

Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse-Gerry O'Hanlon SJ, Jesuit Centre of Faith and Justice, Dublin, Ireland

Preamble:

1.1 The Murphy Report of the Commission of Investigation (2009) into the handling of allegations of child sexual abuse by priests in the Archdiocese of Dublin 1975-2004 found that the preoccupations of the Archdiocese were 'the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the Church, and the preservation of its assets. All other considerations, including the welfare of children and justice for the victims, were subordinate to these priorities' (1.15).

The Irish Bishops at the Winter General Meeting of the Episcopal Conference of that year accepted that 'the avoidance of scandal, the preservation of the reputation of individuals and of the Church, took precedence over the safety and welfare of children' (Statement, 10 December, 2009).

1.2 In my own reflections on this situation (see Bibliography) I wanted to try to understand why this was so. Why did good people, with high ideals, fail victims so egregiously? Why, in particular, was it that '...most, if not all, senior Church leaders back in the 70s...and indeed right up to the mid 90s would not have spontaneously considered that they should report incidences (they did not call them crimes) of child sexual abuse to the police. What was the reason for this bias?' (O'Hanlon, Dec 2010, 656). What is behind the remark of eminent canon lawyer and theologian Ladislav Orsy that 'the numerous cases of abuse of minors have revealed an organization that lacks a vigorous "immune system" for self-protection; an infection can spread in the body before it is noticed and remedial action can be taken' (Orsy, 2009,2)

1.3 I came to these reflections as a theologian and as a former Provincial (1998-2004) of the Irish Province of the Society of Jesus (Jesuits). My reflections are seeking understanding, with a view to helping necessary reform. They are in the mode of hypotheses rather than the forensic attribution of responsibility and blame.

1.4 While the situation in Ireland has its own unique time and place specificity, it is generally recognized that there are common features obtaining in the handling of clerical child sexual abuse by the Catholic Church world-wide, and therefore it is likely that some learning may be available for the Australian situation from the Irish experience. I have no expertise to comment directly on the Australian situation.

1.5 I want first to address issues of Catholic Church governance and teaching, which I think may have contributed to the failure to respond adequately to the awful sufferings of victims/survivors. I will then address the more general cultural context out of which these failures arose.

#### Church governance and teaching

2.1 For the first millennium or so the Christian Church was *synodal* or *collegial* in organization. This meant that local bishops and regions had real authority, with Rome as a kind of '*primus inter pares*', a court of last appeal. This more collegial form of organization, with lay people (albeit usually the wealthy) sharing power and influence, gave way from the 11<sup>th</sup> century on within the Catholic Church to a more centralised structure in which, increasingly, effective power resided in Rome and local

bishops became delegates of the Pope instead of ‘vicars of Christ’ in their own right. The high-point of this ‘ultra-montane’ approach was reached in 1870/1 with the definitions of papal primacy and infallibility of the First Vatican Council. A more traditional balance between primacy and collegiality was retrieved by the Second Vatican Council (1962-65), without however, for the most part, accompanied by the implementation of the institutional and structural reforms which would have made the doctrinal/theological retrieval effective. And so, in particular under the papacy of John-Paul II, centralisation increased and Episcopal collegiality (not to mention lay participation in governance and teaching) was affective rather than effective.

2.2 This centralised, vertical mode of governance was accompanied by a similar approach to *doctrine*. There was a sense of ‘creeping infallibility’ operative, with deference shown to Roman Congregations and Dicasteries, not to mention teachings of the Pope himself, with little input from local dioceses or regions, from what Pope Francis now calls ‘the peripheries’. Little distinction was made between truths central to the faith or those less fundamental (in spite of Vatican II’s teaching on ‘the hierarchy of truths’), or between truths presented with varying degrees of certainty – the maxim ‘*Roma locuta est, causa finita est*’ tended to rule. This was particularly so with regard to teaching on sexuality, which tended to be presented in a rather deductive, absolute way which did not respect the lived experience of the Christian faithful nor the complexities involved. Interestingly, this lack of respect for experience and complexity was not a feature of Catholic Social Teaching with its focus on socio-economic matters.

2.3 Another relevant factor, entirely in keeping with the vertical mode of governance and teaching above, was the prevalence of a *clericalism* which privileged the role of priest in such a way that made accountability quite difficult. The priest (and *a fortiori* the bishop/pope) was seen as commanding not just respect but deference, and the sacrament of Orders implied not just a functional differentiation but a difference in ‘being’, which easily translated into a sense of superiority.

2.4 There was, in addition, a felt lack of *freedom of speech* in the Catholic Church, exacerbated by the behaviour of the Congregation of the Doctrine of the Faith in its desire to ensure orthodoxy and its withdrawal from ministry of those with allegedly heterodox or dissident voices. This lack of freedom was felt particularly, but not exclusively, in the area of sexuality and gender. The procedures of the Congregation were not fit for purpose according to contemporary norms of human rights.

2.5 I note finally – as the advent of Pope Francis has made clear- there was nothing inevitable in the particular organizational and doctrinal culture that prevailed in the Catholic Church until so recently. There were ample theological resources to imagine a different scenario – Vatican II had spoken about the Church as the People of God (rather than primarily the Hierarchy) and had sketched a better balance between primacy and collegiality, outlining a theology of baptism which afforded equality in being to lay persons; there was a clear duty on the Magisterium to consult the ‘sense of the faithful’ in formulating its teaching and to respect the ‘reception’ of this teaching by the faithful; and it is evident that in recommending a synodal church for this millennium (in which all – including women-have a place in governance and teaching) Pope Francis could and did appeal to a long tradition in so doing. However – and I will come back to this later- learning is one thing, and culture

may not always coincide. There was ample learning to facilitate the emergence of a more open church after Vatican II, but in fact this did not happen for the most part.

2.6 How is all of this *relevant* to the issue under investigation? Well, in such a tightly controlled, vertically structured organization, how is one to respond when things go wrong not at the bottom, but at the top? This is returning to Orsy's notion of a lack of a vigorous 'immune system' in the organization of the Catholic Church – there was a strong presumption of priestly innocence when allegations were made (shared by civil society in general, and often even by affected families in particular), there were few ecclesial channels for obtaining justice, there was a docility of the lay faithful in face of supposed clerical superiority, there was fear at local diocesan level of acting in such a way that might offend Rome, and there was a real lack of co-responsibility at all levels.

The mention of Rome suggests an interesting reflection: at a certain point in this whole saga the primacy of Rome has become an important plus in addressing the situation of clerical child sexual abuse world-wide. Once Rome 'got it' – and this may have been as late as about 2010-they have been effective in intervening in such a way that local churches have been helped. But this was not always so – in Ireland, certainly, there was a sense at the start that Rome did not understand the gravity of what was involved and were particularly resistant to the notion that allegations should be reported to the civil authorities. This has been dubbed by some as a kind of 'negative subsidiarity' – when it suited, Rome, in monarchical mode, was insistent on its own approach and bishops were tempted to defer accordingly, but when things went wrong (as when the Holy See was threatened with law suits for damages arising from suspect Vatican policy) it easily invoked the image of Church as *communio* and insisted that local churches were responsible for their own decisions.

This was all part of a more general instinct to handle the matter 'in house'. It was as if the Church, wishing to be seen as that beacon of holiness so central to its aspirational identity and so insistently absolute on matters of sexuality, could not quite face up to the grievous failure precisely in this area of sexuality by precisely its own clerical elite, and, in shame, tried to handle the matter as best it could on its own. All these factors came together to create a toxic 'don't ask, don't tell' culture (Murphy) which, sadly and ironically, resulted in precisely the scandal and reputational damage which the culture was trying to obviate.

2.7 Might it also be true that *priestly celibacy* itself is a factor in explaining the incidence of clerical child sexual abuse in the Catholic Church? This has been suggested by some, particularly in the light of the mandatory link between celibacy and priesthood in the Roman Catholic Church – a matter which the Church itself admits is one of discipline rather than doctrine. I have seen no conclusive evidence to this effect, and note that in Ireland at least the incidence of child sexual abuse seems to be very widely spread, with most occurring within families or from adults known to the victims but not disproportionately by priests. I think, on the other hand, that there are good grounds for suspecting that the teaching of the Catholic Church on sexuality and gender in general had been the prerogative of male celibates for too long in a way which results in a lack of balance arising from a lack of experience – but this is another matter.

## Culture and context

3.1 I think the issues of governance and teaching which I have outlined may well have been significant contributory factors facilitating the failure of Church authorities to respond adequately to the terrible crisis of clerical child sexual abuse. No doubt there were many other causes also, but I would like to examine one in particular which many find difficult to understand or accept. I am referring to the cultural context within which the abuse crisis developed and the dismissal by the Murphy Report (1.14) of any significant 'learning curve' that might have mitigated (not exonerated) the authorities involved. The expertise of cultural and social historians would be required to fully analyse this matter, an expertise not available to the Murphy Commission but available to the latest Commission of Investigation into Mother and Baby Homes established by the Irish Government to investigate related matters (perhaps in itself evidence of some kind of 'learning curve'?).

3.2 Canadian philosopher Bernard Lonergan argued that while, as human beings, we are capable of striving for (and obtaining) truth and goodness, we are also shot through with bias – personal, group and social, and cultural or commonsense bias. It is as a consequence of common sense bias in particular that we suffer, in Lonergan's term, from scotosis, from blind-spots, at any particular phase of our cultural development.

Of course it is always easier to identify such blind spots in hindsight – think, for example, of the attitudes of Greco-Roman society (including that of the educated and learned) to slavery, and of Enlightenment attitudes to women. Contemporary blind spots are less accessible to critical awareness and hence more controversial in their identification – one thinks, for example, of our own stance vis-a-vis global capitalism and/or climate change. This easier identification in hindsight is explicable by the fact that contemporary culture and commonsense are never entirely conscious: they are an amalgam of values, meanings and views of the world, based on feelings as well as thoughts, conscious and unconscious, for the most part simply taken for granted and unexamined, the sea that we swim in, the air that we breathe, often without noticing. But in identifying what seems to us as clear failings in historical situations we need to exercise a degree of moral imagination and empathetic memory in order to appreciate that this kind of clarity was not so easily available to those living at that time.

3.3 The question we began with (see 1.2 above) points to the relevance of this cultural factor. It was: why did church leaders not spontaneously think of child abuse as a crime and, accordingly, report allegations of it to the civil authorities? I think cultural factors were certainly contributory here and I want to explain why. Again, I speak primarily of the Irish situation, but there may be more general application.

3.4 In the period under review there was, first, a combination of the elevated status of clergy within Church and civil society, and the relatively passive role ascribed to children ('seen and not heard' – which applied in particular to children who were poor). The combination was lethal- even parents, not to mention public authorities, did not for the most part welcome complaints by a child against a priest and few were likely to accept that these complaints might be true.

Secondly, and more importantly, there was a lack of awareness in both civil and ecclesial circles about the nature and effect of child sexual abuse and paedophilia. It would seem that it was not until the late 70s and early 80s that paedophilia and child sexual abuse became serious objects of

concern in relevant fields such as psychology and sociology, and it took longer before this concern percolated to the culture in general. In addition, in Irish society certainly, there was a reserve and almost a taboo about speaking about matters of sexuality at all and certainly in public – chat shows were rare, the Dublin Rape Crisis Centre (a national organization) was not founded until 1979. I think that part of us was always a bit uneasy about this situation, but we somehow rationalised the heinous crime of child sexual abuse in terms of something that was always there, always went on, and involved something fumbling and furtive (we would not have spoken clearly in terms of ‘rape’, in cases where that would have been the appropriate term). It was easier, in this cultural context, to stay in the denial that was always a tempting reaction to such a disagreeable situation. We had little idea of the terrible long-term effects of sexual abuse. In this respect the new directness and openness in public discourse about sexuality is to be welcomed.

3.5 This commonsense bias or blind-spot within the Church was widely shared over this period – one thinks of police, the legal profession, journalists, doctors and health officials, family members, ordinary citizens. It led to the formation of a public opinion that was difficult to challenge. As I have noted, it may well have been accompanied by an uneasy feeling that something was wrong, without the stomach to enquire any further.

3.6 I think for Bishops (who, certainly in Ireland, where there was a close link between Church and State, must accept responsibility as powerful, if not exclusive, shapers of the general culture) there was an additional factor which contributed to the culture of denial and failure. I refer here to their default assumption (due to the dearth of knowledge about the psychological roots of paedophilia) that what was at issue was a moral lapse, so that they were too easily reassured by promises of repentance, even in the face of recidivist behaviour. It is in this context that alleged abusers were often withdrawn from one ministry and simply transferred to another, although it should also be said that, as time went on, bishops did increasingly turn to psychologists for help in rehabilitating accused priests, and for a time it would seem that psychology too was overly optimistic in recommending a return to ministry that subsequent events showed to be unwarranted.

3.7 Finally, in describing these cultural factors, there was also, in the later phases of the development of the crisis, some genuine soul-searching among bishops and religious leaders about how the values of reputation and confidentiality could be reconciled with disclosure and reporting, a soul-searching unfortunately complicated by the clericalist culture already described, in which too often the focus on good name and reputation trumped other important values.

3.8 I noted that the cultural argument is difficult to make. After all, surely bishops and other church leaders were educated and had an intellectual framework which respected the civil law? Yes, they did – and in areas like traffic violations, theft, homicide this would have been taken for granted. However my hypothesis has been that they – and too many others in civil society- were in that kind of commonsense, cultural blind spot with regard to clerical child sexual abuse that can occur in different forms about different issues at all periods of human history. This kind of commonsense bias is relatively (though not entirely) impervious to formal education and professional qualification. We need a kind of epistemological humility to accept this and, accordingly, guard against contemporary manifestations of the same bias. This humility is not a concession to epistemological relativism (the truth can be arrived at by dint of critical questioning of group-think, resulting in a gradual change of

moral sensibility), much less an exoneration of responsibility for the 'sinful and criminal acts' (Pope Benedict, Pastoral Letter to the Catholics of Ireland, 2010, par 1) which have been committed.

## Conclusion

4.1 The Catholic Church in Ireland – and many other places world-wide- now has an extremely robust child safeguarding regime in place, and through various counselling services and financial compensation packages it has sought to alleviate the terrible suffering of victims and survivors. This is as should be, and, in Ireland at least, one gets the impression that the Church may now be ahead of the State in this respect, given the lack of resources available for victims of abuse under State care. This new situation, it must be acknowledged, would not have happened without outside intervention – that of the victims themselves, campaign groups and media, all of whom deserve great credit.

4.2 Ironically, there is now some evidence of a swing in the opposite direction, viz the development of a culture in which there is little evidence of a presumption of innocence for a priest against whom allegations are made, and bishops are seen by many priests to be altogether too anxious to 'tick boxes' in order to maintain reputation, in a way which shows scant respect for the rights of their own priests. At the early phases of this scandal in Ireland this new culture manifested itself in the casual use of the term 'the paedophile priest' (tending to tar all priests with the same brush), but now it is more a case of a feeling among many priests that if an allegation is made against them they will not receive a fair hearing within or outside the Church.

4.3 This new attitudinal and behavioural swing points to several factors related to the more general argument about culture, as well as the governance and doctrinal issues mentioned above. It seems to me that unless the bishops embrace the more inclusive, open version of Church now being promoted by Pope Francis, they will not have introduced the kind of 'immune system' which is required to resolve this- and many other-neuralgic issues facing the Church. New safety guidelines and justice for victims are absolutely necessary, but on their own they risk simply replacing old victims with new ones, and perpetuating an institutional defensiveness which previously led to neglect of children and now could easily lead to neglect of priests and other adults. It is far from clear that a punitive, 'zero-tolerance' approach on its own, without rehabilitative elements and respect for good name, is likely to lead to better outcomes for vulnerable children.

A more robust immune system would be the kind of synodal church described above, in which the voice of women and men, sexually active and celibate, are heard through the development of a culture of open debate and healthy co-responsibility, altogether in keeping with the faith and theology of the Church but still fiercely resisted by so many who are fearful of change. If this new synodal culture can develop sufficiently to affect the body of the Church at all levels, then there is a much better chance that justice may be done at all levels. This is the quiet revolution which Pope Francis is attempting to bring about within the Catholic Church world-wide, a sign of hope and an invitation to local Churches at all levels (including leadership level) to respond.

4.4 Similarly it would seem good that the State and civil society would avoid the scapegoating of any one institution or group, while by all means holding to account any instances of child abuse from whatever source. It remains true that most abuse occurs within families or from friends or acquaintances of the victim, while commissions of investigation tend to have institutions as their

object of inquiry. Their valuable function should not obscure the more comprehensive responsibility of the State, nor the responsibility of civil society to tackle abuse from whatever source. In both Church and State, it seems to me, we need to cultivate the kind of discernment and critical reflection which respects but is not dictated to by public opinion, conscious that such opinion may at any particular time be shot through with bias as well as good commonsense.

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