

# COIN

**COMMISSION OF INQUIRY NOW**

**Justice for victims of Catholic Clergy Sexual Assault in Victoria**

23 August 2012

The Hon Georgie Crozier MLC,  
Chairman, Family and Community Development  
Committee, Parliament of Victoria, Spring Street  
MELBOURNE VIC 3000

Dear Ms Crozier,

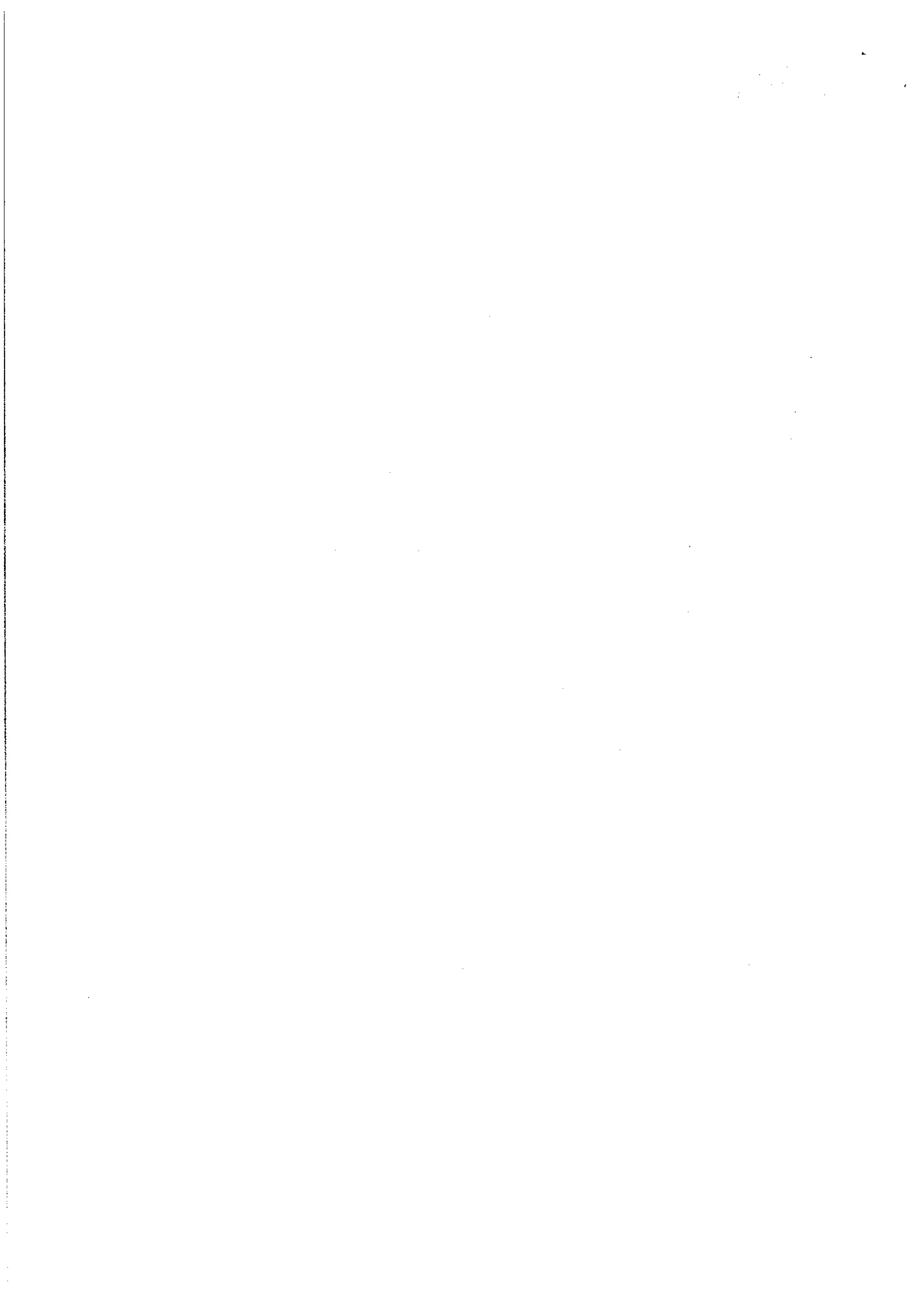
**Inquiry into Handling of Child Abuse by Religious  
and other Organisations -  
COIN Submission No 6:  
“European Inquiries into Sexual Assault by Catholic Clergy.”**

We write to briefly outline recent inquiries into sexual assault by personnel associated with the Catholic Church in Europe, in the hope that the Committee might be both better informed of modern day responses to this world-wide phenomenon; and that the material below might indicate further research for the Committee to pursue.

**Independent Judicial Inquiry:** As previously stated, COIN considers that the Government’s choice to refer the issue of the sexual assault of children by personnel associated with the Roman Catholic Church (“RCC”), let alone by personnel from thousands of additional religious and other organisations, to a Parliamentary Committee for inquiry and report is inadequate and unworkable. COIN favors the commissioning of a properly empowered, independent, judicial inquiry into this problem. This issue will be addressed in a further submission.

Accordingly, COIN considers your Committee to be a “first step” towards the instigation of such a judicial inquiry. COIN thus recommends that the Committee, in its final Report, records and acknowledges its inadequacy; and recommends to government that such a further, independent judicial inquiry be forthwith commissioned.

**Focus on the RCC** COIN considers that the Committee’s Term of Reference are unworkable if thorough examination of this significant problem, and well-founded recommendations to government, are to occur. The Terms of Reference embrace thousands of religious, and other, organisations and would require many years to pursue: yet the Committee is required to report by 30 April 2013. Second, COIN considers RCC clergy, and the Church’s hierarchy, to be the main perpetrators of sexual assault upon children and vulnerable adults in Victoria. Thus, in this submission, COIN focuses solely on the RCC, and





encourages the Committee to do likewise, both as a matter of practical reality and in an endeavour to conduct a though, focused inquiry as compare to a superficial treatment of many organisations.

**(1) United Kingdom:**

**(A) The Nolan Inquiry** The Nolan inquiry was an independent inquiry established in 2000, headed by former law lord, Lord Nolan, it produced 83 recommendations to protect children. These recommendations were drawn up by a committee of four Catholics and six non-Catholics. They build on 50 measures outlined in an Interim Report published in April 2001. The final report makes new recommendations, including measures to make sure children and priests are visible during confession.<sup>1</sup>

**Terms of reference** The Nolan Committee's terms of reference were: *To examine current concern about standards of conduct of holders of public office, including arrangements relating to financial and commercial activities and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of probity in public life.*<sup>2</sup>

**Scope: diocese/country** The Nolan report investigated the issue of paedophile priests and child protection in the Catholic Church in England and Wales.<sup>3</sup>

**Summary of report/recommendations** The Nolan Report contained eighty three recommendations about how the Church should deal with the issue of the protection of children and young people. In broad terms the Nolan Report set out to do two things:

- Prevent child abuse from occurring within the Catholic community in England and Wales
- Where abuse is disclosed or suspected, ensure that the Church deals with it properly.

Nolan recommended a Safeguarding Commission should be established in each Diocese, with responsibility to oversee all matters to do with the protection of children, young people and vulnerable adults, and make recommendations to the Bishop if any action is necessary. Police, the Probation Service and Children's Social Care should be represented on the Commission, to ensure openness and transparency about everything done in the Diocese.<sup>4</sup>

**Summary of responses to the inquiry and report** The Nolan Report expected nothing but best practice by the Church in preventing child abuse and responding to it with the bishops committing to this vision. It is hardly "draconian" rather the same expectations are imposed as arise

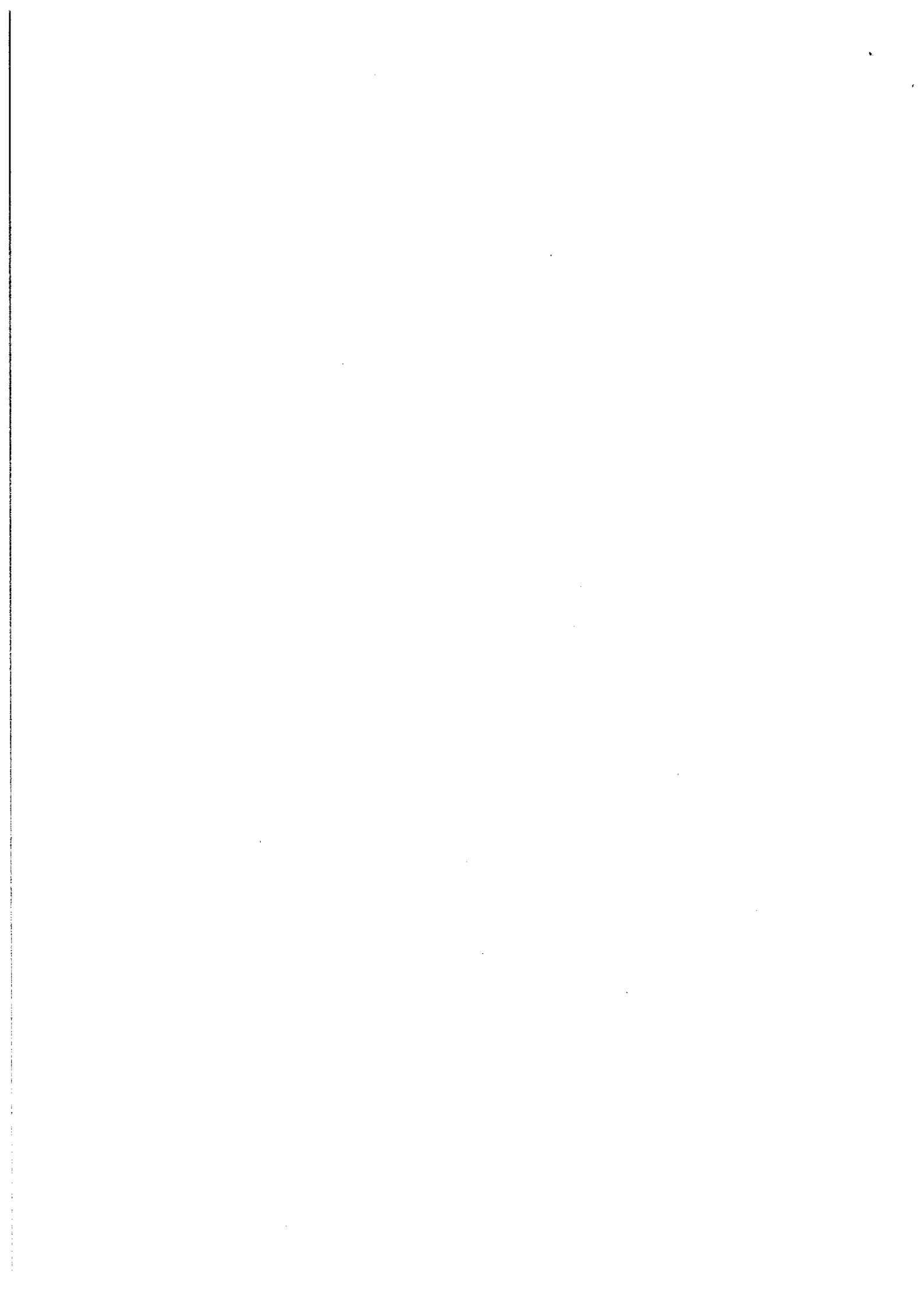
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<sup>1</sup> <http://www.guardian.co.uk/society/2001/sep/17/childrenservices.childprotection>

<sup>2</sup> <http://www.cathcom.org/mysharedaccounts/cumberlege/finalnolan1.htm>

<sup>3</sup> <http://www.guardian.co.uk/society/2001/sep/17/childrenservices.childprotection>

<sup>4</sup> <http://www.cathcom.org/mysharedaccounts/cumberlege/finalnolan3.htm>





with other organisations that work with children. The Report does not forbid priests hearing the confessions of children in private.<sup>5</sup>

**(B) The Cumberlege Commission** The Cumberlege Commission was formed in 2006, to review the way the Catholic Church in England and Wales responded to Lord Nolan's report: '*A programme for Action*' (2001). It specifically looked at how the Church, five years on, implemented Lord Nolan's 83 recommendations made to improve the arrangements for safeguarding children and vulnerable adults.<sup>6</sup>

**Terms of reference** The terms of reference for the Cumberlege Commission were:

- To review the implementation of the Nolan Report 'A Programme for Action' both nationally and locally in dioceses and religious congregations;
- To make any recommendations for change taking account of statutory and good practice developments since publication of the Nolan review;
- To consider the role of the central office in delivering these and any outstanding Nolan recommendations.<sup>7</sup>

**Scope: diocese/country** The Cumberlege Commission's goal was also to review the Catholic Church in England and Wales' policies in the prevention of child sexual abuse. Abuse issues have impacted on several British Catholic Orders:

- Diocese of Arundel and Brighton;
- Diocese of Plymouth;
- Archdiocese of Cardiff;
- Benedictine Cardori;
- Kiltegan Fathers;
- Diocese of Middlesbrough;
- Archdiocese of Birmingham.<sup>8</sup>

**State of play completed/ongoing** The Cumberlege Commission carried out its activities five years on from the independent review by Lord Nolan. It published its report, *Safeguarding with Confidence*, in July 2007.

**Summary of report/recommendations** The Cumberlege Commission's report makes a total of 72 recommendations, including:

- Setting up a new National Safeguarding Commission within the Church. The NSC should have an independent Chairman and transparent processes in order to provide a

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<sup>5</sup> <http://archive.catholicherald.co.uk/article/5th-october-2001/7/reactions-to-the-nolan-report>

<sup>6</sup> <http://www.cumberlegecommission.org.uk/>

<sup>7</sup> <http://www.cathcom.org/mysharedaccounts/cumberlege/tor.htm>

<sup>8</sup> <http://www.cumberlegecommission.org.uk/>





proper forum for debate. The new body should also take on responsibility for ensuring that national policies are followed;

- Changing the focus of the Catholic Office for the Protection of Children and Vulnerable Adults' (COPCA) work and giving it greater emphasis on raising awareness and on identifying and sharing good practice. The report recommends changing the central unit's name to the Catholic Safeguarding Advisory Service to reflect this. It also proposes changing the unit's management and accountability so that it is genuinely a part of the Church's mainstream work;
- Much more focus on safeguarding vulnerable adults, but not at the expense of safeguarding children;
- Reforming and strengthening the Church's procedures for investigating and managing allegations of abuse, including introducing the opportunity for review to ensure the process fits with the Church's universal laws and natural justice. The goal is to achieve a quicker, efficient, more transparent process that serves the victims of abuse and those accused of abuse;
- A special Canon Law for England and Wales to ensure that Church's safeguarding rules for children and vulnerable adults have full juridical authority, and a right of recourse to the Holy See against a diocese or religious congregation which fails to fulfil its obligations laid down by this law.<sup>9</sup>

**Summary of responses to the inquiry and report** The Cumberlege Commission considered the effectiveness measures taken by the Catholic Church since the Nolan Report; asked whether the Church has achieved its goal of becoming an example of good practice in the prevention of and response to child abuse; and examined the remit and effectiveness of the Catholic Office for the Protection of Children and Vulnerable Adults (COPCA) which has been the principal mechanism for the implementation of Nolan.<sup>10</sup>

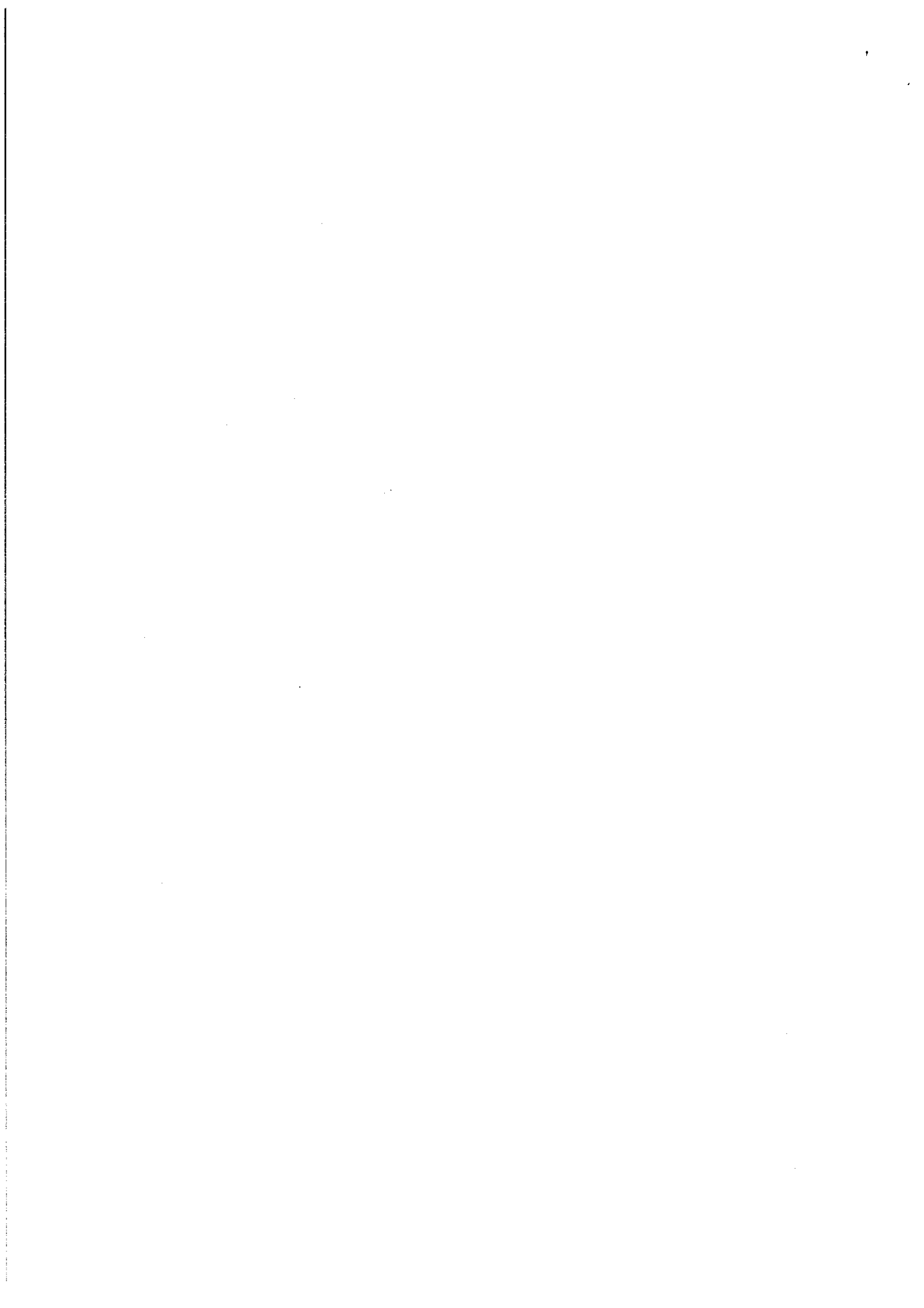
## **(2) Belgium:**

**Inquiry** Catholic Clergy sexual abuse has affected several Belgian dioceses. In response, an independent commission was established by the Belgian Episcopal Conference in 2000 under the presidency of Godelieve Halsberghe, a retired magistrate. More than 300 complaints were made to the Commission. The Commission ultimately dealt with 32 formal complaints. Of these, only 1 case came before a court the other 31 cases were investigated by the passage of time under statutes of limitation. In about half of the 32 cases, the alleged abusers (clerics and religious) refused to appear before the Commission, due to a lack of cooperation from the Belgian episcopate (ie. Church Hierarchy) where it refused to compel to abuses to appear. As a result the President and numerous Commission members resigned from the Commission.

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<sup>9</sup> <http://www.christthekingchurch.org.uk/page1/page34/page34.html>

<sup>10</sup> <http://clericalwhispers.blogspot.com.au/2007/11/catholic-leaders-promise-to-protect.html>





A second Independent Commission was established in 2009. Appointed by the Catholic Church and headed by independent child psychiatrist Peter Adriaenssens. He looked into 475 complaints.<sup>11</sup>

**Terms of reference** The Commission Terms of Reference have not been located.

**Scope: diocese/country** Sexual abuse by persist etc. was found to be very wide spread throughout Belgium. Paedophilia was alleged to have been committed in the 1950s through the late 1980s by Catholic clergy, by religious teachers of religion and adults working with youth movements. Diocese and Order involved included:

- Archdiocese of Mechlin-Brussels;
- Diocese of Antwerp, Bruges, Ghent, Hasselt, Liege, Namur, Tournai; and the
- Salesians Order<sup>12</sup>

**State of play: completed/ongoing** The 200 page Report was completed in September 2010. It listed cases involving 327 male complainants, 161 women, and 19 cases in which the gender of the victim was unclear.

**Summary of report/recommendations** The Report included victims' stories which revealed in detail their suffering. Many victims stated that they were still fighting illness and depression.

The Report amounts to the final act of the Commission. The Commission decided to terminate its work after the Belgian police confiscated its documents in a series of high-profile raids on Church property in June 2010 in search of proof of sexual abuse or of a cover-up by the Church. At the same time, the police searched the headquarters of the Catholic Church in Mechelen, disturbing the tomb of two cardinals in an unsuccessful hunt for documents. Seizures made by the police were then ruled inadmissible by Belgium courts.

While the legal process continues, the report underlines the human cost of abuse. It showed that most abuse occurred between the 1950s and the late 1980s, a period when priests, some of them teachers, had greater access to children and enjoyed great respect and trust among parents in Belgium, where Catholicism is the majority religion.<sup>13</sup>

**Summary of responses to the inquiry and report** The Report has had a huge impact on the Belgian Church and has highlighted the issue of sex abuse in that country.

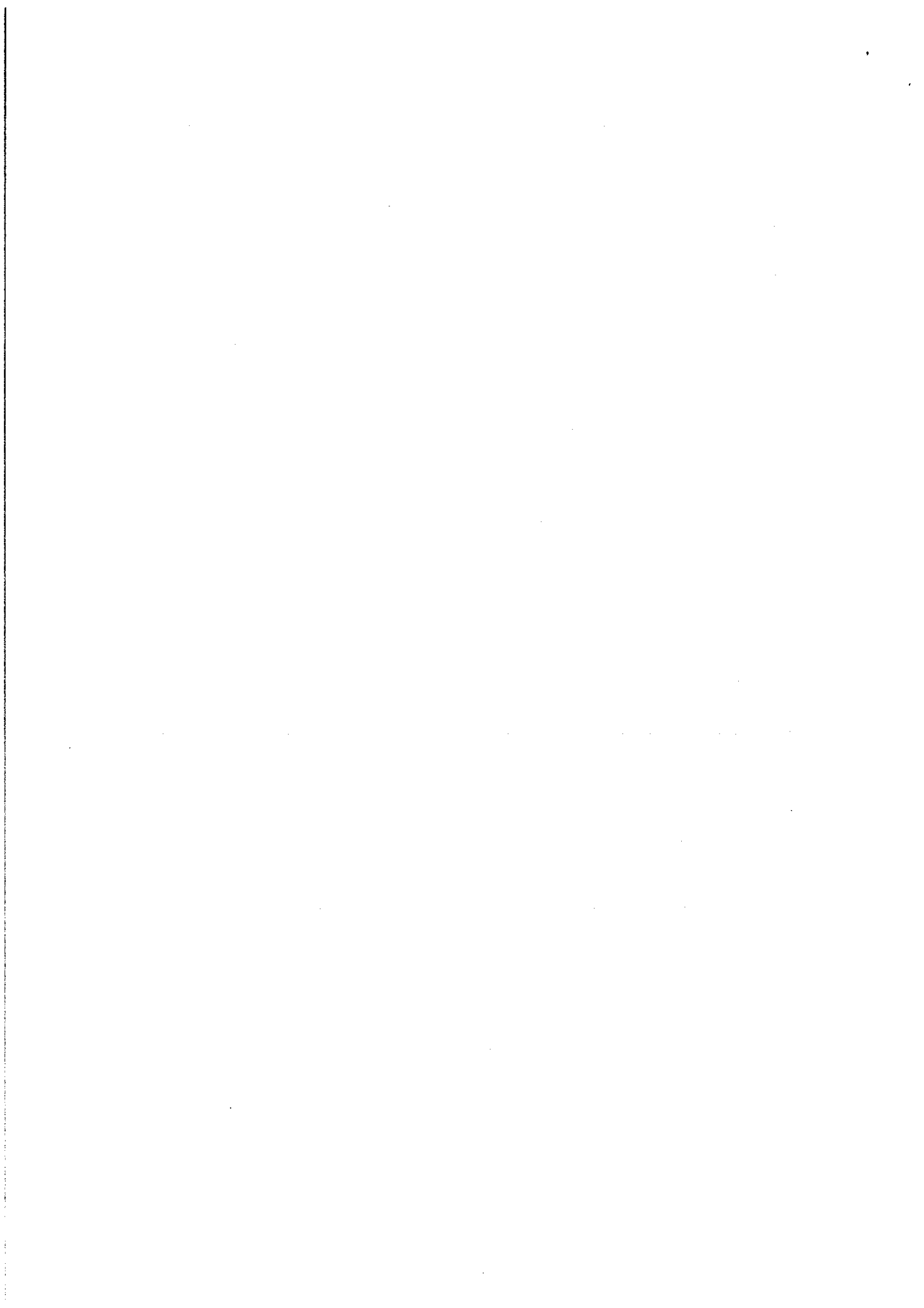
Acknowledging the scale of the scandal, the head of the Church in Belgium, Archbishop André-Joseph Léonard, vowed to do more to help victims, collaborate further with law enforcement, and punish abusers. But abuse victims immediately slammed his pledges as vague and evasive. They pointed out that the Church has yet to show how it will find and punish abusive priests. They also said there is no indication the Church is ready to give the

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<sup>11</sup> <http://www.abc.net.au/news/2010-09-11/no-congregation-escaped-belgian-sex-abuse/2256798>

<sup>12</sup> [http://en.wikipedia.org/wiki/Roman\\_Catholicism\\_in\\_Belgium#Pedophile\\_priests\\_scandal](http://en.wikipedia.org/wiki/Roman_Catholicism_in_Belgium#Pedophile_priests_scandal)

<sup>13</sup> <http://www.bbc.co.uk/news/10417102>





police and courts full rein in investigating and prosecuting abuse allegations against clergy. Nor, they complained, has there been any public apology from the top ranks of the Church's hierarchy.<sup>14</sup>

### **(3) Netherlands:**

**Inquiry** The Deetman Commission, the former education minister Wim Deetman chaired, a Commission of Inquiry into the sexual abuse of minors in the Roman Catholic Church in the Netherlands. The Inquiry was established in 2010 and submitted a report in 2011. This Commission was in response to a request of the Dutch Conference of Bishops. Prior to Deetman, the Dutch Religious Conference, reported on its inquiry into abuse cases from 1945 to 2010 affecting children entrusted to the care of the church in the Netherlands.

Deetman has been criticised by the Dutch parliament for failing to include evidence of the castration of at least ten minors by the Church. This cruelty was imposed as 'punishment' upon children who reported sexual abuse by Roman Catholic priests.<sup>15</sup>

#### **Terms of reference**

- The Conference of Bishops and the Conference of Religious in the Netherlands (KNR) commissioned an independent Inquiry into the sexual abuse of minors entrusted into the care of the Roman Catholic Church in from 1945 to the present.
- The recommendation to set up a Commission of Inquiry together with any supplementary wishes of the principals as set down at a meeting and published, determined the content and dimensions of the inquiry.
- The Commission of Inquiry had a mandate for 1.5 years this could be extended once for six months.
- The Chairman of the Inquiry was required to produce an estimate and monitor the budget. Costs were borne by the Conference of Bishops and the Conference of Religious in the Netherlands.
- Alongside the Chairman and Secretary, Commission members were required to possess various fields of expertise including the following (possibly combined):
  - A lawyer (criminal law and/or juvenile law, inquiry and/or investigative experience);
  - a psychologist;
  - a philosopher of science with an empirical background;
  - an (ecclesiastical) historian and/or a historian specialized in religion;
  - an expert in social care.
  - external expertise could be relied on an ad hoc basis (statistics, archives, canon law, specialized researchers etc.).

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<sup>14</sup> [http://www.bishop-accountability.org/news2010/09\\_10/2010\\_09\\_16\\_Cendrowicz\\_BelgiumsCatholic.htm](http://www.bishop-accountability.org/news2010/09_10/2010_09_16_Cendrowicz_BelgiumsCatholic.htm)

<sup>15</sup> <http://www.guardian.co.uk/commentisfree/belief/2012/mar/20/forcible-castrations-dutch-catholic-church>





\* The Commission managed a research team. This comprised a team leader and researchers with the above-mentioned expertise, including an archivist. Where the research team lacked necessary expertise, external experts were requested to provide answers to questions raised by the inquiry.

\*The Conference of Bishops and Religious in the Netherlands provided the office space and financial facilities

\* The Commission of Inquiry and the research team jointly defined a protocol with respect to the confidentiality of personal details disclosed to them in the course of the inquiry, or that become known to them in any other way. Strict confidentiality was observed towards third parties, in accordance with common practice in judicial investigations.

\* Conferences undertook to ensure that the researchers has access to all relevant archives; and

\* Ensure that persons with responsibility now and in the past could all be examined within the framework of the inquiry.

\* All parties and persons involved will refrained from making statements and providing information about the (possible) outcome of the inquiry until the Commission had submitted its final report to the principals. External contacts will be channelled through the chairman. The final report will be placed in the public domain. Thereafter, with observance of generally accepted rules and practice of due care and privacy protection, independently publish articles in scientific journals about historical aspects of the inquiry,

\* The principals, having studied the final report, will state what action they will take in respect of its conclusions and recommendations. Their full response must be published within six months of receipt of the final report.

\* Five years after publication of the final report the principals will report back to the members of the original Commission of Inquiry on their actions regarding the lessons, responsibilities and recommendations. This report will also be placed in the public domain.<sup>16</sup>

The Commission in Netherlands investigated several Dutch dioceses:

- Archdiocese of Utrecht
  - Dioceses of Den Bosch, Roermond and Rotterdam
- Salesians Order

**State of play: completed/ongoing** The final report of 1,100 pages was published by the Commission of Inquiry on 16 December 2011

**Summary of report/recommendations** The commission concluded that between 10,000 and 20,000 children in Roman Catholic institutional care had suffered sexual molestation in the period between 1945 and 1981. It also identified about 800 priests,

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[http://www.onderzoekrk.nl/fileadmin/commissiedeetman/data/downloads/eindrapport/20121505/76660\\_CD\\_Bijlage\\_Engels\\_.pdf](http://www.onderzoekrk.nl/fileadmin/commissiedeetman/data/downloads/eindrapport/20121505/76660_CD_Bijlage_Engels_.pdf)





brothers, pastors or lay people working for the church who had been named in complaints. About 105 of these were still alive, although it was not known if they remained in church positions. They were identified as "perpetrators" rather than "offenders", meaning the commission of crimes had not been proven.

Deetman concluded that the problem of abuse continued in part because the Catholic Church organisation in the Netherlands was splintered, so Bishops and religious orders sometimes worked autonomously to deal with abuse. However, the Commission concluded "it is wrong to talk of a culture of silence" by the church as a whole.<sup>17</sup>

**Summary of responses to the inquiry and report** The Dutch Bishops' conference and the Conference of Dutch Religious had already stated their readiness to cooperate with any follow-up of the report. Demands to reopen the Deetman inquiry grew in the wake of news reports of boys being castrated in the 1950s to prevent "homosexual behaviour." The Deetman Commission denied that it suppressed evidence of this practice when it published its report.

The Report was not specifically restricted to boys, but the Dutch Parliament took the view that the position of girls and women was not covered thoroughly enough. Wim Deetman recognized that a separate examination the abuse of this group was required.

A separate Commission is considering financial compensation for victims. In the first ten cases, the Diocese or Order concerned has been ordered to pay damages of between 5,000 and 20,000 euros. It is expected that Compensation of up to 100,000 euros will be awarded in exceptional cases.

Dutch MPs are calling for a full government investigation, both into abuse allegations and the Deetman Commission's activities.<sup>18</sup>

#### **(4) Denmark:**

**Inquiry** In 2009, the Catholic Church in Denmark requested a special investigator to look into whether it tried to cover up allegations of sexual abuse. The investigation started in 2010, it was based on the findings of a special legal Commission set up by the Church and carried out by lawyer Lars Kjeldsen.<sup>19</sup>

**Terms of reference** Kjeldsen was tasked with investigating whether there was an attempt to 'hush up or prevent the resolution of cases connected to the sexual abuse of

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<sup>17</sup>

[http://www.eurekaencyclopedia.com/index.php/Category:Black Collar Crime in The Netherlands General#Deetman Commission](http://www.eurekaencyclopedia.com/index.php/Category:Black_Collar_Crime_in_The_Netherlands_General#Deetman_Commission)

<sup>18</sup> <http://www.anglicanjournal.com/nc/other/news-items/article/dutch-catholic-child-abuse-inquiry-to-focus-on-girl-victims-10807.html>

<sup>19</sup> <http://www.vero.dk/issues/english/05-sex-scandals.htm>



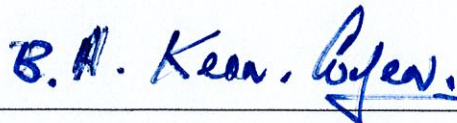


children and young people carried out by priests and other employees of the Catholic Church in Denmark'. The Commission stated that the church would have no influence its findings. <sup>20</sup>

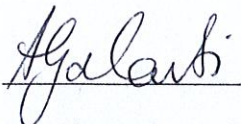
**Scope: diocese/country** The Diocese of Copenhagen was investigated, 17 cases of paedophilia, were continued. The investigation in fact had the authority to examine cases dating as far back as 1890 up to the present day. <sup>21</sup>

**Summary of responses to the inquiry and report** Even though many of the cases are so old that evidence has been lost preventing the laying of charges, the statute of limitations does not apply to the independent investigation. <sup>22</sup>

COIN requests that the submission be placed on the publicly available register.



Dr Bryan Keon-Cohen AM QC  
President, COIN



Ms Alexandra Galanti  
Law Student, Faculty of Law,  
La Trobe University, Bundoora.

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<sup>20</sup> <http://christianchildabuse.blogspot.com.au/2010/06/danish-church-opens-independent.html>

<sup>21</sup> [http://en.wikipedia.org/wiki/Catholic\\_sexual\\_abuse\\_scandal\\_in\\_Europe#Denmark](http://en.wikipedia.org/wiki/Catholic_sexual_abuse_scandal_in_Europe#Denmark)

<sup>22</sup> <http://www.vero.dk/issues/english/05-sex-scandals.htm>

