

EUROPEAN HUMANIST FEDERATION

UNDIPLOMATIC BEHAVIOUR OF THE HOLY SEE

One of the most basic principles the OSCE should be concerned to defend is the rule of law, as in the legal maxim "Be you never so high, the law is above you."

Another is the principle of non-interference in the internal affairs of sovereign states. This was defined when in October 1970 the General Assembly of the United Nations adopted the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* which says that:-

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State.

It also declares that

States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all.

More directly, the Vienna Convention on Diplomatic Relations of 1961 declares in Article 41(1):

Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

Sadly one of the members of OSCE - one that adopts the moral high ground, claiming that its role in "the community of nations is to be the voice that the human conscience is waiting for" - is in constant breach of all these principles.

- It actively frustrates the application of the law in other member states of OSCE.
- It deliberately and as a matter of policy ensures that serious criminal offences of which it has knowledge are not reported to the police.
- It shelters criminals from prosecution, sometimes helping remove them from the jurisdiction of the state where they offended.
- It fails to take any effective action to protect the human rights of those abused by these criminals.
- It interferes in the internal decision-making of sovereign governments.

That OSCE member state is the Holy See, and its failures relate principally but not only to the problem of persistent sexual violence by priests against children.

Now I am not today going to talk of the Holy See's utter failure to comply with the Convention on the Rights of the Child, which has been adequately denounced by the International Humanist and Ethical Union in the UN Human Rights Council. Nor am I going to talk about those offences themselves: they have been fully and horrifically described in the press. Instead, I want to focus on how the Holy See has dealt with the scandal.

It may be doubted how much of a surprise the Holy See got from the first public reports from the USA in 2002 since the Irish hierarchy had taken out insurance against the cost of defending possible compensation claims as long ago as 1987. Moreover, the Holy See had first adopted a law against child sex abuse by priests in the year 306 AD. In modern times it set out procedures to follow in 1922, and it revised them in 1962, in the instruction *Crimen Sollicitationis*.

This instruction was so secret (until it leaked in 2003) that the penalty for revealing its existence was excommunication - the most severe penalty the Church can impose (and far more severe than the penalties for sexual assaults on children).

Thus, when an investigation was started everyone - including the complainant - was to be sworn to the utmost secrecy from the start on pain of excommunication. So a victim who chose out of piety to complain first to the church would find that he or she was immediately prevented on pain of excommunication from going to the police, however unsatisfactory the Church investigation was. And unsatisfactory it invariably was: under the Canon Law procedure

- there is no forensic investigation - no search of the home or possessions of the alleged offender, no medical examination of the putative victims
- the defendant must not be sworn to tell the truth
- the enquiry is largely a matter of weighing character witnesses for the complainant and the defendant
- all the official participants are to be priests
- the presiding bishop, whose relationship with the defendant priest is analogous to that of a father to a son, has no training in conducting a trial fairly or thoroughly
- the punishment in cases where a guilty verdict is reached - if for example an offender confesses - are minimal: the 1962 instruction itself said that they should be "chiefly spiritual exercises to be made for a certain number of days in some religious house" during which the priest should not be allowed to celebrate mass. The worst penalty is laicisation - defrocking. Even that is subject to the agreement of the Vatican which is not by any means always given.

The rationale for this manner of proceeding is that what is being dealt with is a sin by the priest, for which repentance is the best outcome. There is no notion of a crime, child rape, with a victim to be cared for and an offender in need of punishment. Priests can repent in prison cells as well as on a religious retreat, but the Holy See's procedure under *Crimen Sollicitationis* has no idea of priests going to prison because it is plainly designed to ensure that the police never hear of the allegations.

In fact the Holy See's overwhelming priority has always been to prevent a public scandal that would be damaging to the reputation of the Roman Catholic Church.

And this was not altered when a supplementary instruction was issued in 2001 - *Sacramentorum sanctitatis tutela*. This again was emphatic that cases were to be dealt with in the utmost secrecy from the moment they were reported - so making any reporting to the police impossible. It again treated public crimes against children as private sins against religion by priests - on a par with sacrilegious treatment of the Eucharistic wafer or wine. And it made matters worse by delaying all procedures while the allegations were reported to the Vatican for a decision whether the case should be referred to Rome or dealt with locally - a decision that sometimes took years. Meantime the offending priest could continue offending.

The rationale of this procedure was stated in a reply from the Vatican to the American bishops who suggested cooperation with the civil authorities - the police. The reply from the Vatican - from the Congregation for the Doctrine of the Faith - rejected the idea and said:

The Church reaffirms her right to enact legislation binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors.

Similarly, when the United Kingdom bishops went ahead with a rather more acceptable but far from perfect procedure that was based on the normal principle of giving paramountcy to the interests of the child victims, they asked the Holy See for a dispensation from the aspects of Canon Law with which this principle was in manifest conflict. Years later, the Vatican has still not agreed.

The emphasis on secrecy is pervasive. An American bishop who was also a lawyer advised that embarrassing paperwork should be sent to the Papal Nuncio because it would then enjoy diplomatic immunity from legal orders of discovery.

After a so-called trial the paperwork is to be kept secret for ever. And if a penalty under Canon Law (Canon 1352(2)) cannot be imposed "without danger of grave scandal or infamy" the penalty is to be suspended. The Murphy Commission in Ireland even discovered that under Canons 1395 and 1321 priests cannot be found guilty if they are addicted paedophiles since there would in that case be no "malice or culpability".

A Canadian bishop wrote to the Papal Nuncio suggesting an offending priest be moved out of Canada to avoid the embarrassment of a prosecution. He was not moved - and was later found guilty in a civil court. But many others have been moved from parish to parish and even from country to country - often to Africa - to avoid scandal: anything to keep cases out of the hands of the police. In France the Bishop of Bayeux failed to report an offending priest to the police - this was not a case of secrets of the confessional but of information from a private conversation - and the priest was later sentenced to 18 years in prison for sexual assaults on ten boys. As a result the bishop was given a suspended sentence of three months in jail. Amazingly, in 2001 this bishop received a letter of congratulation from the Vatican praising him as a "model father" for "not denouncing a priest to the civil administration" - a letter that with the approval of the then Pope, John Paul II, was copied to all bishops throughout the world.

In April this year there were reports that a new procedure had been adopted. A press statement from the Vatican said that "Civil law concerning reporting of crimes to the

appropriate authorities should always be followed.” But this was deceptive. Not only do many states have no civil law requiring reporting of crimes - it is just good practice - but there was in fact no new procedure, only a clever bit of public relations. This was made clear when a new instruction was published in July - *De gravioribus delictis* - when the Vatican spokesman, Father Lombardi, confessed that a requirement to report alleged offences to the police had been discussed but rejected. The new instruction actually extended the procedure for sexual assaults on children to other sex offences by priests, including possession of child pornography and sexual abuse of mentally handicapped adults.

The only sensible way to understand this reaction and the whole pattern of the Holy See’s behaviour in this matter is that it believes it has the right to run a parallel legal system to that of states across the world where it has priests, ignoring the laws and the courts of these states - members of the OSCE and other members of the UN - as if they did not apply to Roman Catholic priests. The Holy See not only perceives itself as a nation with its own legal system - Canon Law, albeit it addresses only sins, not crimes - but unlike any other state in the world it claims the right to apply that domestic law to its *employees* across the world regardless of their foreign nationality and foreign residence. What if Russia, what if Italy or any other normal state were to claim the right to try secretly under its domestic law foreign citizens it employed in third countries and to impose sanctions on anyone who reported offences by these employees to the local police? It would be seen as grotesque. It is no less grotesque when it is done by the Holy See, but the engrained habit of suspending normal standards in favour of a deferential cringe to religion still prevents some people from seeing it.

Sadly this is not the end of the Holy See’s abuse of its so-called statehood - itself highly questionable for a palace, garden and basilica in Rome with no permanent population and no border controls, no independent currency and no adherence to international rules on money laundering, reliant on Italy for all services except religious ones. That statehood depends on the so-called Lateran Treaty - misnamed, as treaties are between states and at the time of this squalid political deal between an anti-socialist Pope and the fascist leader Mussolini the Vatican was certainly not a state, as an Italian court found in 1938.

However, under Article 24 of this non-Treaty, the Holy See undertook to stay outside all “temporal disputes between states” and “always and in every case” to be “neutral”. If nothing else, this underlines the rule that states should not interfere in the internal affairs of others states. Yet the Holy See rarely ceases to interfere, and not just to frustrate criminal justice - though it does that in other areas than sexual violence against children: for one example, it hid a Rwandan priest for years in Italy under a false name who was later discovered and convicted of genocide.

Earlier this year the Pope urged his English bishops to oppose a new law on equality. More seriously the Holy See monitors the behaviour of Catholic politicians through the local Papal Nuncio and threatens them with excommunication if they vote for policies of which it disapproves - say, on family planning or abortion or gay rights. (It constantly invokes its mediaeval religious doctrine of “natural law” to attack laws in progressive states that allow some liberty in matters of sexual behaviour, with which it has a puerile obsession.) This policy of interference in the government of other states is made explicit in a Doctrinal Note from the Congregation for the Doctrine of the Faith on *The Participation of Catholics in*

Public Life which places a “grave and clear obligation” on them, enforceable by excommunication, to vote according to the Church’s moral dictates. Just last year bishops were instructed to refuse communion to politicians who “sin gravely” by voting in the wrong way.

Thus in El Salvador the Holy See induced politicians to pass a law requiring all packets of condoms to carry the lying warning that they offered no protection against AIDS. In Brazil similarly the Holy See got a law passed that forces doctors to report to the police any woman who comes to hospital to save her life after a botched illegal abortion. So, the Holy See favours putting the police onto women in desperate need of hospital treatment but not onto priests who rape children.

Using the same political influence the Holy See, having gate-crashed the United Nations to gain an undeserved position as a non-member state with all the privileges of membership except voting, has used its influence to try and often to succeed in wrecking initiatives on population control and on improving the position of women (the Cairo and Beijing conferences of 1995). It has attacked anyone and everyone that disregards its narrow views on sex, which most of its own congregations in many countries disown and disregard: UNICEF, for example, whose sin was to produce a booklet on family planning for women in refugee camps.

A state that interferes so consistently in the internal affairs of other states - in their politics and in the rule of law - is in breach of the Vienna Convention and the UN Declaration which I quoted at the start. Its membership of international organisations such as this should make it vulnerable to pressure rather than offering it a platform to assume a posture of moral superiority and preach to others.

An organisation that sees sexual violence against children more as a cause of concern for the souls of the priestly perpetrators than as a dire injury to the child is not fit to be heeded when it sets itself up as moral arbitrator to the world.

The European Humanist Federation urges Governments of other member states to use their diplomatic relations with the Holy See to warn it off from interference in criminal investigations and the rule of law in their countries and in political decision-making in their polities. What Government would allow such interference by any other state?

Offending priests found guilty under Canon Law are often sentenced to a period of retreat and contemplation on their sins. It would befit the Holy See to enter a period of silence and withdrawal from the world stage while it contemplates its moral defects, manifest to all but itself, and while it rethinks not just its priorities but also the position it occupies in the comity of nations which renders it subject to the commitments stated in the international instruments that I quote above.

At the same time it behoves to OSCE and its member states to produce a clear and strict definition of freedom of religion or belief, to review the obligations placed on members of the organisation and to reaffirm the paramount importance of legality and of the rule of law. This would be welcome not only to Humanists like myself but to a probable majority of lay Roman Catholics in European countries who are equally disgusted and scandalised by the recent record of the Catholic church. We sincerely hope OSCE will not disappoint our expectations.

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