

2 June 2014

Royal Commission into Institutional Responses to Child Sexual Abuse

GPO Box 5283 – Sydney NSW 2001

Dear Commissioners,

Submission to the Issues Paper 6: Redress Schemes

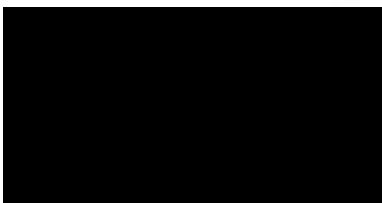
I propose to arrange compensation payments for the families or relatives of victims of child sexual abuse crimes and cover ups that passed away without receiving proper compensation. The reasoning follows.

I refer to the United Nations' Committee on the Rights of the Child's Report on the Holy See, dated 31 January 2014; please find it attached. Specifically, N. 29 says: "The Committee is particularly concerned that in dealing with allegations of child sexual abuse, the Holy See has consistently placed the preservation of the reputation of the Church and the protection of the perpetrators above children's best interests, as observed by several national commissions of inquiry."

I also refer to the United Nations' Committee Against Torture and Other Cruel, Inhuman or Degrading Treatments' Report on the Holy See, published on 23 May 2014; please find it attached. Particularly, N. 10 says: "The Committee is further concerned by numerous reports of cases in which clergy accused or convicted by civil authorities of such offenses were transferred to other dioceses and institutions where they remained in contact with minors and others who are vulnerable, and in some cases committed abuse in their subsequent placements. Such allegations appear in the reports of commissions and investigations undertaken in diverse countries." Moreover, N. 12 says: "The Committee is concerned by reports it has received of cases in which the State party has declined to provide information to civil authorities in connection with proceedings relating to allegations that clergy members committed violations of the Convention, despite the fact that since 2001 the Congregation for the Doctrine of the Faith in the Vatican City State has had responsibility for receiving and investigating all allegations of sexual abuse of minors by Catholic clergy. The Committee expresses concern about allegations that in 2013 the papal nuncio to Australia invoked diplomatic immunity in refusing to provide archival documentation to assist the New South Wales Special Commission of Inquiry into sex abuse."

I posit that avoiding paying appropriate financial compensations to victims has been one of the reasons for what is described above, and that seems to have happened at other institutions too. That aim appears to have been achieved by keeping secrecy about the crimes and cover ups, by not contacting police and encouraging victims not to contact police, and by delaying and obstructing administrative and judicial proceedings. This is clearly unfair to victims and therefore Government intervention is needed to address this imbalance by forcing such institutions to pay appropriate financial compensations to the families or relatives of victims of child sexual abuse crimes and cover ups that passed away without receiving proper compensation.

Yours sincerely



Aldo Bayona





Convention on the Rights of the Child

Distr.: General
31 January 2014

Original: English
**ADVANCE UNEDITED
VERSION**

Committee on the Rights of the Child

Concluding observations on the second periodic report of the Holy See*

1. The Committee considered the second periodic report of the Holy See (CRC/C/VAT/2) at its 1852nd meeting (see CRC/C/SR.1852), held on 16 January 2013, and adopted, at its 1875th meeting, held on 31 January 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the second periodic report of the Holy See (CRC/C/VAT/2) and the written replies to its list of issues (CRC/C/VAT/Q/2/Add.1). The Committee however regrets that the second periodic report was submitted with a considerable delay, which prevented the Committee from reviewing the implementation of the Convention by the Holy See for 14 years.

3. The Committee welcomes the open and constructive dialogue with the multisectoral delegation of the Holy See, as well as the positive commitments made by its delegation during the interactive dialogue in numerous areas. In particular, the Committee notes as positive the willingness expressed by the delegation of the Holy See to change attitudes and practices and looks forward to the adoption of prompt and firm measures for the concrete implementation of its commitments.

4. The Committee reminds the Holy See that the present concluding observations should be read in conjunction with the concluding observations on the Holy See's initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/OPAC/VAT/CO/1) as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/VAT/CO/1), adopted on 31 January 2014.

II. Follow-up measures undertaken and progress achieved by the State party

5. The Committee welcomes the adoption of the following legislative measures:

* Adopted by the Committee at its sixty-fifth session (13 - 31 January 2014).

(a) The Vatican City State Law No. VIII on Complementary Norms on Penal Matters, Title II: Crimes Against Children; and

(b) The Vatican City State Law No. IX of 11 July 2013 containing amendments to the Criminal Code and the Criminal Procedure Code.

6. The Committee also welcomes the ratification of the United Nations Convention against Transnational Organized Crime on 25 January 2012.

7. The Committee further welcomes the following institutional and policy measures:

(a) The creation of a pastoral 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 pastoral care for victims of abuse around the world on 5 December 2013; and

(b) The establishment of a Special Office within the Governorate of the Vatican City State to oversee the implementation of international agreements to which the Vatican City State is a party on 10 August 2013.

III. Specificities in the implementation of the Convention

8. The Committee is aware of the dual nature of the Holy See's ratification of the Convention as the Government of the Vatican City State, and also as a sovereign subject of international law having an original, non-derived legal personality independent of any territorial authority or jurisdiction. While being fully conscious that bishops and major superiors of religious institutes do not act as representatives or delegates of the Roman Pontiff, the Committee nevertheless notes that subordinates in Catholic religious orders are bound by obedience to the Pope in accordance with Canons 331 and 590. The Committee therefore reminds the Holy See that by ratifying the Convention, it has committed itself to implementing the Convention not only on the territory of the Vatican City State but also as the supreme power of the Catholic Church through individuals and institutions placed under its authority.

IV. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The Committee's previous recommendations

9. The Committee regrets that most of the recommendations contained in the Committee's concluding observations of 1995 on the initial report of the Holy See (CRC/C/15/Add.46) have not been fully addressed.

10. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to non-discrimination, children's right to express their views and family matters.

Reservations

11. The Committee welcomes the statement of the delegation of the Holy See that a possible withdrawal of its reservations to the Convention is currently under consideration.

In light of its previous recommendation, the Committee reiterates its concern (CRC/C/15/Add.46 para. 10) about the Holy See's reservations to the Convention which undermine the full recognition of children as subjects of rights and condition the application of the Convention on its compatibility with the sources of law of the Vatican City State.

12. The Committee recommends that the Holy See undertake the necessary steps to withdraw all its reservations and to ensure the Convention's precedence over internal laws and regulations.

Legislation

13. While welcoming the Holy See's approach to ensuring that the legislation of the Vatican City State complies with the Convention, the Committee regrets that the same approach has not been followed in relation to its internal laws, including Canon Law. The Committee is also concerned that some of the rules of Canon Law are not in conformity with the provisions of the Convention, in particular those relating to children's rights to be protected against discrimination, violence and all forms of sexual exploitation and sexual abuse.

14. The Committee recommends that the Holy See undertake a comprehensive review of its normative framework, in particular Canon Law, with a view to ensuring its full compliance with the Convention.

Coordination

15. The Committee notes as positive the statement of the delegation during the dialogue that the Holy See will consider the establishment of a mechanism with a mandate to coordinate the implementation of the Convention but regrets that such a mechanism is still not in place.

16. The Committee recommends that the Holy See establish a mechanism at a high level with the mandate and capacity to coordinate the implementation of children's rights across all pontifical councils, episcopal conferences of bishops as well as individuals and institutions of a religious nature that function under the authority of the Holy See. This mechanism should be provided with adequate human, financial and technical resources to fulfil its mandate.

Allocation of resources

17. The Committee appreciates the numerous activities undertaken at grass-roots level and funded by Catholic churches, foundations and organisations worldwide to support and protect children in the most vulnerable situations and to provide them, among others, with education opportunities, health, social, care and other family support services. The Committee however notes the absence of a comprehensive child-rights based approach to the allocation of resources to children and the lack of a system to track the spending on children by the Holy See, as well as by church related organizations and institutions, in other States parties where the Holy See has influence and impact.

18. In the light of its day of general discussion in 2007 on "Resources for the Rights of the Child – Responsibility of States" and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee recommends that the Holy See:

(a) Conduct a comprehensive assessment of the budgetary resources which are necessary for the implementation of the rights of children living in the Vatican City State as well as the promotion and protection of children's rights within Catholic related organizations and institutions in other States parties; and

(b) Establish a system of impact assessment to measure whether resources allocated serve the best interests of the child with special attention paid to children in vulnerable situations.

Independent monitoring

19. The Committee notes that a Special Office was established in August 2013 to oversee the implementation of international agreements to which the Vatican City State is a party and that the Commission created in December 2013 will be empowered to receive children's complaints on sexual abuse. The Committee is however concerned that the Holy See has not established a mechanism to monitor respect for and compliance with children's rights by individuals and institutions of a religious nature under the authority of the Holy See, including all Catholic schools, as well as in the Vatican City State.

20. Taking into account the Committee's general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the Holy See establish an independent mechanism for monitoring children's rights, with clear mandates to receive and investigate children's complaints in a child-sensitive manner and with due respect to the privacy and protection of victims, and ensure that this mechanism is made accessible to all children attending or involved in schools, services and institutions provided by the Catholic Church. Given the special nature of the Holy See, guidelines on the relationship and collaboration between this mechanism and national law enforcement authorities should also be established and widely disseminated.

Dissemination and awareness-raising

21. The Committee welcomes the awareness raising initiatives described in the report of the Holy See, in particular the educational courses on human rights organized in Catholic schools in India. The Committee is however concerned that the Holy See has not taken sufficient measures over the reporting period to promote a wide dissemination of the Convention and its translation into languages spoken throughout the world, as recommended by the Committee in 1995 (CRC/C/15/Add.46, para.11).

22. The Committee recommends that the Holy See strengthen its efforts to make all the provisions of the Convention widely known, particularly to children and their families, through, inter alia, developing and implementing specific long-term awareness-raising programmes, and including the provisions of the Convention into school curricula at all levels of the Catholic education system using appropriate material created specifically for children.

Training

23. While welcoming projects such as the initiative conducted since 2007 in Austria to train Catholic schools teachers on children's rights as well as the recognition by the Holy See that training is a good practice for the ultimate protection of children, the Committee remains concerned that the Holy See has not taken measures to systematically provide training on the Convention to individuals and institutions of a religious nature working with and for children including, teachers in Catholic schools, as well as to clerics in seminaries.

24. The Committee urges the Holy See to provide systematic training on the provisions of the Convention to all members of the clergy as well as Catholic orders and institutions working with and/or for children, and to include mandatory modules on children's rights in the teachers' training programmes as well as in seminaries.

B. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

25. The Committee welcomes the information provided by the Holy See during the interactive dialogue that it has initiated a review of its legislation with a view to withdrawing the discriminatory expression “*illegitimate children*” which can still be found in Canon Law, in particular Canon 1139. While also noting as positive the progressive statement delivered in July 2013 by Pope Francis, the Committee is concerned about the Holy See’s past statements and declarations on homosexuality which contribute to the social stigmatization of and violence against lesbian, gay, bisexual, and transgender adolescents and children raised by same sex couples.

26. The Committee recommends that the Holy See bring all its laws and regulations, as well as its policies and practices, in conformity with article 2 of the Convention and promptly abolish the discriminatory classification of children born out of wedlock as illegitimate children. The Committee also urges the Holy See to make full use of its moral authority to condemn all forms of harassment, discrimination or violence against children based on their sexual orientation or the sexual orientation of their parents and to support efforts at international level for the decriminalisation of homosexuality.

27. With reference to its previous concern on gender-based discrimination (CRC/C/15/Add.46, para. 8), the Committee regrets that the Holy See continues to place emphasis on the promotion of complementarity and equality in dignity, two concepts which differ from equality in law and practice provided for in article 2 of the Convention and are often used to justify discriminatory legislation and policies. The Committee also regrets that the Holy See did not provide precise information on the measures taken to promote equality between girls and boys and to remove gender stereotypes from Catholic schools textbooks as requested by the Committee in 1995.

28. The Committee urges the Holy See to adopt a rights-based approach to address discrimination between girls and boys and refrain from using terminology that could challenge equality between girls and boys. The Committee also urges the Holy See to take active measures to remove from Catholic schools textbooks all gender stereotyping which may limit the development of the talents and abilities of boys and girls and undermine their educational and life opportunities.

Best interests of the child

29. The Committee is concerned that children’s right to have their best interests taken into account as a primary consideration has been insufficiently addressed by the Holy See in legislative, administrative and judicial proceedings, as well as in policies, programmes and projects that are relevant to and which have an impact on children. The Committee is particularly concerned that in dealing with allegations of child sexual abuse, the Holy See has consistently placed the preservation of the reputation of the Church and the protection of the perpetrators above children’s best interests, as observed by several national commissions of inquiry.

30. The Committee draws the Holy See’s attention to its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and recommends that the Holy See strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the Holy See is encouraged to provide guidance to all relevant persons in authority for making

the best interests of the child a primary consideration in every area, including when dealing with cases of child sexual abuse, and to disseminate them to all Catholic churches, organisations and institutions worldwide.

Respect for the views of the child

31. The Committee is concerned that the Holy See restrictively interprets children's right to express their views in all matters affecting them, as well as their rights to freedom of expression, association and religion. The Committee is also concerned that the Holy See continues to view the rights enshrined in article 12 of the Convention as undermining the rights and duties of parents.

32. **The Committee reminds the Holy See that the right of children to freely express their views constitutes one of the most essential components of children's dignity and that ensuring this right is a legal obligation under the Convention, which leaves no leeway for the discretion of the States parties. The Committee also underlines that a family where children can freely express their views and have them given due weight from the earliest ages provides an important model, and is a preparation for them to exercise the right to be heard in the wider society. Referring to its general comment No. 12 (2009) on the right of the child to be heard, the Committee urges the Holy See to:**

- (a) **Combat negative attitudes to the realization of the right of all children to be heard and promote the recognition of children as rights holders;**
- (b) **Take measures to ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant legal proceedings;**
- (c) **Encourage, through legislation and policy, opportunities for parents and guardians to listen to children and give due weight to their views in matters that concern them and promote parenting education programmes, which build on existing positive behaviours and attitudes; and**
- (d) **Promote the active role of children in all services provided to families and children by Catholic church run organisations and institutions, as well as in the planning of curricula and school programmes, and ensure that in disciplinary matters, the right of the child to be heard is fully respected.**

C. Civil rights and freedoms (arts. 7, 8, and 13-17 of the Convention)

Right to know and be cared for by parents

33. The Committee is concerned about the situation of children born of Catholic priests, who, in many cases, are not aware of the identity of their fathers. The Committee is also concerned that the mothers may obtain a plan for regular payment from the Church until the child is financially independent only if they sign a confidentiality agreement not to disclose any information.

34. **The Committee recommends that the Holy See assess the number of children born of Catholic priests, find out who they are and take all the necessary measures to ensure the rights of these children to know and to be cared for by their fathers, as appropriate. The Committee also recommends that the Holy See ensure that churches no longer impose confidentiality agreements when providing mothers with financial plans to support their children.**

Right to identity

35. While welcoming the emphasis placed by the Holy See on children's right to live with their parents and to know their identity, the Committee is concerned about the continued practice of anonymous abandonment of babies organized by Catholic organizations in several countries through the use of the so-called "baby boxes".

36. **In light of articles 6, 7, 8 and 19 of the Convention, the Committee strongly urges the Holy See to cooperate in studies to determine the root causes of the practice of anonymous abandonment of babies and expeditiously strengthen and promote alternatives, taking into full account the right of children to know their biological parents and siblings, as enshrined in article 7 of the Convention. The Committee also urges the Holy See to contribute to addressing the abandonment of babies by providing family planning, reproductive health, as well as adequate counselling and social support, to prevent unplanned pregnancies as well as assistance to families in need, while introducing the possibility of confidential births at hospitals as a measure of last resort to prevent abandonment and/or death of a child.**

D. Violence against children (arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39 of the Convention)**Torture and other cruel or degrading treatment or punishment**

37. The Committee is concerned that the Holy See has not taken the necessary measures to protect and ensure justice for girls arbitrarily placed by their families, State institutions and churches in the Magdalene laundries of Ireland run by four congregations of Catholic Sisters until 1996. The Committee is particularly concerned that:

(a) Girls placed in these institutions were forced to work in slavery like conditions and were often subject to inhuman, cruel and degrading treatment as well as to physical and sexual abuse;

(b) Girls were deprived of their identity, of education and often of food and essential medicines and were imposed with an obligation of silence and prohibited from having any contact with the outside world;

(c) Unmarried girls who gave birth before entering or while incarcerated in the laundries had their babies forcibly removed from them; and

(d) Although the four Catholic congregations concerned function under the authority of the Holy See, no action has been taken to investigate the conduct of the sisters who ran the laundries and to cooperate with law enforcement authorities in holding accountable those who were responsible for the abuse as well as all those who organised and knowingly profited from the girls' unpaid work.

38. **With reference to the recommendations made by the Committee against Torture in 2011 to the Republic of Ireland (CAT/C/IRL/CO/1 para. 11) to prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences committed, and to ensure that all victims obtain redress and have an enforceable right to compensation, the Committee urges the Holy See to:**

(a) **Conduct an internal investigation into the conduct of religious personnel working in the Magdalene laundries in Ireland as well as in all countries where this system was in place, and ensure that all those responsible for the offences be sanctioned and reported to national judicial authorities for prosecution purposes;**

(b) **Ensure that full compensation be paid to the victims and their families either through the congregations themselves or through the Holy See as supreme power of the Church and legally responsible for its subordinates in Catholic religious orders placed under its authority;**

(c) **Take all appropriate measures to ensure the physical and psychological recovery and social reintegration of the victims of these offences; and**

(d) **Assess the circumstances and reasons which have led to such practices and take all necessary measures to ensure that no women and children can be arbitrarily confined for whatever reason in Catholic institutions in the future.**

Corporal punishment

39. The Committee welcomes the statement during the interactive dialogue that the delegation of the Holy See will take the proposal of banning corporal punishment of children in all settings back for consideration. However, the Committee is concerned that while corporal punishment, including ritual beatings of children, has been and remains widespread in some Catholic institutions and reached endemic levels in certain countries, as revealed notably by the Ryan Commission in Ireland, the Holy See still does not consider corporal punishment as being prohibited by the Convention and has therefore not enacted guidelines and rules clearly banning corporal punishment of children in Catholic schools, in all Catholic institutions working with and for children, as well as in the home.

40. **The Committee reminds the Holy See that all forms of violence against children, however light, are unacceptable and that the Convention leaves no room for any level of violence against children. The Committee also reminds the Holy See of its obligation under article 19 of the Convention to take all appropriate measures to protect the child from all forms of physical or mental violence. The Committee urges the Holy See to:**

(a) **Explicitly oppose all corporal punishment in childrearing, in the same way it opposes torture and other cruel, inhuman or degrading treatment or punishment;**

(b) **Amend both Canon Law and Vatican City State laws to explicitly prohibit all corporal punishment of children, including within the family;**

(c) **Establish mechanisms to effectively enforce this ban in all Catholic schools and institutions working with and for children as well as on the territory of the Vatican City State and to ensure accountability for violence against children; and**

(d) **Make use of its authority to promote positive, non-violent and participatory forms of child-rearing, and ensure that an interpretation of Scripture as not condoning corporal punishment is reflected in Church teaching and other activities and incorporated into all theological education and training.**

Abuse and neglect

41. The Committee is concerned about the Holy See's position that civil authorities should intervene in the family setting only in cases where a proven abuse has been committed in order not to interfere with the duties and rights of the parents. Such a position seriously undermines efforts and measures to prevent abuse and neglect of children. The Committee is also concerned that in spite of its considerable influence on Catholic families, the Holy See has still not adopted a comprehensive strategy to prevent abuse and neglect in the home.

42. The Committee emphasizes that child protection must begin with proactive prevention of all forms of violence and that prerogatives of the parents should in no way undermine children's right to be protected from abuse and neglect. The Committee therefore recommends that the Holy See:

(a) Formulate a comprehensive strategy for preventing and combating child abuse and neglect and further strengthen awareness-raising and education programmes including campaigns with the involvement of children;

(b) Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect, including by involving former victims, volunteers and community members, and providing training support to them;

(c) Develop safe, well-publicized, confidential and accessible support mechanisms for children, their representatives and others to report violence against children; and

(d) Develop clear guidance and training on when and how to refer abuse and neglect to investigative authorities.

Sexual exploitation and abuse

43. The Committee takes note of the commitment expressed by the delegation of the Holy See to hold inviolable the dignity and entire person of every child. The Committee nevertheless expresses its deepest concern about child sexual abuse committed by members of the Catholic churches who operate under the authority of the Holy See, with clerics having been involved in the sexual abuse of tens of thousands of children worldwide. The Committee is gravely concerned that the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators. The Committee is particularly concerned that:

(a) Well-known child sexual abusers have been transferred from parish to parish or to other countries in an attempt to cover-up such crimes, a practice documented by numerous national commissions of inquiry. The practice of offenders' mobility, which has allowed many priests to remain in contact with children and to continue to abuse them, still places children in many countries at high risk of sexual abuse, as dozens of child sexual offenders are reported to be still in contact with children;

(b) Although the Holy See has established its full jurisdiction over child sexual abuse cases in 1962 and placed them in 2001 under the exclusive competence of the Congregation for the Doctrine of the Faith (CDF), it has declined to provide the Committee with data on all cases of child sexual abuse brought to its attention over the reporting period and the outcome of the internal procedure in these cases;

(c) Child sexual abuse, when addressed, has been dealt with as *grave delicts against the moral* through confidential proceedings providing for disciplinary measures which have allowed the vast majority of abusers and almost all those who concealed child sexual abuse to escape judicial proceedings in States where abuses were committed;

(d) Due to a code of silence imposed on all members of the clergy under penalty of excommunication, cases of child sexual abuse have hardly ever been reported to the law enforcement authorities in the countries where such crimes occurred. On the contrary, cases of nuns and priests ostracized, demoted and fired for not having respected the obligation of silence have been reported to the Committee as well as cases of priests who have been

congratulated for refusing to denounce child abusers, as shown in the letter addressed by Cardinal Castrillon Hojos to Bishop Pierre Pican in 2001;

(e) Reporting to national law enforcement authorities has never been made compulsory and was explicitly rejected in an official letter addressed to members of the Irish Episcopal Conference by Bishop Moreno and Nuncio Storero in 1997. In many cases, Church authorities, including at the highest levels of the Holy See have shown reluctance and in some instances, refused to cooperate with judicial authorities and national commissions of inquiry.

(f) Limited efforts have been made to empower children enrolled in Catholic schools and institutions to protect themselves from sexual abuse.

44. The Committee acknowledges the Holy See's statement about the importance to establish the truth of what happened in the past, to take the necessary steps 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. In this perspective, the Committee strongly urges the Holy See to:

(a) Ensure that the Commission created in December 2013 will investigate independently all cases of child sexual abuse as well as the conduct of the Catholic hierarchy in dealing with them. The Holy See should consider inviting civil society and victims organizations to join this Commission and international human rights mechanisms to support its work. The outcome of this investigation should be made public and serve to prevent the recurrence of child sexual abuse within the Catholic Church;

(b) Immediately remove all known and suspected child sexual abusers from assignment and refer the matter to the relevant law enforcement authorities for investigation and prosecution purposes;

(c) Ensure a transparent sharing of all archives which can be used to hold the abusers accountable as well as all those who concealed their crimes and knowingly placed offenders in contact with children;

(d) Amend Canon Law in order for child sexual abuse to be considered as crimes and not as "*delicts against the moral*" and repeal all provisions which may impose an obligation of silence on the victims and on all those that become aware of such crimes;

(e) Establish clear rules, mechanisms and procedures for the mandatory reporting of all suspected cases of child sexual abuse and exploitation to law enforcement authorities;

(f) Ensure that all priests, religious personnel and individuals working under the authority of the Holy See are made aware of their reporting obligations and of the fact that in case of conflict, these obligations prevail over Canon law provisions;

(g) Develop programmes and policies for the prevention of such crimes and for the recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children, held in Stockholm, Yokohama and Rio de Janeiro, respectively;

(h) Develop educational preventive programmes to increase children's awareness of sexual abuse and to teach them the necessary skills with which to protect themselves; and

(i) Consider ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

Freedom of the child from all forms of violence

45. The Committee welcomes the indication that the Holy See pays particular attention to promoting the dignity of women and girls. However, given the extent and the devastating impact of domestic violence on children and the fact that domestic violence often has a gender component, the Committee is seriously concerned that during the 2013 Commission on the Status of Women, the Holy See objected to a draft final text proposing that religion, custom or tradition should not serve as an excuse for States to evade their obligations to protect women and girls from violence.

46. **Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the Holy See prioritize the elimination of all forms of violence against children. The Committee further recommends that the Holy See take into account general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular:**

(a) Use its authority and influence to support efforts and measures aimed at combatting all forms of domestic and gender-based violence including measures that address attitudes, traditions, customs and behavioural practices which often serve as a justification for these forms of violence;

(b) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(c) Adopt a coordinating framework to address all forms of violence against children;

(d) Pay particular attention to and address the gender dimension of violence; and

(e) Cooperate with the Special Representative of the Secretary-General on violence against children and other relevant United Nations bodies.

Helpline

47. **The Committee recommends that the Holy See promote the creation of helplines in States parties, raise awareness of their existence and encourage children to use them.**

E. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4) of the Convention)

Family environment

48. While welcoming the information provided by the delegation of the Holy See that it will proceed with a revision of family-related provisions of Canon Law in the near future, the Committee is concerned that the Holy See and Church run institutions do not recognize the existence of diverse forms of families and often discriminate children on the basis of their family situation.

49. **The Committee recommends that the Holy See ensure that Canon Law provisions recognise the diversity of family settings and do not discriminate children based on the type of family they live in.**

Children deprived of a family environment

50. The Committee welcomes the emphasis placed by the Holy See on the importance for the full and harmonious development of children's personality of growing up in a family environment. The Committee is however concerned about the situation of adolescents recruited by the Legion of Christ and other Catholic institutions who are progressively separated from their families and isolated from the outside world. While taking note of the Holy See's response which highlights parental rights and duties to choose schools and seminaries for their children, the Committee also notes that in November 2013, the President of the French conference of bishops recognized the manipulation of individual consciences in some Catholic institutions and congregations.

51. The Committee urges the Holy See to properly investigate all allegations of children and adolescents being separated from their families by means of psychological manipulation and ensure that those responsible for manipulating adolescents be held accountable and cease their activities.

52. The Committee is concerned that institutionalisation of children is still widespread in Catholic church run organisations and that family type alternatives are still not given priority as shown by the opening of new institutions in many countries. The Committee is also concerned that the Holy See has not adopted guidelines on the placement of children in Catholic alternative care institutions and for monitoring their situation and still has no policy for the de-institutionalisation of children placed in Catholic Church run organisations.

53. The Committee urges the Holy See to adopt a policy for the deinstitutionalization of children placed in Catholic Church-run institutions and for the reunification with their families, where possible. The Committee also recommends that the Holy See take all necessary measures to ensure as a matter of priority that children under the age of three are not placed in institutions. The Holy See should also enact guidelines for the placement, adequate periodic review and monitoring of placements of children in all alternative Catholic care settings to guarantee the application of standards and to prevent abuse. In doing so, the Holy See should take into account the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of 20 December 2009.

F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) and 33 of the Convention)**Health**

54. The Committee expresses its deepest concern that in the case of a nine-year old girl in Brazil who underwent an emergency life-saving abortion in 2009 after having been raped by her stepfather, an Archbishop of Pernambuco sanctioned the mother of the girl as well as the doctor who performed the abortion, a sanction which was later approved by the head of the Roman Catholic Church's Congregation of Bishops.

55. The Committee urges the Holy See to review its position on abortion which places obvious risks on the life and health of pregnant girls and to amend Canon 1398 relating to abortion with a view to identifying circumstances under which access to abortion services can be permitted.

Adolescent health / HIV/AIDS

56. The Committee is seriously concerned about the negative consequences of the Holy See's position and practices of denying adolescents' access to contraception, as well as to sexual and reproductive health and information.

57. **With reference to its general comments No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, No. 4 (2003) on adolescent health and No.3 (2003) on HIV/AIDS and the rights of the child, the Committee reminds the Holy See of the dangers of early and unwanted pregnancies and clandestine abortion which result notably in high maternal morbidity and mortality in adolescent girls, as well as the particular risk for adolescents girls and boys to be infected with and affected by STDs, including HIV/AIDS. The Committee recommends that the Holy See :**

(a) **Assess the serious implications of its position on adolescents' enjoyment of the highest attainable standard of health and overcome all the barriers and taboos surrounding adolescent sexuality that hinder their access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs);**

(b) **Place adolescents' best interests at the centre of all decisions affecting their health and development and of the implementation of policies and interventions that affect the underlying determinants of their health;**

(c) **Ensure the right of adolescents to have access to adequate information essential for their health and development and for their ability to participate meaningfully in society. In this respect, the Holy See should ensure that sexual and reproductive health education and prevention of HIV/AIDS is part of the mandatory curriculum of Catholic schools and targeted at adolescent girls and boys, with special attention to preventing early pregnancy and sexually transmitted infections;**

(d) **Guarantee the best interests of pregnant teenagers and ensure that the views of the pregnant adolescent always be heard and respected in the field of reproductive health;**

(e) **Actively contribute to the dissemination of information on the harm that early marriage and early pregnancy can cause and ensure that Catholic organizations protect the rights of pregnant children, adolescent mothers and their children and combat discrimination against them; and**

(f) **Take measures to raise awareness of and foster responsible parenthood and sexual behaviour, with particular attention to boys and men.**

G. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40 of the Convention)

Sale, trafficking and abduction

58. The Committee is deeply concerned that thousands of babies have been forcibly withdrawn from their mothers by members of Catholic congregations in a number of countries and subsequently placed in orphanages or given to adoptive parents abroad, as was the case notably in Spain and in the Magdalene laundries in Ireland. The Committee is particularly concerned that although responsible congregations were placed under its authority, the Holy See did not conduct an internal investigation into these cases and failed to take action against those responsible. The Committee is also concerned that the Holy See

did not provide information on the measures taken to trace these children's whereabouts and to reunite them, where possible, with their biological mothers.

59. **The Committee urges the Holy See to open an internal investigation into all cases of removal of babies from their mothers and fully cooperate with relevant national law enforcement authorities in holding those responsible accountable. The Committee also urges the Holy See to ensure that the Catholic religious congregations involved fully disclose all the information they have on the whereabouts of these children in order for them, where possible, to be reunited with their biological mothers and to take all necessary measures to prevent the occurrence of similar practices in the future.**

Child victims and witnesses of crimes

60. The Committee expresses serious concern that in dealing with child victims of different forms of abuse, the Holy See has systematically placed preservation of the reputation of the Church and the alleged offender over the protection of child victims. The Committee is particularly concerned that while the Holy See recognized in its written responses and during the interactive dialogue the primary competence of judicial authorities, it has continued to address these cases through Canon Law proceedings which contain no provision for the protection, support, rehabilitation and compensation of child victims. The Committee is also particularly concerned that:

(a) Child victims and their families have often been blamed by religious authorities, discredited and discouraged from pursuing their complaints and in some instances humiliated, as noted especially by the Grand Jury in Westchester, the Ryan Commission in Ireland and the Winter Commission in Canada;

(b) Confidentiality has been imposed on child victims and their families as a precondition of financial compensation; and

(c) Although it has extended its own statute of limitations, the Holy See has in some instances obstructed efforts in certain countries to extend the statute of limitation for child sexual abuse.

61. **The Committee recommends that in matters relating to the treatment of child victims and witnesses, the Holy See should be guided by respect for the best interests of the child and the guidelines on justice in matters involving child victims and witnesses of crime (see Economic and Social Council resolution 2005/20, annex). The Committee urges the Holy See to:**

(a) **Develop comprehensive procedures for the early identification of child victims of sexual and other forms of abuse;**

(b) **Ensure accessible, confidential, child-friendly and effective reporting channels for children who are victims or witnesses of sexual abuse and ensure that child victims of sexual abuse or any other crimes are protected from future abuse and from retaliation when reporting abuse. Parents should obtain assistance in bringing abuse suffered by their children before courts.**

(c) **Ensure that child victims and witnesses of crimes are provided with psycho-social support for their rehabilitation and reintegration and that such measures are not made conditional on confidential settlement preventing children from reporting to national law enforcement authorities;**

(d) **Provide compensation to victims of sexual abuse committed by individuals and institutions under the Holy See's authority without imposing any**

obligation of confidentiality on the victims and establish a compensation scheme for victims in this respect;

(e) Promote the reform of statute of limitations in countries where they impede victims of child sexual abuse from seeking justice and redress; and

(f) Conduct awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse.

H. Ratification of international human rights instruments

62. The Committee recommends that the Holy See, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights and their Optional Protocols as well as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

I. Follow-up and dissemination

63. The Committee recommends that the Holy See take all appropriate measures to ensure that the present recommendations are fully implemented by, *inter alia*, transmitting them to the Pope, the Curia, the Congregation for the Doctrine of the Faith, the Congregation for Catholic Education, the Catholic Health Care Institutions, the Pontifical Council for the Family as well as episcopal conferences of bishops, individuals and institutions functioning under the authority of the Holy See for appropriate consideration and further action.

64. In light of article 45 a and b of the Convention, the Committee recommends that the Holy See consider seeking expert advice, among others, from the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Representative of the Secretary General on violence against children and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment in the implementation of the recommendations of the Committee relating to sexual abuse and exploitation.

65. The Committee further recommends that the second periodic report and the written replies by the State party and the related recommendations (concluding observations) be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and of their implementation and monitoring.

J. Next report

66. The Committee invites the State party to submit its combined third to sixth periodic report by 1 September 2017 and to include in it information on the

implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In accordance with General Assembly resolution 67/167 of 20 December 2012, in the event a report exceeding the page limitations is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.

67. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

Committee against Torture

Concluding observations on the initial report of the Holy See

ADVANCE UNEDITED VERSION

1. The Committee against Torture considered the initial report of the Holy See (CAT/C/VAT/1) at its 1220th and 1223rd meetings, held on 5 and 6 May 2014 (CAT/C/SR.1220 and CAT/C/SR.1223), and adopted the following concluding observations at its 1245th, 1246th and 1247th meetings (CAT/C/SR.1245, CAT/C/SR.1246 and CAT/C/SR.1247) held on 21 and 22 May 2014.

A. Introduction

2. The Committee welcomes the initial report of the Holy See (CAT/C/VAT/1), which follows the Committee's Guidelines on the form and content of initial reports (CAT/C/4/Rev.3) required under article 19 on the measures they have taken to give effect to their undertakings under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. However, it regrets that the report was submitted nine years late.

3. The Committee also appreciates the open and constructive dialogue with the high-level delegation of the State party and the supplementary information provided during the examination of the report.

B. Positive aspects

4. The Committee welcomes the fact that following the ratification of the Convention, the State party acceded to the Convention against Transnational Organized Crime, on 25 January 2012.

5. The Committee also welcomes the State party's efforts to revise its legislation in areas of relevance to the Convention, including:

(a) The issuance *motu proprio* by Pope Francis of an Apostolic Letter "On the Jurisdiction of Judicial Authorities of Vatican City State in Criminal Matters", on 11 July 2013. The letter was promulgated and entered into force on 1 September 2013, establishing the exercise of penal jurisdiction by the Judicial Authorities of Vatican City State over crimes whose prosecution is required by international agreements ratified by the Holy See. This modified Vatican City State legislation, specifically Law No. VIII on Supplementary Norms on Criminal Law Matters, which became effective 1 September 2013, and which incorporates into the legal system the crime of torture, crimes against humanity and a definition of crimes against minors; and Law N. IX which amends the Criminal Code and the Code of Criminal Procedure to provide for jurisdiction over offenses committed by public officials and citizens abroad and to set standards governing extradition, judicial cooperation, mutual legal assistance, and other matters relevant to the Convention.

(b) The issuance by the Congregation for the Doctrine of the Faith of a Circular Letter to Assist Episcopal Conferences in Developing Guidelines for Dealing with Cases of Sexual Abuses of Minors Perpetrated by Clerics, on 3 May 2011, which confirms, as

established in the 2001 *Motu Proprio Sacramentorum Sanctitatis Tutela*, that Bishops and Major Superiors are to refer all credible allegations of sexual abuse of minors by clerics to the Congregation for the Doctrine of the Faith. The Circular Letter also establishes, in its own words, that “the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed.”

6. The Committee also welcomes the efforts of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including:

(a) The clear condemnation, in the Holy See’s report, of the use of torture and other acts of cruel, inhuman or degrading treatment or punishment as contrary to the dignity, integrity and identity of the human person and its references to the statements by several Popes against torture and against the death penalty, including Pope Benedict XVI’s reminder, in 2007, to members of the International Commission for Catholic Prison Pastoral Care, which represents prison chaplains from 62 countries, stating that “I reiterate that the prohibition against torture cannot be contravened under any circumstances”;

(b) The establishment of a Special Office within the Governorate of the Vatican City State to oversee the implementation of international agreements to which the Vatican City State is a party, on 10 August 2013;

(c) The creation of the Pontifical Commission for the Protection of Minors, on 5 December 2013, to serve as an advisory committee to the Pope, and its members’ statement on 3 May 2014 that they view ensuring accountability as especially important;

(d) The statement by Pope Francis, during a meeting with the International Catholic Child Bureau on 11 April 2014, acknowledging the damage done by the sexual abuse of children by some priests, in which the Pontiff affirmed that “we will not take one step backward with regards to how we will deal with this problem and the sanctions that must be imposed. On the contrary, we have to be even stronger.”

7. The affirmation by the head of the delegation that international treaties, including the Convention, ratified by the Holy See and agreements made by the Holy See with other international subjects or other States take precedence over the domestic law of the Vatican City State.

C. Principal subjects of concern and recommendations

Scope of Application of the Convention

8. The Committee notes the Interpretative Declaration made by the Holy See in acceding to the Convention and statements in the report of the State party reinforced by the delegation during the dialogue, expressing the view that the Convention applies exclusively to the Vatican City State. The Committee further notes that the 2013 amendments to laws of the Vatican City State, referred to above, establish that public officials of the Vatican City State include, among other persons, (a) members, officials and personnel of the various organs of the Roman Curia and of the Institutions connected to it and (b) papal legates and diplomatic personnel of the Holy See. The Committee’s General Comment No. 2 recalls that States bear international responsibility for the acts and omissions of their officials and others acting in an official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under colour of law. This responsibility extends to actions and omissions of the public servants of a State party deployed on operations abroad. The Committee reminds States parties to the Convention that they are obligated to adopt effective measures to prevent their officials and others acting in an official capacity from perpetrating or instigating the commission of torture or ill-treatment and from consenting to or acquiescing in the commission of such violations by

others, including non-state actors, in any situation in which they exercise jurisdiction or effective control.

The Committee notes that the Interpretative Declaration made by the State party is not consistent with the above-mentioned norms under their own law as well as the Convention. The Committee invites the State party to view the Interpretative Declaration in light of the aforementioned considerations, not excluding the possibility of reinterpretation or withdrawal. The Committee recalls that the State party's obligations under the Convention concern all public officials of the State party and other persons acting in an official capacity or under colour of law. These obligations concern the actions and omissions of such persons wherever they exercise effective control over persons or territory.

Definition of torture

9. The Committee welcomes the adoption of Law No. VIII of 11 July 2013 which contains a definition of torture and other elements set forth in the Convention. The Committee notes that this Law refers to "the public official having judicial, judicial police or law enforcement functions, as well as whoever performs in an official capacity a similar or analogous role, and whoever, under their instigation or with their consent and acquiescence " The Apostolic Letter of 11 July 2013 states in paragraph 3 that the following persons are deemed public officials: "(a) members, officials and personnel of the various organs of the Roman Curia and of the Institutions connected to it. (b) papal legates and diplomatic personnel of the Holy See. (c) those persons who serve as representatives, managers or directors, as well as persons who even de fact manage or exercise control over the entities directly dependent on the Holy See and listed in the registry of canonical juridical persons kept by the Governorate of Vatican City State. (d) any other person holding an administrative or judicial mandate in the Holy See, permanent or temporary, paid or unpaid, irrespective of that person's seniority." The Committee also recalls that article 4 of the Convention requires States parties to ensure that "an attempt to commit torture and an act by any person which constitutes complicity or participation in torture" is an offence under its criminal law. The Committee has expressed in its General Comment No. 3 that statutes of limitations should not be applicable to the crime of torture. (arts.1 and 4)

The Committee seeks confirmation that the State party fully complies with the requirements of the Convention that "all public officials or persons acting in an official capacity" are covered in line with article 1 of the Convention. It invites the State party to adopt effective measures to ensure that its definition of torture applies to all public officials, as established in the Convention and that the State party discharges all its obligations under the Convention. The Committee further seeks clarification that "an attempt to commit torture and an act by any persons which constitutes complicity or participation in torture" is prohibited under its criminal law. The Committee reminds the State party that General Comment No. 3 states that statutes of limitations should not be applicable to the crime of torture and requests that the State party clarify that there is no statute of limitations for the offence of torture.

Prevention of torture and cruel, inhuman and degrading treatment or punishment

10. The Committee notes that since 2001 Holy See officials have required mandatory reporting of all credible allegations of sexual abuse of minors by clergy to the Congregation for the Doctrine of the Faith in Vatican City State. The Committee appreciates the data provided by the delegation indicating that the Congregation for the Doctrine of the Faith confirmed 3420 credible allegations of sexual abuse by priests between 2004-2013, resulting in the implementation of numerous canonical penalties meted out through an

ecclesiastical penal process, including the defrocking of 848 priests and disciplining of 2572 others such as through imposition of a life of prayer or penance. In its General Comment No. 2 the Committee recalls that State authorities or others acting in official capacity or under colour of law have an obligation to exercise due diligence to prevent violations of the Convention, including by non-State officials or private actors under their effective control, whenever they know or have reasonable grounds to believe that violations of the Convention are being committed.

In this regard, the Committee regrets the State party did not provide requested data on the number of cases in which the State party provided information to civil authorities in the places where the cases arose and in the places where the priests concerned are currently located. The Committee welcomes the assurance made by the delegation that Catholic clergy are instructed to report allegations of sexual abuse of minors perpetrated by clergy members to the civil authorities as well as to the Congregation for the Doctrine of the Faith. Nevertheless, the Committee is concerned by reports that the State party's officials resist the principle of mandatory reporting of such allegations to civil authorities.

The Committee is further concerned by numerous reports of cases in which clergy accused or convicted by civil authorities of such offenses were transferred to other dioceses and institutions where they remained in contact with minors and others who are vulnerable, and in some cases committed abuse in their subsequent placements. Such allegations appear in the reports of commissions and investigations undertaken in diverse countries. During the dialogue with the State party, the Committee raised the case of Father Joseph Jeyapaul, the case of Father Peter Kramer, and the findings reached by a grand jury in Philadelphia, USA, in 2005, as illustrative of these concerns. (art. 2)

The State party should ensure that Holy See officials and other public officials of the Vatican City State take effective measures to monitor the conduct of individuals under their effective control, to stop and sanction such conduct in any case where they become aware of credible allegations of violations of the Convention, and to take other measures within their control to prevent the commission of subsequent violations by the individuals concerned, including to:

(a) Continue to develop and implement programmes and policies to prevent violations of the Convention;

(b) Ensure that individuals that are subject to an allegation of abuse brought to the attention of the Congregation for the Doctrine of the Faith or other officials of the State party are immediately suspended from their duties pending the investigation of the complaint, to guard against the possibility of subsequent abuse or intimidation of victims;

(c) Ensure effective monitoring of the placements of all clergy that are under investigation by the Congregation for the Doctrine of the Faith and prevent the transfer of clergy who have been credibly accused of abuse for the purposes of avoiding proper investigation and punishment of their crimes. For those found responsible, apply sanctions, including dismissal from clerical service;

(d) Ensure that all State party officials exercise due diligence and react properly to credible allegations of abuse, subjecting any official that fails to do so to meaningful sanctions;

(e) Take effective measures to ensure that allegations received by its officials concerning violations of the Convention are communicated to the proper civil authorities to facilitate their investigation and prosecution of alleged perpetrators. The State party should provide data to the Committee in its next periodic report on the number of cases in which it provided information to civil authorities both in the

places where cases arose and in the places where the persons concerned are currently located.

Impunity

11. While the Committee appreciates the confirmation provided regarding the ongoing investigation under the Vatican City State Criminal Code of allegations of sexual abuse of minors by Archbishop Josef Wesolowski, former papal nuncio to the Dominican Republic. The Committee notes that the Republic of Poland has reportedly requested the extradition of Archbishop Wesolowski. The Committee is concerned that the State party did not identify any case to date in which it has prosecuted an individual responsible for the commission of or complicity or participation in a violation of the Convention (arts. 4, 5, 6, 7 and 8).

The State party should ensure that its competent authorities proceed to a prompt and impartial investigation of Archbishop Wesolowski and any other persons accused of perpetrating or being complicit in violations of the Convention who are nationals of the State party or are present on the territory of the State party. If warranted, the State party should ensure such persons are criminally prosecuted or extradited for prosecution by the civil authorities of another State party. The Committee requests the State party to provide it with information on the outcome of the investigation concerning Archbishop Wesolowski.

Cooperation with civil and criminal proceedings

12. The Committee is concerned by reports it has received of cases in which the State party has declined to provide information to civil authorities in connection with proceedings relating to allegations that clergy members committed violations of the Convention, despite the fact that since 2001 the Congregation for the Doctrine of the Faith in the Vatican City State has had responsibility for receiving and investigating all allegations of sexual abuse of minors by Catholic clergy. The Committee expresses concern about allegations that in 2013 the papal nuncio to Australia invoked diplomatic immunity in refusing to provide archival documentation to assist the New South Wales Special Commission of Inquiry into sex abuse. The Committee recalls that article 9 of the Convention obligates States parties to “afford one another the greatest measure of assistance” in connection with criminal proceedings related to violations of the Convention, “including the supply of all evidence at their disposal necessary for the proceedings” (art. 9).

The State party should take effective steps to ensure the provision of information to civil authorities in cases where they are carrying out criminal investigations of allegations of violations of the Convention perpetrated by Catholic clergy or acquiesced to by them. The State party should ensure the procedures for requesting such cooperation are clear and well-known to the civil authorities and that requests for cooperation are responded to promptly.

Basic Legal Safeguards

13. The Committee appreciates the information provided by the State party in its report and at the dialogue concerning legal protections for persons deprived of their liberty in the State party provided in the Criminal Code, Code of Criminal Procedure, and 2012 draft regulations of the Department of Security Services and Civil Protection. The Committee regrets that information was not provided as to whether these documents incorporate the particular legal safeguards against torture that the Committee has called on all States parties to ensure for all persons deprived of their liberty (arts. 2, 13, 15 and 16).

The State party should ensure that its laws and regulations provide for the right of all persons deprived of their liberty to enjoy the legal safeguards against torture enumerated in the Committee's General Comment No. 2, including ensuring the right of all detainees to receive independent legal assistance, independent medical assistance, and to contact relatives from the moment of deprivation of liberty. The State party should monitor the provision of such safeguards by its public officials and ensure that any failure to provide such safeguards as required results in disciplinary or other penalties.

Complaints and prompt, thorough and impartial investigations

14. The Committee welcomes the amendments to the Criminal Code and Code of Criminal Procedure of the Vatican City State that make it clear that authorities should prosecute allegations of violations of the Convention by citizens and officials. The Committee also welcomes information provided that the Pontifical Commission for the Protection of Minors, established by Pope Francis, will seek to ensure accountability and its members have announced that they plan to make specific proposals on raising awareness “regarding the tragic consequences of sexual abuse and of the devastating consequences of not listening, not reporting suspicion of abuse, and failing to support victims/survivors and their families”. To date there has been no information provided to the Committee as to the Pontifical Commission’s term, investigative powers, and ability to report publicly (arts.12 and 13).

The State party should:

(a) Establish an independent complaints mechanisms to which victims of alleged violations of the Convention can confidentially report allegations of abuse and which has the power to cooperate with the State party’s authorities as well as civil authorities in the location where the alleged abuse occurred;

(b) Ensure that organs charged with carrying out investigations into allegations of violations of the Convention by public officials of the Vatican City State, including the Office of the Promoter of Justice, are independent with no hierarchical connection between the investigators and the alleged perpetrators. Ensure that such bodies carry out investigations promptly, thoroughly, and impartially;

(c) Clarify whether the Pontifical Commission for the Protection of Minors established in December 2013 will have the full power to investigate cases of alleged violations of the Convention, ensure that the results of any of its investigations are made public and that they are promptly acted upon by officials with a prosecutorial function, within a specific deadline.

Concordats and other agreements

15. The Committee is concerned at allegations that concordats and other agreements negotiated by the Holy See with other States may effectively prevent prosecution of alleged perpetrators by limiting the ability of civil authorities to question, compel the production of documentation by, or prosecute individuals associated with the Catholic Church (arts. 2, 12, 13 and 16).

The State party should consider reviewing its bilateral agreements concluded with other States, such as concordats, with a view to fulfilling its obligations under the Convention and preventing the agreements from serving to provide individuals alleged to have violated the Convention or believed to possess information concerning violations of the Convention with protection from investigation or prosecution by civil authorities as a result of their status or affiliation with the Catholic Church.

Redress

16. While noting that many dioceses and religious orders provided financial settlements to victims of abuse, the Committee remains deeply concerned at the reported inability to obtain redress experienced by many alleged victims of violations of the Convention perpetrated by or with the acquiescence of persons acting in an official capacity for the State party. The Committee is particularly concerned about allegations of past instances in which the State party has acquiesced to or authorized actions taken by certain church officials to protect assets from seizure by civil authorities for the purpose of providing redress to victims. The Committee is also concerned about the State party's response to the continued refusal by the four religious orders that ran the Magdalene laundries in Ireland to contribute to a redress fund for individuals subjected to abuse in those facilities. The Committee recalls that in accordance with General Comment No. 3, the concept of redress includes restitution, compensation, rehabilitation, satisfaction and the right to truth, and guarantees of non-repetition (arts. 12, 13, 14 and 16).

The State party should:

(a) In accordance with article 14 of the Convention and General Comment No. 3, take steps to ensure that victims of sexual abuse committed by or with the acquiescence of the State party's officials receive redress, including fair, adequate and enforceable right to compensation and as full rehabilitation as possible, regardless of whether perpetrators of such acts have been brought to justice. Appropriate measures should be taken to ensure the physical and psychological recovery and social reintegration of the victims of abuse.

(b) Encourage the provision of redress by individual religious orders to victims of violations of the Convention carried out by them and take additional steps to ensure that victims obtain redress as needed, including in the case of the Magdalene Laundries.

Non-refoulement and asylum

17. The Committee notes with appreciation the State party's confirmation that the Vatican City State would not expel, return or extradite a person to a State where the person might be tortured, and that amendments to the Criminal Code and Code of Criminal Procedure attached to the 13 July 2013 Apostolic Letter of Pope Francis elaborate on this matter. The Committee regrets, however, that there was no data provided in response to inquiries concerning the number of asylum requests received and granted, particularly in view of the statement that asylum applications are dealt with and adjudicated by the Italian government's authorities (art. 3).

The Committee recommends that the State party provide in next report data on the number of asylum requests received by authorities of the State party located in its territory or abroad since 2002, as well as the number granted, and whether any asylum seeker was returned or refused asylum and in which countries. The State party should ensure its authorities monitor treatment of any persons seeking asylum who are sent to Italy to ascertain that they are not subsequently expelled to a place where they might be in danger of being subjected to torture or ill-treatment.

Training of the Gendarmerie Corps

18. While noting that the Gendarmerie Corps receives training in human rights, the Committee is concerned that they are not provided with specific training on the provisions of the Convention, including the absolute prohibition of torture, and that medical professionals dealing with persons deprived of liberty and asylum-seekers do not receive training on the Manual on the Effective Investigation and Documentation of Torture and

Other Cruel, Inhuman or Degrading Treatment of Punishment (the Istanbul Protocol). (art. 10)

The State party should ensure that training for the Gendarmerie Corps includes the absolute prohibition of torture, other provisions of the Convention, and the Committee's conclusions, decisions and General Comments. It should also ensure that the Gendarmerie Corps and medical professionals and relevant law enforcement officers in the State party receive training in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (the Istanbul Protocol).

Statistical data

19. The Committee regrets the absence of comprehensive and disaggregated data on complaints and investigations of cases amounting to violations of the Convention.

The State party should compile statistical data relevant to the monitoring of the implementation of the Convention, including data on complaints and investigations of cases amounting to violations of the Convention as well as on means of redress, including compensation and rehabilitation, provided to the victims.

20. The Committee invites the State party to consider ratifying the core international human rights instruments to which it is not yet a party, namely the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights and their Optional Protocols as well as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearance.

21. The State party is requested to disseminate widely the report submitted to the Committee and the Committee's concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

22. The State party is invited to submit its common core document, in accordance with the requirements contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6).

23. The Committee requests the State party to provide, by 23 May 2015, follow-up information in response to the Committee's recommendations related to the prevention of torture and cruel, inhuman and degrading treatment or punishment, and on impunity, as contained in paragraphs 10 and 11 of the present document. In addition, the Committee requests follow-up information on complaints and investigations and redress, as contained in paragraphs 14 and 16 of the present document.

24. The State party is invited to submit its next report, which will be the second periodic report, by 23 May 2018. For that purpose, the Committee invites the State party to accept, by 23 May 2015, to report under its optional reporting procedure, consisting in the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the report. The State party's response to this list of issues will constitute, under article 19 of the Convention, its next periodic report.
