directly in these areas that are closely related to child rights but are not the usual issues you have been tackling so far. Thank you.

[30:22]

Madame Chairperson:

Thank you, Ms Herzog. I would like to ask myself also, because you said this also goes on in the United States and some other countries, but have yourself issued some instructions and guidelines to the Catholic church in all these different countries about these issues, and .. Ms Oviedo Fierro and Ms Winter.

Ms Oviedo Fierro, interpreted:

I just wanted to take this opportunity to remind us all of this given [sic] - there's one question outstanding on this, namely, how many episcopalian conferences in the world have received that cir... that letter you sent, and how many of them have organised plans precisely to prevent sexual abuse. And, these tasks, so to speak, these activities that you have proposed, what form do they take?

[Tomasi is about to answer but the chair directs his attention to the question from Ms Winter.]

Ms Winter:

I am also speaking about training because [garbled] I have a special question. I have looked into the canonical procedure concerning investigation, and there is - one part of the investigation is to deal with - investigate - victims, to ask victims to come forward. Do you have specialists trained, as we always advocate in each and every state to give specially-trained people to deal with children as victims and witness when they have - especially when they have to give testimony? Thank you.

Head of Delegation:

Madame chairman - chairperson, Bishop Charles will begin to answer some of these questions.

Bishop Charles Scicluna:

I think that these concerns are very important; we are very grateful for these observations and questions. I will start with the experience we had with the guidelines. In, as you know, on the third of May 2011, if I'm not mistaken, the Congregation of the Doctrine of the Faith issued a circular letter to all the conferences of bishops around the world asking them to start working on guidelines that would help local dioceses, because the response has to be on the local level, so this was facilitating policy on the local level, and the closing date was a year - no - February, actually, 2012.

I have to say the response was not so punctual, but I am very pleased to report that by the autumn of 2012, 90% of the conferences of bishops had actually responded by presenting guidelines. Now what about the other 10%?

And we have problems, even some organisational problems with some conferences of bishops in Africa that find it very difficult even to meet, get together, because of conflicts, etc. But there was a very positive and high response. Most of these guidelines have today been reviewed by the Congregation of the Doctrine of the Faith, and a response has been given to the different conferences of bishops.

Now the idea was, in the circular letter, to give some important points that had to be put in these guidelines, but guidelines had to be adopted to the culture and local situation. But screening of future candidate for pastoral care is a very important point, and, I would say, non-negotiable. Pastoral agents have to be screened in order to ensure that they are worthy and able and suited to work with children if they are going to assigned to pastoral care, which, as is the normal experience has to be also with minors.

[34:50]

John Paul II in his important document on the formation of priests called *Pastores Dabo Vobis* insisted on the human formation of candidates to the priesthood, and so this is an essential element of every training programme. I would say that this concern that the values of the convention on the rights of the child become an integral part of training for future priests is well taken. I think that future priests should also know that there are international concerns, and there are values that are international and also inter-religious, almost, or supra-religious, that need to be a part of a human development programme on the

parish level, on a diocesan level. And so the key word is always education, education of future pastoral agents, whether they be clergy or lay. The initiatives in the United States, for example, that His Excellency Tomaso referred to, not only cater for priests on the parish level, but for every individual concerned with pastoral care. And that is, I think, a very important point.

This is something that is being developed slowly, slowly according to the cultures concerned, and I think it is a very important step forward which needs to be promoted by the Holy See in its role as the government and the body of the Catholic church worldwide. And as you said the Vatican City State is a small concern but there are children there, and I know also from personal experience, before I moved to Malta, as an auxiliary bishop that questions of screening, questions of child protection are also important on the tiny territory of Vatican City State, so that we are on the same page with the committee - and I think we should be, actually, when it concerns the screening, profiling and education and training of personnel.

[37:22]

Madame Chairperson:

Then, I think it's a natural question to ask: this sounds very good what you are doing today and for the future but what about priests who have already been found guilty of performing sexual abuse: have they been removed from their positions? We know about this habit or whatever of moving them from parish to parish, which seemed to be quite common, at least before, and we wonder whether that still goes on, and even if they are not moved to another parish, they are allowed to stay in the same parish ... er continue.

Bishop Charles Scicluna:

I think that part of the prevention is to take care of offenders in order to prevent reoffending. So it's not only a question of training but also of rehab, and also of not putting minors at risk. That is, I think, a matter of paramount concern.

Now the question of what I would call offender mobility is a great concern. The circular letter from the Congregation of the Doctrine of the Faith explicitly states that it is a no-go simply to move people from one place to another or from one diocese to the other. There is an obligation to advise another diocese when a priest wants to move to another diocese, another local church, another country, of any concerns about the persons. We have also had unfortunate incidents of people moving from dioceses to religious congregations. There is a canonical obligation to explain why the transfer is being made and any concerns about the persons. And that is policy that has to be followed. Now the unfortunate incidents when policy is not followed make a very strong case that the policy needs to be not only adopted but also enforced.

[39:40]

Madame Chairperson:

Mr Cardona?

Mr Cardona Llorens, interpreted:

Thank you very much for that information. This is only for priests, is it? or is it also for religious orders. Are there instructions for the Jesuits, Benedictines - all the other religious orders?

Bishop Charles Scicluna:

[asks Chair for permission to answer]

The circular letter is addressed to the conferences of bishops, but there is a specific section that says that major superiors of religious orders are strongly invited - and, of course, when the Holy See says "strongly invited", it's not only a pious desire or *pío desiderio*, that says that religious orders have to cooperate and coordinate their response with the local bishops, so that there is a uniform response, and that is why the guidelines have to be sort of adapted to the local circumstances, because there are different cultures, different mentalities that have to be taken into ... but there has also to be a uniform approach to certain problems on a unique territory, so that we have the same response in a nation, for example; that's why the circular letter was addressed to the conferences of bishops because they unite all the bishops in one country. It's not their responsibility to give guidelines .. they help local bishops - they issue guidelines because they are groupings of bishops, but then it is the local bishops and the congregations of religious who have to implement the guidelines on the ground - on the local dimension.

[41:50]

Madame Chairperson:

A question from Ms Winter?

Ms Winter:

Child abuse is not only done by people in the church - from the church. The usual reaction of the state in such a situation is that a person who has molested a child will never have the chance again to deal with children; that can be enforced. I do think that according to the obedience that is due to the church by its staff, such similar provision can be taken, and it can be taken even for those who have been violating children in the past especially taking into consideration cases where it was exactly the bishop who covered up. So the bishop was not always of assistance to church in this regard, but this is not the problem of the committee, this the problem of the church. But what is the problem of the committee is would there a possibility of a policy of the Holy See to say a child molester will never, ever have the chance to deal with children at all any more.

We have had cases in my own country, Austria, that this exactly was done, that child molesters were sent to places where there were no children whatsoever. I know your answer is there are almost no places where there are no children, but there are places where there are no children, and they are kept out.

Madame Chairperson:

Because I think linked to this is the issue of prosecuting these abusers within your own system and one of the punishments would be to dismiss the priests, and if they are dismissed from their positions they should not be able to perform as priests in any other place either, and that would also be another possibility, I guess, and do you do that? But that's an additional question to Ms Winter's.

Bishop Charles Scicluna:

I would quote a very important phrase - not very long - by Pope John Paul II on the 23rd April 2002. He was addressing the cardinals of the United States. He called them to a very important meeting in the Vatican and he said these words: "There is no place in the priesthood and the religious life for anyone who would harm the young." And this has become a very important policy statement. And so the question of deciding the future of people who have offended is of the essence. It's not only looking towards what they have done, but what they are going to do in the community from now on. And so if domestic law is not applied, for one reason or another, as we have situations where the police are informed and they come to a

position where they cannot act on this report because of statute of limitations, or we don't think we have a good case, and so the church is left with the concern and it has to ensure the protection of minors on the territory because it has a moral responsibility . And so I think these concerns are very legitimate and that the line of the Holy See is very clear, and this is something that the Congregation of the Doctrine of the Faith always insists .. ah .. it has become a mantra .. that any decision has to avoid any risk to minors.

[45:54]

Now there are - this is very difficult to avoid risk, because experts tell us there is no situation which is zero risk, but I think that with the help of society and of the legitimate sovereign states and their domestic law and with the faith community, this has to be a - the approach has to be multi-disciplinary and also a synergy of concerns, NGOs, church, civil society that ensures safety of minors by not only proposing a culture which is healthy morally and psychologically, but also reducing the risk of offenders in reoffending. That is a tall order for any society and a state but it is something that we have to work absolutely.

Madame Chairperson:

Thank you. We very much appreciate your attitude to this, but I don't think it is easy to understand the specificities of what you actually do to prevent these priests or whatever religious staff from recommitting? Do you remove them from priesthods, do you, ah .. what other things do you do in order to actually put this into effect?

Head of Delegation:

Madame chairperson , most of the priests who have been convicted of crimes against children have been dismissed from the priesthood.

[48:00]

There was also another point that were raised before about the training concerning human rights, for example. Many Catholic universities, following the indication of the Vienna conference on human rights of 1993, have been establishing courses on human rights to educate exactly in all the provisions not only of the universal declaration of human rights and the convention based on that major piece of human rights sensibility, even though not in itself is not an obliging document - it's not a treaty - but it ... and .. during the decade and teaching human rights in particular [sic], the Catholic university [sic] made an extra effort under different aspects of human rights.

And to answer Miss Winter ... question .. if in every country there are specialised people sensitised to deal with children victims of abuse ... it's a process... there's an awareness that this needs to be, and some places we are more advanced than in others, the process is there.

Madame Chairperson:

Thank you. Miss Wijemanne and then Mr Cardona.

Miss Wijemanne:

Thank you, Madame chair. I think I raised this question in my opening presentation and I would like to read it again. What happens to the child victim? the child victim of abuse. Is there compensation, is there any efforts to support rehabilitation [garbled] is there any responsibility which is born in terms of helping a

child who has been victimised because of the abuse to regain some kind of normality in his or her life, or is that left to other authorities. What happens to the child, that is one thing.

Second thing is, because of the existence of sexual abuse - and it might not necessarily be a priest it might be by other people, in your ... schools and teaching institutions, is there any effort to provide protective education to children in terms of preventing abuse, and also, thirdly - protective education - is there some kind of help line or a complaints mechanism at least in some of these places where children can report before the abuse has started and gone on at the early stages, because the gravity and the impact on the child in terms of the child's wellbeing long term is when the abuse has gone on for a longer period, so it is an issue that you have to talk to children and they also need to participate and have avenues through which they can ask for help and say this is happening and I need some support so [garbled] may be not in all your institutions [garbled] is there something in terms of prevention that you have considered. Thank you.

[51:43]

Madame Chairperson:

Thank you, Miss Wijemanne. Mr Cardona did not ask for the floor this time but Ms Aldoseri has.

Ms Aldoseri:

Thank you, Madame Chair. There has been extensive questions on training of people in contact with children, but do children know about the convention? Do they know that they are holders of rights and that people around them should protect their rights? How much training takes place for children on the convention? Thank you.

Madame Chairperson:

Thank you. [to Bishop Scicluna] You may answer questions again.

Bishop Charles Scicluna:

We're talking about the pastoral care of victims. I think that the response on the local ground is going to be pastoral care, and I think the three points you mentioned, Madame, are very important. Who is going to take care of the victims and what sort of care there is. Talking about the principle of the award of damages, we promote personal responsibility, so the person causing the damage has a duty to compensate for the damage caused, and this will obviously follow domestic law, and so domestic law should be followed when it comes to question of the award of damages, and the principle is of personal liability.

There is also other levels where the community can be proactive, and this is where psychological support and also support for the family of the victim, and support which is long term. This healing needs time. Unfortunately trauma can happen, you know, in a limited short time but the effects are long term and healing is long term.

Preventive education is what I would call empowerment of the community and of children and this obviously links with the question about are children being educated about the values of the convention and their rights, and the fact that they have not only a say, but they have to be proactive in protecting their own dignity and their own freedom.

[54:26]

The question - we have a technical term - it's not, of course - we didn't coin it - it's a question of the concerns caused by grooming, and these are concerns that are very difficult to legislate, and are really a result of an education about awareness of patterns of behaviour that may be leading to abuse. And so the education of minors should also teach them to notice patterns that are grooming, grooming them into abuse, and they are lowering their defences, as you know, secrecy, special friendships and gifts, you know, all the basic steps of grooming. And this where I think your third concern is. Are we acting at the right stage where trauma can be avoided, because if you can actually, you know, free a person from the grooming stages, then you're actually helping them to prevent the trauma, which is worse, of sexual abuse.

So this is also an empowerment of families and certainly the freedom to disclose whatever happens. And as you, there are so many different experiences around the world, there are cultural aspects that have to be factored in, but these are things that need to be present in any attitude of the local churches, we do promote these attitudes, which I think is - you know, this is a tall order, we all know, and we're not getting it right all the time, and I think we have to have our parameters very clear so that people can actually be encouraged to move forward.

Madame Chairperson:

Thank you. There are a couple of questions from Ms Oviedo Fierro and Mr Cardona.

[56:40]

Ms Oviedo Fierro interpreted:

There's something that's been disturbing me for some time now, and I'd really like to state it, so that I can continue to reflect on things. I hope that you will help me to understand what's bothering me. The situations you have told us about, bring a great deal of hope, and it would mean we are finding a solution to a problem which has been of great concern to us not only as committee members but in our lives previous to the committee. However, on the other hand, we have information coming in to us from civil society that [sc. "on" ?] an ongoing basis, they're telling us that when a problem arose, a complaint was filed, the complaint wasn't dealt with in terms of the priest involved, there was no coordination with the authorities, in fact the person, the individual involved was allowed to flee and allowed to go to another country, there was no change in parish, and I've actually read specific stories about this and all this happened prior to 2011.

Now: between 2011 and now, and as you have explained, what you've said to me, brings a great deal of hope, because it would appear that you are providing a solution to the problem, and you have focussed and stressed the point on three occasions. You've given us some very small examples - few examples or perhaps there is an action that needs to be taken by the church in order to address all of these problems. You've experienced [possibly "tried"?] a number of things, but what you need to do now is - and I don't know how you call this within the church - you need to have some type of public policy, and this has to be done - you need to have a public policy which governs everything and needs to be done urgently, because otherwise, there are so many children out there, specific children with names, Christian names and surnames, and they need to have some closure in their lives, because these children have suffered great psychological stress and trauma, and they won't be able to forward in their lives if there's not closure.

So we would ask you perhaps invest more efforts - further efforts - and if you could your dissuasive power as you explained to us. So really I think you need to get down to business, to do things, concrete things, because we are dealing with very specific human beings who have come here to relate their pain to us, their suffering; these are individuals who continue to tell us about their pain and suffering, and they've

done this through several channels and mechanisms and [garbled] and they really need answers, so it's very difficult for me to continue listening to so many things that you are doing, because in society itself - I don't think we really face up to these problems and we need to have greater response to these problems.

[1:00:00]

Madame Chairperson:

Thank you. Mr Cardona is on my list.

Mr Cardona interpreted:

Thank you very much Madame Chairperson. I have one specific question to ask. And I'd like to clarify one point.

With respect to victims, you recently explained you want victims to receive compensation - reparation - within the framework of the state policy and there is criminal responsibility, in that whoever committed the crime is, in fact, held responsible. That's fine, but this morning you told us that the main, but not the only, obligation of the ecclesiastical authority is to communicate the problem to the congregation and it would appear that a trial is taking place internally within the Holy See, and it would appear that measures are adopted including expelling the individual from the church. Now, in the cases where there is no trial within the state party, but rather where the trial takes place internally, are there any type of measures that you have to provide reparation to the victim, even though it may be moral reparation. Do the victims actually know that the trial has taken place? Do the victims receive any type of reparation? That's the specific question I have for you.

Madame Chairperson:

We have a couple more members actually. It's better to take the questions all at once. Mr Gastaud and then Ms Wijemanne.

Mr Gastaud interpreted:

Thank you. Just a very brief question. You rightly pointed out that education is extremely important, and I would stress that you have done so, rightly, and you mentioned just a moment ago the phenomenon of grooming. My question is as follows: in education aimed at children, how do you actually present these phenomena, and how do you assist children and help children in helping themselves when it comes to individuals who are the perpetrators of this type of behaviour - I'm referring to grooming, of course.

Madame Chairperson:

Thank you. Ms Wijemanne.

Ms Wijemanne:

Thank you Madame Chair. One very specific question that I would like to ask is: you did say several times that it is the judicial processes within each country that will deal with a case of child sexual abuse involving maybe a member of the clergy or someone within your purview. But over the years so many cases have come up. How many prosecutions have gone to [sic] what percentage of those offenders have been prosecuted and what punitive action has been taken against them, how effective has that domestic judicial system been, what support do you - do you give support for that process to take place in an effective manner, because it seems that once offence has taken place in a country you hand it over to the local

system, but how effective has that been, and are you involved in any way in providing support so that justice is meted out [sic] to the child victim.

[1:03:41]

I mean, approximately - have there been successful prosecutions in 50% of these instances, 20%, 60%? What can you - do you have some idea of how effective that process has been?

Madame Chairperson:

In relation to that I would just like to remind you of our questions about the data - we would really like you to provide data on all the cases that you've been involved in, either under canon law, or in prosecutions under local, er, or the countries where it has happened. So please will you also come back to that - there are several questions that we have just heard.

Bishop Charles Scicluna:

Follow-up of the individual cases is left to the local churches, so when the Congregation for the CDF - I mean the Congregation for the Doctrine of Faith - authorises a process, it gives instructions on the procedure, but the follow-up is left to the local churches, because that is where the problem arises, and that is where the different levels of the solution have to be worked out. And so we do not have - we do not have any information about statistics, about what is the effect of the different .. we would have, for example, the outcome of a process, but the follow-up of the process is left to the local churches.

A question, er, Mr Cardona put a question about damages in canon law. There are two important laws on the question of damages; there is the general principle of personal liability for damages which is canon 128 of the code of canon law, which says that every person is obliged to make - you know - to make amends for any damages caused to another person whether through malice or negligence. And then there is a process within the canonical procedure - penal procedure - which is an action for damages, which the victim can actually promote, together with a canonical trial, against an offender.

[1:06:20]

Now, the more important aspect, which is also a concern, I think, on a [garbled] is to be able to advise victims of their rights, and that is something that we need to work on. And so these concerns are very welcome, as also the important encouragement we have received, and which is, I think, music to our ears, you know, of saying you're on the right path, you need to be more - in inverted commas - aggressive in getting this policy to the local churches and to be applied on the local level. That is, I think very important. [\[sotto voce\]](#) and I will stop here.

Madame Chairperson:

Thank you. Part of your answer reminds me that you said it would be good practice or best practice to set up a data collection system, and why not then into such a collection - data collection system provide information or gather information from all the local churches around the world where you've supported them in doing the things they should do locally, and also ask them to get the information back on what has actually happened afterwards. This is up to you: this is not interfering with state or anything, it's up to you to set up such a system and that would also help you in answering our questions on what has actually gone on, what has happened, what have you done, what have the local churches done, what has happened in the states, and how many victims, and have they got compensation - all of these data it is actually possible to collect; it would be quite a big job, but it's possible.

[1:08:15]

My other remark is on compensation. Because this is the normal situation in most countries that you can ask for personal comp.. personal liability of the offender. You can ask for it either through a civil procedure or through the penal procedure but in quite a few states they also have a kind of compensation scheme for people who have been the victim of any - some kind of harm for which nobody is personally liable or it's not possible to get money from that person who is personally liable, and the state sets up that kind of scheme when the state has enough money to do so. So could you at all consider setting up a compensation scheme by the Catholic church, because all these offenders are actually employed by the Catholic church, and so it's not something that you - it's not something independently of the Catholic church that they've done it, it's in the name of the church, co to speak. So could you consider that kind of compensation at a general level to victims under certain conditions?

Ms Oviedo Fierro has a question.

[1:09:37]

Ms Oviedo Fierro interpreted:

I have a specific question to ask, particularly because I am not a lawyer. Now when it comes to a trial, given the crimes we are talking about, the trial which should be taking place and where justice in countries should handed down, can this be replaced by a trial being carried out in the Holy See. For example what you have told us about - will this be applied rigorously under law? So will there be just this trial being held within the Holy See, or will this trial actually have to take place in the Dominican Republic or whatever place the crimes were committed in, so that people can serve their sentences in those countries?

Madame Chairperson:

Mr Mezmur - [\[to the delegation\]](#) that will be the last question for this .. time - you will have the opportunity to answer soon now.

Mr Mezmur:

Thank you very much. On a personal note, I have to say I am encouraged by what I heard through the responses. We've had a number of responses but also [garbled] but I don't think I would be original if I were to say that this committee is interested in saying well done- done well said [?]. Now what do I mean by this? We have a guideline to understanding basic CDF procedures concerning sexual abuse allegations; we have a letter to assist episcopal conferences in developing guidelines for dealing with cases of sexual abuse of minors perpetrated by clerics; we have a letter from Pope Francis urging Bishop Müller, head of CDF, to act decisively as far as cases of sexual abuse are concerned - I'm just giving examples. Now what will it take from the Holy See, for instance, to have a guideline which is a threat of serious sanction for non-compliance on cooperating with civil authorities on child abuse cases - what will it take - I mean, what does "decisively" actually mean? What more do we need in terms of guidance to get to this point? Or a letter establishing a duty to report on abusers and accountability for wrong doing? How can we address this whole systemic policy of silencing of victims?

[1:12:15]

There are two principal stats [?] I see as being undermined in a number of instances, namely, transparency and accountability, so unless and otherwise [? sic] we get to transparency and we get to accountability and we get to addressing the policy of silencing of victims, and so forth, I think it will be extremely difficult to

make progress on the ground, the same way we are making progress in terms of policy, in terms of guidelines, in terms of words that have been shared today.

Now the second point I want to raise is: this committee, as far as persons who abuse children, particularly as sexual is concerned, this committee, when we engage with states parties, we say to states parties that they need to make sure that these people do not become teachers or fire [? welfare ?] workers. We need to get concerned when a paedophile is employed by the city municipality for collecting garbage, if this person is going to have access to a school, because the track record of this individual does not comply with what we expect from the [garbled] of the rest [? sic ?]of the child. So it shouldn't come as a surprise at all if we are extremely, extremely concerned that people within the clergy, bishops and so forth, actually have this track record and have access to children. Now in this regard, the question that I have is very specific: there is currently a shortage of clerics, priests and so forth, as far as the Catholic church is concerned; to what extent will this shortage - because now there is a focus on quantity - to what extent will this focus on quantity sacrifice what this committee is interested in which is quality. Thank you.

[1:13:59]

Madame Chairperson:

Thank you. [\[looks enquiringly at the HS delegation\]](#) We'll have a break in not a very long time, but I guess you would like to answer some of these questions before this short break, or ...?

Bishop Charles Scicluna:

Well, to the last intervention, I think the points are well made and were taken. I think - I am with you when you say all these nice words will not mean anything when we come back for another periodic report if there is not more transparency and accountability on the local level, and this is something that is a constant work in progress ... a constant work in progress. And I think that .. when you say ... I hope I understand as a rhetoric [sic] question, but I think it is a practical question that many bishops face around the world, is quantity going to take precedence over quality. And this is concerning training of future priests in seminaries, that is, the training institutions for future priests, and the .. and, you know... what candidates to accept and also who to maintain in pastor [sic] care. I have .. my personal conviction is that only quality would ensure good quantity, and not the other way round. If we simply go for quantity, for the number, and so don't care about quality, we will not have vocations, because this is something that you are called for because you have met somebody that, you know, is a living example of these high values and ideals, and you'll only get the example that is able to enthuse young people - say yes, I will be such a presence in the community and a spiritual leader if you have people of quality. So I think they, in the ultimate end, connected, and it will be a very sad day when look for quantity and forget the quality.

Madame Chairperson:

Do you have some more answers to provide before the little break?

Head of Delegation:

[1:16:41]

Small short comments ... I agree, obviously, with what Bishop Charles said, but it's not that scarcity of vocation is going to be changing the requirements for preparation. It's in the West that vocations are scarce

and it's in the West where the most obvious abuses of children - sexual abuses of children has taken place. So we need to keep in mind also this perspective.

Going back to the request of the vice-chairperson about the children being informed of their rights, as bearers of rights in terms of the convention, I must say that the convention has been translated in Catholic institutions in the non-official [? Does he mean local dialects?] languages to make it known and add [? enable ?] the local children also to understand it, as far as they can understand it, at least to be aware of it. And it's an effort to reach out to children and to build up their personality in such a way that they are conscious of their rights and they become even more prepared to react if there are wrong advances on them.

The .. gathering data on children: it's a huge enterprise as our Chairperson has mentioned, but it's something we can bring back to our government and see what can be done.

The policy of silence of victims might have been the case probably in some situations but certainly in the last few years it's been the policy of the Holy See to encourage transparency, to encourage clarity, to push forward as the guidelines, as in [sic] all the recent documents can testify. So the public culture of societies [garbled] influences, even the churches and condition a bit their response to certain situations, but I must say that as far as the Holy See is concerned, the clarity in its objectives and its policies have been quite strong in the last several years.

Madame Chairperson:

There have been some examples of victims getting compensation under an agreement with the church but on the condition of keeping silent. Can you comment on that?

Head of Delegation:

I don't have all the statistics available for this moment but if we take a country like the United States, for example, most of the victims that have been compensated have been compensated as a result of judicial procedure, and the church has compensated them, and without imposing any condition, so there might have been cases in the past of agreement that compensation is given .. if silence ... what happened in the past is kept, but I think the vast majority of the cases is a result of judicial procedure and it's public record.

Madame Chairperson:

So is this issue of transparency and not keeping silent about these offences is that also signals .. that go out to all .. to all local churches, so that they really know that this is the policy of the Holy See at the moment?

Head of Delegation:

The official documents of the Holy See directed to episcopal conferences move in this direction.

Madame Chairperson:

I think, then, we are ready for a ten minute break...[adjourns session]

Video 4

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<https://drive.google.com/file/d/0ByQTJxfUHGjUbfFIMM0FzUG5DcXc/edit?usp=sharing>

[00.00]

Madame Chairperson:

... have the last round of answers from the Holy See today, so I'll give the floor back to his Excellency, the Head of Delegation.

Head of Delegation:

Thank you again Madame Chairperson.

I don't have many more answers to give except a couple of small points. Regarding a question still in suspense regarding child soldiers: I must say that the Holy See is engaged in the action of the UN in order to propose rules on disarmament – especially for what concerns small arms – so that they may not be in the hands of minors.

Some of us who have lived in Africa have direct experience of meeting children with Kalashnikov in their hands and one of the first priority is to take these weapons out of the hands of children.

[Inaudible interjection from the floor]

Head of Delegation:

[In answer to interjection] Seven years.

And I think this process of continuing to defend the rights of children to grow in a normal way will be a commitment that we can carry on. On another point that Miss Oviedo Fierro raised, that there seems to be a gap between what we have presented as some of the decisions and initiatives taken on the part of the Holy See to translate into effective action – that convention and the perception on the part of some media or some other entities – there seems to be a gap that create a difference. But the perceptions sometimes are hard to die down and what is important is to really build constructive and to take continuously, initiatives that benefit in concrete the life of children beyond any ideological description or stand.

And finally I would say that for the Holy See, the whole problem of abuse of children is a wound that hurt the Church as a community of faith and it's a suffering first of all within the community of faith and therefore it becomes not just a legal but a moral and human commitment to continue to support and defend the principles of the convention that are protecting the children in a very specific way.

[03.33]

Madame Chairperson:

There was a question from Miss Winter.

Miss Winter (from the floor):

The second part of my question I would like to have answered if possible: is the Holy See considering to raise the age of the protection of children in the [?] from fifteen to eighteen or is this not considered?

Head of Delegation (Silvano Tomasi):

I am not able to answer you right away but we will propose this change, yes.

[04.10]

Madame Chairperson:

Thank you. Will you then go on to provide answers or shall I remind you of some of the questions?

Bishop Charles Scicluna (from the delegation):

Actually that would be a good idea.

Madame Chairperson:

Corporal punishment has been raised by several members and I would like an answer on that.

I'm not sure if you've answered comprehensively on children's views because there were quite a few questions on that.

The Magdalene Laundries. The question about the whereabouts of the children; what are you doing to possibly ...

[Realises her microphone is off]

Oh, I'm sorry – that's what you were trying to say possibly – I guess I have to repeat everything I said.

You would have to deal with corporal punishment because it's not been dealt with yet.

And the Magdalene Laundries; the whereabouts of the children has not been touched upon. What you do to find out where are those children? Who are the mothers? Where are they? How can you reunite them?

The Spanish children. You say you would cooperate with the Spanish prosecution – Spanish authorities in prosecuting those responsible, but how would you do that more concretely in practice? And – yes – I also mentioned children's views which you had – there were quite a few questions and you have answered some of them but not specifically all of them.

I would like to ask a question which has not been asked yet. It's a more specific thing about a nine year old girl who underwent an emergency life-saving abortion in 2009 after she had been raped by her step-father. And then an archbishop excommunicated the mother of the girl as well as the doctor who performed the abortion. This was actually approved by the head of the Roman Catholic Church's Congregation of Bishops. And no such measure was taken against the father; the father was not excommunicated. So if you could please explain this. And this was in 2009, so possibly there have been some changes in the attitudes in this respect as well.

I have a question from Miss Herzog and Miss Oviedo.

[06.37]

Miss Herzog (from the floor):

Thank you Madame Chair.

Just continuing with your question, we also had a comment in Nicaragua where we were told that a ten-years old girl was forced to give birth to her child after being raped with the full support from the Catholic Church and the local community in this respect [sic!], so I guess these questions are going hand-in-hand and we are asking your opinion: how could we challenge this absolutely unbearable situation in the name of the Church?

Another question that has been raised on many occasions but not answered yet on the different family formations; the very diverse forms of families as far as we understand according to the CRC. How do you see this question?

And also with the Magdalene sisters. It is also related closely to the institutionalisation of children and I know that you have been already telling us that you are working in compliance with the local national policies. However our concern is that, despite of the worldwide efforts made on the institutionalisation based on the UN guidelines on alternative care for children, we see that many, many Church-run organisations are still opening up orphanages. Most of those children accommodated there are not orphans. And my question is whether you are planning to change your focus and, using the donation and the Church-run organisations, to provide family-based care in compliance with your philosophy and family-

strengthening efforts, primarily supporting the biological family, extended family, foster families and not institutionalising children; rather de-institutionalising them.

And there is a very peculiar question when it comes to specifically vulnerable groups of children: the children of priests. In many parts of the world it's becoming quite visible and known and in some parts of the world more acceptable than others. So I'm just wondering: how do you see their position in a family context?

Thank you.

[09.03]

Madame Chairperson:

Thank you. Miss Oviedo Fierro, you have the floor.

Miss Oviedo Fierro (from the floor, via interpreter):

During the break somebody approached me and said to me – or told me about their case; their particular case of this individual who approached me – and now after 2011, which is the date we set as a benchmark date that signified a shift in attitude from the Church. Well this person told me about the rape – sorry, a priest who had raped this person was transferred to India. Now, I have doubts about what is happening. I've voiced my doubts as to this change of attitude in the Church since 2011 and I'd like to labour this point: we need to adopt concrete visible actions. Just to echo what my colleague Mr Cardona said this morning: the wife needs not only to be a good wife but to appear to be a good wife. So we need to hear these testimonies that stem from members of the Church. And there's an outstanding question of mine that needs to be answered here. Regardless of the level the priest has achieved in his career, if they have committed these types of crimes, my question is to you: is it acceptable that they only receive the judicial decision given to them by the Church or should they receive another court case? Now, why is this state of affairs still the state of affairs that prevails? Now, you tell us that "yes we do cooperate with civil courts, civil authorities", but I'm not convinced; I doubt this because what we see is that these persons are not actually tried by the appropriate authorities.

Finally to close this gap we referred to. I can attest to these matters because of these testimonies that I have heard and I would therefore suggest that there be a meeting between the Holy See and the different civil society organisations who have a number of matters to raise on these issues with you. As we said this morning, civil society can and should be involved in this committee – particular committee – you're putting together to address these matters. So we need to hear real testimonies that prove that there has been this real change of attitude from the Church.

Thank you.

[12.02]

Madame Chairperson:

Thank you.

I would like to remind you of my question concerning the compensation scheme, also.

And I would like to come back to the question of data and I'm not talking about the data collection system for the future but of the data that you already have, which we know you have in your archives: whether you could be willing to give the data to us and to others.

So, you have the floor.

Head of Delegation:

Well, there is a whole list of new-old questions. We'll try to give some answers.

Regarding corporal punishment: that's a, to a degree, a cultural factor that needs to be addressed according to regions. As far as the Holy See is concerned, it doesn't apply corporal punishment and it doesn't even advise it in its school or institutions to use corporal punishment. But it's true that in some cultural environments, occasionally, even Catholic institutions follow the ambience, and may use corporal punishment, but I don't have available data in my hands.

Madame Chairperson:

I think would be - it's very important for the committee to stress the point that corporal punishment should be absolutely prohibited in all parts of the world. We ask this of all states that are before us, whatever region they come from. And it should definitely not be used by institutions and even if Catholic Churches in different parts of the world are in countries where it is the custom to use corporal punishment, it is not acceptable that it is performed by the Catholic institutions. And I think it would be very good if you could issue a firm declaration against corporal punishment in any form, including in the family, to be sent to all parts of your Church around the world.

Head of Delegation:

Well, this is a good proposal that should be taken into account. And we will, seriously, we will take it back.

Madame Chairperson:

Good.

[15.02]

Head of Delegation:

Children's views. Children's views. Again, from what I'm able to assess, it depends a lot on local circumstances, but I know the tendency is to encourage and respect more and more that the children not only a subject of dignity and rights but also taking into account their way of thinking and their priorities. So this is a process that will have to be introduced, where it has not been already introduced, in the educational institutions that are run by – in the local churches.

Regarding the Magdalene Laundries and the Spanish children, the position of the Holy See is that the State has already taken its responsibility and it's proceeding – or it has already proceeded – through the courts to settle this situation. Since it's a crime that has been committed in a specific country, it is the domestic law and the responsibility of the local authorities to take care of that. The institutions that were involved in this activity will have to cooperate fully with the local justice system so that – at the end – there is a fair judgement and treatment for everybody concerned.

Madame Chairperson:

There is a follow-up question from Miss Herzog.

Miss Herzog (from the floor):

Thank you. I just need some clarification. Does it then mean that you fully agree that in any case in the future, you have no objection – rather you support – the local legal and other professionals to fully investigate these cases regardless of the nature of the problem and the, so to say, the owner, or the management or these institutions? Because the question is, as you know, that in many countries the Church-run organisations or institutions are untouchable and still it is very hard for the local administration to intervene as they are working like a black box, independently from the local system. So, what we would

like to ask you: to clearly demonstrate that you fully agree and support, in these cases, the transparency and the legal consequences; not only apologising for the past happenings.

Thank you.

[18.32]

Bishop Charles Scicluna (from the delegation):

I think that the non-negotiable principle of the paramount concern for the child means – and as an important, also non-negotiable, corollary has – that no interest or any other question should obstruct the functioning and legitimate sovereignty of the domestic law in the country. Whatever institution and whoever is involved.

Madame Chairperson:

That is one point, but then when it comes to information which you might have as a Church, for instance about the whereabouts of all these children, you wouldn't obstruct anything in the domestic courts or domestic society if you give that information and you assist in reuniting children with their parents, if it's at all possible at this point in time.

I think there's a difference between intervening with the court procedure, the prosecution etcetera and doing other things which is also possible for you: possible to encourage those who were responsible for the institutions to give away the information that they have, possible for you yourselves – or the Church itself – if it has information, to use that information for good purposes. As Miss Herzog said, the Church system may be as a black box that nobody gets to look into. It's no transparency still, I think, in many of these cases. And you could be of help in getting the information out and would help a lot of people in these cases.

So I think really, this is an answer to part of the question, but not to the whole question.

Bishop Charles Scicluna (from the delegation):

But, your point is well made and well taken. And I think that, since these are behaviours that are not automatically reported to the Holy See, information may be available on the local level and everything should be made available to the local authorities, that closure could be had. And I think that is a very important aspect. So, these are not things that have to be reported to the Holy See; the Holy See doesn't have information on these cases. It's different with sexual abuse of minors, for example, because since 2001, every case has to be reported to the Congregation. These are behaviours that are egregious in themselves but are not reported to the Holy See, but information on the local level has to be disclosed and shared. And I think that that is a very important consideration giving the non-negotiable principle of paramourcy [sic]: the interests of the child.

Madame Chairperson:

Thank you for that answer. So, I trust you will ask the local communities to do that then – the local churches.

[21.56]

Head of Delegation:

Another point that has been raised is regards the diverse forms of the family. The Holy See has its own understanding of the family, like other domestic laws have their own. And for the Holy See, the family is made up of a man, a woman and children. But, in the case of society that has a variety of arrangements, the priority of caring for children remains a priority. And therefore independent of the context where the

children are, the concern for the children remains valid and remains a priority in-line with the demands of the convention and the rights of the child.

The – some question regards what to do with the children of priests: well, whatever the responsibility of the individual is according to the state and the natural responsibility that comes from fathering children, this responsibility has to be taken up, no matter what the condition of the man who fathered the children. I think we need to, again, go back to the principle that the priority has to be given to children and their future. So, no question that the children have to take precedence. The fact that priests should be judged according to common justice for their crimes: this has never been contested by the Holy See or anybody else as far as I know. And therefore if a priest commits a crime in relation to the convention, or other types of crimes, he can and should be judged according to the country of which he is a citizen. So – this – I don't think there is a great difficulty with that.

And, well, to close the gap, maybe a better dialogue with the civil society may always be helpful. And of course it's a good idea; maybe it will take place in the future.

Madame Chairperson:

Thank you for these answers. You have more answers, or shall I remind you of a question?

[25:04]

Head of Delegation:

Yes. No. I - you raised a question of a case of a child that was forced to abort in Brazil, I think it's the case, in 2009. That was a complicated and difficult case, but your point that the father should be treated like the mother and the child: it's a good point and because the father is to take on his responsibility and share in whatever punishment there may be – if there is a punishment – to be handed out. I think that's about it, if I am not mistaken. But, again, the priority remains the attention and the good of the children.

Madame Chairperson:

Thank you. I think Miss Herzog also asked a question about institutionalisation more in general and the Church's attitude to alternative care. Since we are, as a committee, are very strongly against children living in institutions; they should all be provided with families. And still churches continue to open up institutions. So, we wonder what do you do to substitute the institutions with family-based care?

[26:51]

Do you have any policy on this - do you support extended family, foster family? It would be good if we could hear something about that. Mr Cardona would like a question.

Mr Jorge Cardona Llorens (interpreted):

Thank you very much, Madame Chairperson. This is a question which I think I asked at the end of this morning's session. I don't think it's been answered yet and it refers to adoption. And I had asked about various guidelines, standards and norms, how all of these have been implemented in the international symposium on adoption which was organised in Seville back in 1994, and there you specifically referred to the best interests of the child, and the fact that it would not be appropriate to have private or clandestine adoptions, because they carry many risks and are in fact illegal.

How have you implemented this, because this is a conclusion of the conference, how has this been reflected - what specific standards have been adopted, either guideline related to the various institutions, for example, the institutions that were attached to religious institutions, orphanages.

This practice is unfortunately quite frequent when it comes to handing over children privately, receiving money - in exchange for money - so how has this been addressed?

Head of Delegation:

[consults with Bishop Charles Scicluna]

I'm afraid that I don't know the practical ... this meeting that took place in Seville ...

[more consultation]

[29:04]

In any case that point that would be made is that there should be transparency in the procedures that follow these recommendations, so that we can be practical about it.

[hands over to Bishop Charles Scicluna]

Bishop Charles Scicluna:

Yeah we can our own ... thing, which you pointed out and we are very grateful .. the information we have is what is written there [gestures with document] but I think there needs to be follow-up on the local level, certainly of all these principles, I think that adoption is a very important aspect, and if I may, actually, your Excellency, react to the question or preferring family setups instead of institutionalisation,[a] I think that is an important approach which I see on the local level, now I've dined [?] my experience in the Holy see for seventeen years, I'm a bishop on the local level now, I've been to institutions which we, you know, care for, in my diocese in Malta, of minors, who unfortunately not as yet been received in a family setting, but the policy - I'm talking about my own diocese in Malta, now - is to work with society, with the government to ensure family setups, but unfortunately, and I've been, for example, in an institution in which we have fourteen boys, minor boys, people who are traumatised - nobody in inverted comma, wants them, it's such an unfortunate situation,[b] and there is obviously this proactive effort to create a family environment in this home, for people - minors - who have not as yet managed to be accepted in a family setup.

[a - b, a long disjointed utterance, sic]

These are very heart-rending, human situations that the local churches have to deal with on a day-by-day basis and you know, the fundraising you need in order to fund this. And so, the preference is for family setups - it's not always possible, but I think that that is also very clear, that a minor should grow in a family setup as much as possible.

[31:42]

Head of Delegation:

I would like to add just a word on this problem or on this issue of institutionalisation versus family. The idea and primary concern will be to create a family context and to put children in a family. There is no question about it, as has just been said. But if we look at the fact that the church opened some institutions today even depends on the cultural and economic context within which the churches operate [sic]. I'll give you an example that I lived through personally. In Ethiopia, for example, we opened an orphanage for children sick with AIDS that nobody wanted. In that case, what do you do, if not to create as much of a family environment for them and to take care of them.

Madame Chairperson:

Thank you. I have a question from Miss Khazova

Miss Olga a. Khazova:

Thank you Madame Chair. I wanted to come back very quickly to the question which I raised in the first part regarding child/parent relation in the light of reservation - second reservation, paragraph b. As far as I understand there will be a big discussion of the whole issue of parent/child relations in October or November and I assume we will have to wait until the fall for the answers but I do think that the issue of the second reservation paragraph b will be put on the agenda of that meeting in the fall or any other meeting in the foreseeable future, and whether do you think that it is realistic to , er, for the Holy See to lift the reservation at least as far as it concerns paragraph b.

[34:20]

Head of Delegation:

As I mentioned earlier, the three reservations made by the Holy See at the moment of ratification of the convention are under study in view of finding a solution, either to eliminate them or to keep them, but currently there is s study of those reservations. In particular, reservation 2 which says the Holy See interprets the articles of the convention in a way that safeguards the primary and inalienable rights of parents, particularly insofar as these rights concern education, religion, association with others and privacy, because these are all article [sic]of the convention itself: the Holy See does not want to fall into the trap of an ideological definition of a family, but it wants to stay with a family as it's normally understood in its own perspective.

Madame Chairperson:

I would like to hear if you have any comments on a compensation scheme, more broadly and also I would like to have an answer to whether you would provide the data on all or everything you know about sexual abuse cases in general from your archives.

Head of Delegation:

[\[glances at Bishop Scicluna, who shakes his head\]](#)

Madame Chairperson, at this point in time we would take your request seriously, but we are not in a position to give you an answer right now.

Madame Chairperson:

On both issues.

Head of Delegation:

On both issues.

Madame Chairperson:

Mr Mezmur?

[36:34]

Benyam Dawit Mezmur (Vice- chairperson):

Thank you Chair. Just two things. Follow-up on the latest response. So what does it mean? Will the Committee get some response from the Holy See in the foreseeable future or does it mean we leave it that? I think it's good for the Committee to get clarity. The devil is in the details, as they say, so I think it's good that we get exactly what we can expect as a Committee. That's the first one.

The second one: I'm glad the example from Ethiopia was mentioned, which I fully agree with the Head of the Delegation, but I think the whole issue about institutionalisation and the position of this Committee is that we don't say it shouldn't happen at all, but least as a policy, a general policy label, we need to make

sure that we push for an environment of alternative care which prioritises family care. And it's in those circumstances in which family care has failed, has already been tried, has failed for a number of reasons, then we move to an institutional situation, because the problem is that you have the institutions, and the experience in Africa is a classical example generally, the moment you have institutions, you will have the children to fill those institutions with. So at the policy level, that's what we push for, that the Catholic church sees institutions as a measure of last, last, last resort.

So maybe I [noise: "need input on"?] what the position of the Holy See is in this regard. Thank you Chair and thank you to the Delegation for any response.

[38:26]

Head of Delegation:

I certainly agree with you that it is a last resort to put children in an institution, when there are question of health or question of other forms of abandonment and that the priority should be given to family contexts. Regarding the answers to the committee, as I said, we will bring the requests and the observations and the suggestions to our authorities and then we'll move from there.

Madame Chairperson:

Thank you very much. If you don't feel you have any more answers to provide, I don't think I have any more questions that have been unanswered ... and no committee members are moving. So I think we've come to the conclusion of this session which will ... have some concluding remarks by one of the rapporteurs, Miss Wijemanne and I'll give you the floor now.

Rapporteur:

Thank you, Madame Chair, and distinguished delegation. I think we have had an extremely.. shall I say, a good interactive discussion, which is what we were looking for. I think I can understand that perhaps we don't have answers to all the questions we have posed and all the issues, but we would certainly advocate that all the issues that have been raised by the committee are issues that are of vital importance to children within the context of their rights enshrined in the convention.

Each one of them has relevance to some aspect of the convention, so I think it's very important that the meeting we have [had?] today bears some fruit, otherwise the discussions we have had the introductions we have had and work that has been done will be of no use. At the end of the day I think it was you who said, "It is the children who matter", and the convention is all about children. The convention is to make life better for children, and our existence as a committee and all of you who do work for children have children paramount and we have to uphold their best interests. So I look forward ...[clutter] I think I'm talking on behalf of all of us ... we look forward to the fact that you take all our recommendations very seriously; some of them may be easier to accomplish as compared to others, but I think a beginning has to be made.

[41:40]

There are some practices that have existed for a very, very long period of time, I'm sad to say, but somehow they haven't moved along, to make a difference to children, and that is what we look for. Nothing is going to be accomplished within a short period of time, but I know if you make a beginning at some point in time the discussions we have had, the documentation we have prepared, the time we have spent will eventually make life better for children - that is what we are looking for. And we thank you very much and apologise for the numerous questions that we posed to you; we did it in the best interests of children - it is our job to do that -to raise the issues to raise the questions, so please give it serious thought, and we look forward to your work on this, and that you will make a change, where children are concerned -

where children's rights are concerned - because ultimately that's all that matters at the end of it. Thank you very much.

Madame Chairperson:

Thank you very much Miss Wijemanne. Miss Oviedo Fierro, do you have any additional remarks - you don't need to.

Miss Oviedo Fierro interpreted:

I was intending to do, but I'm grateful for the opportunity to do so. Just to insist on what my colleague Miss Wijemanne has just said. I believe everybody who has been here today has felt the same thing, namely, that we believe we are seeing new steps being taken in this way and it's good that this continues; we have great expectations that new steps will be taken, that dialogue with civil society will take place, as you have said, that this will become a reality as soon as possible, because once again, I insist on this, this will attest to this new era, this new dawn for the Holy See, and with all the power and influence that you have - this moral influence, this moral power that you have which enables you to be close to people, the population in so many countries of the world, that influence and power can really help you to ensure that children who need to be protected, whom we need to protect, will be protected because they are the present and the future of humanity. If they experience a better life today, if they feel that they are protected then they'll be able to protect us in return later, so any true change in any society occurs as a result of real protection we afford our children. Thank you

[44:36]

Madame Chairperson:

Thank you, Miss Oviedo Fierro, and as Rapporteur for the two option protocols I can only endorse what the two other Rapporteurs have said, and I think this dialogue has been positive and there have been quite a few issues where you have said yes, we will do it, we will consider it, we will think about it, and you can be sure we will keep you to what you have said, so now the floor is yours for concluding remarks.

[45.06]

Head of Delegation:

Madam Chairperson, thank you very much for giving me the floor once again. My delegation looks forward to the Committee concern and indication [sic] for the continued implementation of the convention on the rights of the child and its protocols. Yes, there have been a lot of questions and a lot of very interactive dialogue, and I think this is positive, and we thank the Committee for their concerns and their interest in the objectives and the activities and in the reports of the Holy See. Beyond any ideological or political interest, the Holy See continues to work and to advocate in favour of all children independent of their race, their colour, their religion, but respectful of their dignity, and we are moving in that direction to practical actions, decisions that have already been taken and others that are in the process of being taken. And I think this is the road that will eventually lead to a real implementation of the values and ideals of the convention itself.

Thank you Madame Chairperson.

[\[Madame Chairperson responds with final amenities\]](#)