



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-fifth session

### Summary record of the 1853rd meeting

Held at the Palais Wilson, Geneva, on Thursday, 16 January 2014, at 3 p.m.

*Chairperson:* Ms. Sandberg

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (continued)

*Initial report of the Holy See on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (CRC/C/OPAC/VAT/1)

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*Initial report of the Holy See on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (continued) (CRC/C/OPSC/VAT/1; CRC/C/OPSC/VAT/Q/1)

1. *At the invitation of the Chairperson, the delegation of the Holy See took places at the Committee table.*
2. **The Chairperson** (Country Rapporteur for the Optional Protocols to the Convention on the Rights of the Child) invited the Committee to turn its attention to the State party's initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, contained in document CRC/C/OPAC/VAT/1, and to continue its consideration of the reports contained in documents CRC/C/VAT/2 and CRC/C/OPSC/VAT/1.
3. Turning first to the Optional Protocol on the involvement of children in armed conflict, she welcomed the fact that the State party had categorized the recruitment of children under the age of 16 years into the armed forces as a war crime but would like to know why that offence did not cover children up to the age of 18.
4. **Mr. Madi** asked whether the Catholic Church or affiliated institutions assisted child soldiers attempting to flee fighting in countries experiencing armed conflict. If so, what services did it provide in terms of rehabilitation and social reintegration?
5. **Ms. Winter** asked whether the State party might consider concluding agreements with other States regarding assistance to child soldiers.
6. **Monsignor Tomasi** (Holy See) replied that the rehabilitation of child soldiers was undertaken by local churches and consisted of progressively reintroducing them to normal life, facilitating contact with their families and ensuring that they were enrolled in school.
7. **The Chairperson** asked whether those services reflected a general policy of the Catholic Church or whether they were a result of initiatives taken by individual churches.
8. **Monsignor Tomasi** (Holy See) said that local churches were encouraged to take the initiative because they were better acquainted with local contexts and cultures.
9. In reply to questions raised previously, he said that the Holy See readily cooperated with national authorities during the investigation of offences against children committed by clergy, provided that the request was made through the proper diplomatic channels. The Holy See had not yet made a decision regarding ratification of the Optional Protocol on a communications procedure because the implications of doing so were still being examined.
10. Children had been indirectly involved in the preparation of the periodic reports of the Holy See through consultation with Catholic non-governmental organizations working on children's issues.
11. With regard to the question posed earlier by Ms. Herczog pertaining to alternative family models, he said that an extraordinary synod on family issues had been scheduled for October 2014. Meanwhile, Pope Francis had convened a meeting of cardinals in February

2014 to discuss the needs of children and the meaning of the family. It was the belief of the Holy See that a child's best interest should prevail.

12. Lastly, in reply to a question put by Mr. Cardona Llorens, he said that pastors were being trained in teaching methods, medicine and other disciplines in an effort to provide professional assistance to children under the care of Catholic institutions.

13. **Mr. Cardona Llorens** said that he had been more interested in what children were being taught about their rights, as defined in the Convention, than in the pedagogical methods used.

14. **Ms. Wijemanne** (Country Rapporteur for the Convention) asked whether the Holy See had any extradition treaties with other countries. She also asked whether it provided support to countries that wished to prosecute a priest, or whether such proceedings were left to national law enforcement officials.

15. **Monsignor Tomasi** (Holy See) said that, although the Holy See took the view that cooperation in the prosecution of offences was a moral and legal obligation, clergy were liable to prosecution under the justice system of the country in which they served. By the same token, various Catholic institutions around the world had authority in matters of adoption under national laws.

16. **Ms. Herczog** said that religious organizations in many countries were in essence facilitating child abandonment by providing so-called "baby hatches". She wished to know the State party's position on that practice and whether it had considered the Committee's recommendations in that connection.

17. **Monsignor Tomasi** (Holy See) replied that when a baby was abandoned, the immediate concern was for its life and safety.

18. **The Chairperson** said that it could be considered an oversimplification to assume that the only alternative to abandonment was that the babies concerned would die. There were other ways of supporting mothers who did not wish to keep their babies.

19. **Monsignor Tomasi** (Holy See) concurred with that view and cited the case of a home in New York where expectant mothers could come for counselling during pregnancy and deliver their babies in a protected environment.

20. **Ms. Wijemanne** asked whether the State party had considered addressing the manifold reasons behind unwanted pregnancies, such as poor access to reproductive health services.

21. **Monsignor Tomasi** (Holy See) said that it was the position of the Holy See that priority should be given to life. Therefore, all efforts to encourage women to carry their pregnancies to term were to be promoted. Children's rights were addressed by a variety of departments according to their area of expertise, such as pontifical councils for the family and for the pastoral care of migrants and of health-care workers, and the Congregation for Catholic Education.

22. **The Chairperson**, speaking as a member of the Committee and supported by **Ms. Oviedo Fierro** (Country Rapporteur for the Convention), asked whether there was a single, overarching body responsible for coordinating and monitoring the efforts of those disparate departments.

23. **Monsignor Tomasi** (Holy See) replied that the implementation of the Convention and its Optional Protocols was mainly entrusted to the Cardinal Secretary of State, who then assigned responsibility for specific areas to the various relevant departments. However, the Holy See would give careful consideration to the recommendation to establish a coordinating body. Perhaps the new commission established by Pope Francis,

which had a specific mandate to respond to cases of sexual abuse, could assume direct responsibility for coordinating the protection of children.

24. **Ms. Oviedo Fierro** said that she wondered whether the new papal commission was the appropriate body to coordinate the State party's activities concerning children's rights.

25. **Ms. Herczog** asked whether pastors were trained to recognize signs of abuse and answer children's questions about sensitive issues, such as sexual and reproductive health.

26. **The Chairperson** asked whether the Holy See had issued instructions and guidelines on working with children or whether the issuance of such guidance was deemed to be a diocesan responsibility.

27. **Ms. Oviedo Fierro** asked how widely the Circular on Developing Guidelines for Dealing with Cases of Sexual Abuses of Minors Perpetrated by Clerics had been disseminated, how many dioceses had devised plans to combat abuse and what tangible form such plans had taken.

28. **Ms. Winter** asked whether any members of the clergy were trained in dealing with child victims of abuse and child witnesses during the investigative phase of abuse cases.

29. **Monsignor Scicluna** (Holy See) said that the circular had been issued by the Congregation for the Doctrine of the Faith in May 2011 to all of the conferences of bishops, inviting them to produce local guidelines based on common essential points, such as the mandatory screening of all future pastors. Some 90 per cent of the conferences had replied, and the Congregation had reviewed most of the local guidelines contained in those replies.

30. **The Chairperson** asked how priests found guilty of sexual abuse were dealt with. Were they defrocked? Did the practice of shuffling them from one parish to another continue?

31. **Monsignor Scicluna** (Holy See) emphasized that simply moving an offending priest to another parish was absolutely out of the question. Dioceses had an obligation to inform one another of concerns regarding individual priests. In addition, part of abuse prevention involved caring for offenders to ensure that they did not reoffend.

32. **Mr. Cardona Llorens** asked whether religious orders were under the same obligation.

33. **Monsignor Scicluna** (Holy See) replied that religious orders were required to coordinate their response to abuse with the local bishop in order to ensure a uniform approach in a given territory.

34. **Ms. Winter**, observing that child abuse was also committed by lay members of religious institutions, asked whether the Holy See was considering prohibiting any contact between child molesters and children.

35. **The Chairperson** underscored that dismissal should be one of the penalties for child abuse and asked whether that penalty had ever been applied.

36. **Monsignor Scicluna** (Holy See) said that in 2002, Pope John Paul II had stated that there was no place in the priesthood or religious life for anyone who would harm the young; that statement had become central to the policy of the Holy See. The issue of protecting children from known sex offenders was fundamental. If offending clergy were not dealt with under local law because of a statute of limitations or for any other reason, then the Church was responsible for protecting children from that person.

37. **The Chairperson** said that she would like to know specifically what the Church would do to keep known sexual offenders from reoffending, and whether they would be removed from the priesthood.

38. **Monsignor Scicluna** (Holy See) said that most of the priests who had been found guilty of child sexual abuse had been dismissed. Many Catholic universities included human rights education in their curricula. The Holy See was aware of the need for specialized staff trained to deal with victims of child abuse, and the process of ensuring the presence of such staff in every country was ongoing.

39. **Ms. Wijemanne** asked whether the Holy See assumed responsibility for providing victims with compensation and support in the form of therapy. Was it making any efforts to educate children on how they might protect themselves from abuse and to provide helplines or complaint mechanisms that they could use to report abuse?

40. **Ms. Aldoseri** asked whether children received training from the Catholic church on the Convention and on their rights.

41. **Monsignor Scicluna** (Holy See) said that it was the responsibility of individual perpetrators to provide compensation to victims, in accordance with the national law in the country where the abuse had taken place. Nevertheless, the religious community could be proactive in providing long-term psychological support for victims and their families. He agreed that children should be taught to identify behaviours that constituted grooming. Victims and their families should be empowered and encouraged to report child abuse. Recognizing that in some cases cultural factors posed an obstacle, the Holy See did encourage local churches to adopt empowering attitudes.

42. **Ms. Oviedo Fierro** said that the answers provided led her to hope that the Holy See was truly engaged in resolving the problem of child sexual abuse within the Church. Nevertheless, the Committee had heard from a number of victims who had suffered great psychological trauma. She reminded the delegation that child sexual abuse was not an abstract issue, but one that affected real human beings with names and faces who needed closure to painful chapters in their lives. She strongly urged the Holy See to provide a more vigorous response to the problem and to use its dissuasive power to prevent further abuse.

43. **Mr. Cardona Llorens** asked whether victims had access to redress in cases where offenders were tried not by the national judicial system where the offence had occurred but by the Church under canon law.

44. **Mr. Gastaud** asked how the concept of grooming was explained to children in Catholic schools so that they could protect themselves from such practices.

45. **Ms. Wijemanne** asked what percentage of clergy accused of child sexual abuse had been prosecuted, to what extent national judicial systems had been effective in dispensing justice in such cases, and whether the Holy See supported those legal proceedings.

46. **Monsignor Scicluna** (Holy See) said that the Congregation for the Doctrine of the Faith issued instructions on the procedures to be followed in cases of sexual abuse, but that responsibility for follow-up was left to local churches. The Holy See, therefore, had data on the outcome of the procedures but not on the follow-up. Canon law upheld the principle of personal liability, whereby individuals were obliged to make amends for any damage that they caused to another individual. Canon law also provided for a criminal procedure, whereby victims could bring an action for damages against an offender as part of a canonical trial. He said that he shared the view that the Holy See should make greater efforts to inform victims of their rights and to ensure that its policies were applied by local churches.

47. **The Chairperson** suggested that the Holy See should compile the data held by local churches on follow-up to individual cases, which would help it to answer the Committee's questions. She pointed out that many States had compensation schemes for victims in cases where it was not possible to obtain compensation from the perpetrator. She asked whether the Holy See would consider establishing such a compensation scheme.

48. **Ms. Oviedo Fierro** asked whether clergy accused of sexual abuse might be brought to trial solely under canon law, or whether they were also required to submit to the jurisdiction of the national courts in the country where the offence had been committed.

49. **Mr. Mezmur** said that the Committee would like specific information about action being taken to combat sexual abuse. He asked what was preventing the Holy See from issuing guidelines that included serious sanctions for failure to cooperate with national prosecuting authorities or that established a duty to report abuse. The systemic policy of silencing victims must be addressed. Without transparency and accountability, real progress would be very difficult. The Committee was deeply concerned about the fact that known offenders might remain in positions where they had access to children. He asked to what extent the shortage of clergy might lead to an emphasis on quantity rather than quality.

50. **Monsignor Scicluna** (Holy See) said that he shared the view that further transparency and accountability at the local level were needed, and efforts to achieve that were ongoing. With regard to standards for acceptance into the priesthood, he firmly believed that only by emphasizing quality could quantity be ensured.

51. **Monsignor Tomasi** (Holy See) said that the shortage of clergy would not affect the requirements for entering the priesthood. He pointed out that it was in the West, where vocations were most scarce, that most cases of sexual abuse had taken place. In Catholic schools around the world, translations of the Convention into local languages were made available to students. Data collection from local churches was a huge undertaking, but he would relay the Chairperson's suggestion to his Government. There might have been some cases in which victims of abuse had been silenced, but in recent years the Holy See had been very clear about its objectives and policies on child abuse and had encouraged transparency.

52. **The Chairperson** said that there had been cases in which victims had received compensation under an agreement with the Church that had required them to remain silent.

53. **Monsignor Tomasi** (Holy See) said that most of the victims who had obtained compensation in the United States of America, for example, had done so through judicial proceedings. The Church had compensated those individuals without imposing any conditions.

54. **The Chairperson** asked whether the Holy See conveyed its position on transparency and on silencing victims to all local churches.

55. **Monsignor Tomasi** (Holy See) said that the official documents of the Holy See directed to episcopal conferences were moving in that direction.

*The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.*

56. **Monsignor Tomasi** (Holy See) said, with reference to questions raised in connection with the Optional Protocol on the involvement of children in armed conflict, that the Holy See was taking part in international disarmament efforts to keep small arms out of the hands of minors. Turning to other matters, he noted that there were discrepancies between statements made by the delegation of the Holy See and perceptions in the media and elsewhere and observed that perceptions were slow to change. What was important was to develop constructive initiatives that went beyond ideology and were of substantial benefit to children. The issue of child sexual abuse was a wound that was painful to the Church, as a community of faith.

57. **The Chairperson** reminded the delegation that it had not yet answered the question concerning the efforts undertaken by the Holy See to reunite children separated from mothers who had been sent to the Magdalene Laundries. The delegation had mentioned that it was prepared to cooperate with the Spanish authorities in prosecuting those responsible

for the children abducted from their parents under the Franco regime. How did it intend to do so in practice? She sought clarification concerning the excommunication of the mother and doctors of a 9-year-old girl in Brazil in 2009 who had undergone a life-saving abortion after being raped by her stepfather. Had the Church changed its position in respect of that incident?

58. **Ms. Herczog**, citing reports of a case in Nicaragua in which with the full support of the Church and the local community, a 10-year-old rape victim had been forced to give birth, wished to know how such a situation could be tolerated in the name of the Church. She would appreciate further clarification of the views of the Holy See on the various forms of family units that currently existed. Despite worldwide efforts to reduce the institutionalization of children in accordance with the Guidelines for the Alternative Care of Children, Church-run orphanages continued to be opened while many of the children accommodated in them were not orphans. Were there plans to change current policy and use donations and Church-run organizations to provide family-based care? How did the delegation view the position of children who were the sons and daughters of priests in the context of the family?

59. **Ms. Oviedo Fierro** said that there was a need to hear testimony from members of the Church who were victims or witnesses of abuse by the Church. She had been informed during the break in the meeting about a priest who had been transferred abroad to India after sexually abusing children. If priests were found by the Church to have committed such offences, should they not then be tried by national courts? She was not convinced that the Church was, in fact, cooperating with the relevant civil authorities in such matters, given that so many perpetrators had never stood trial. She therefore suggested that the Holy See should meet with civil society organizations to address those issues.

60. **Monsignor Tomasi** (Holy See), in reply to a question raised earlier, said that corporal punishment was, to a certain extent, a cultural matter that must be addressed at the regional level. The Holy See did not apply or advocate corporal punishment in its schools and institutions. Nevertheless, in some cultures, even Catholic institutions used corporal punishment. He did not have any data on such punishment to hand, however.

61. **The Chairperson** noted that the Committee emphasized that corporal punishment should be absolutely prohibited in all parts of the world. The Committee asked all States parties to ban such punishment, regardless of the region to which they belonged. Corporal punishment was unacceptable under any circumstances and should certainly not be used by institutions. She therefore suggested that the Holy See should issue a firm declaration prohibiting corporal punishment in any form, including in the family.

62. **Monsignor Tomasi** (Holy See) said that that was a good proposal which should be taken into account. His delegation would relay it to the authorities. Turning to the issue of the views of children in matters affecting them, he said that the extent to which due weight was given to their views also depended on local circumstances. Educational institutions attached to local churches needed not only to view children as subjects of rights with dignity, but, also to take into consideration their way of thinking and their priorities.

63. With regard to the Spanish children taken from their parents, he said that the position of the Holy See was that the State had already assumed its responsibilities and had settled matters through the courts. As the cases involved offences committed in a specific country, it was the responsibility of the local authorities to deal with them. The institutions involved in the offences must cooperate fully with the local justice system.

64. **Ms. Herczog** sought clarification as to whether the Holy See fully supported the efforts of local justice officials and other legal professionals to investigate such cases, regardless of the nature of the problem or institution involved. She noted that many Church

institutions were exempt from criticism and it was difficult for local authorities to intervene without their cooperation.

65. **Monsignor Scicluna** (Holy See), emphasizing that concern for the child was of paramount importance, said that regardless of the institution or person involved, nothing should stand in the way of the application of national law.

66. **The Chairperson** noted that the Holy See would not in any way be obstructing due process if it were to provide the authorities with information available to it on missing or abducted children in order to help reunite such children with their parents, if at all possible. The Holy See could also encourage other institutions to release any relevant information that they had. In many cases, there was still a need for greater transparency.

67. **Monsignor Tomasi** (Holy See) said that as the cases involved conduct that was not automatically reported to the Holy See, information might exist at the local level that should be shared with the local authorities with a view to bringing about closure. Those cases were unlike cases of sexual abuse of minors, which, since 2001, must be reported to the Holy See.

68. **The Chairperson** said that the Committee trusted that the Holy See would encourage local churches to disclose such information.

69. **Monsignor Tomasi** (Holy See) said, in reply to questions raised by Ms. Herczog, that the Holy See viewed the family as comprising a man, a woman and children. Society had a variety of family arrangements. Caring for children and concern for their well-being and their future must be given priority, in accordance with the requirements of the Convention. Concerning the children of priests, a father must fulfil his obligations under the law of the State in question and assume the natural responsibilities that came with fathering children. The Holy See had never contested the fact that clergy were subject to prosecution for offences committed under the national laws of the State of which they were citizens. Turning to the question raised about the abortion case in Brazil in 2009, he said that the father should be treated like the mother and should share in any penalty imposed.

70. **Mr. Cardona Llorens** reiterated the question that he had raised at the previous meeting concerning the views of the Holy See on the conclusions set out at the international symposium on adoption held in Seville, Spain, in 1994, particularly concerning clandestine and private adoptions. What steps had the Holy See taken to ensure that the conclusions reached at the symposium became a reality?

71. **Monsignor Scicluna** (Holy See) said that there must be follow-up at the local level to all of the conclusions cited in the report concerning adoption. There was a need to ensure that more children were cared for in family settings. He had witnessed children deprived of such care in his diocese in Malta, which had worked with the Government to ensure that as many children as possible lived in families. Nevertheless, there remained heart-rending cases of children without parental care in institutions. Local churches dealt with such cases on a daily basis.

72. **Monsignor Tomasi** (Holy See) said that every effort was made to place children without parental care in family settings. However, the Church continued to open care institutions in response to the realities on the ground. For example, he had personally been involved in opening a home in Ethiopia for children infected by HIV/AIDS, whom no one wished to adopt. Considerable efforts had been made to create as much of a family environment for those children as possible.

73. **Ms. Khazova** reiterated her question regarding the reservation made by the Holy See to the Convention, in particular paragraph (b) which safeguarded the rights of parents in respect of a child's education, religion, association with others and privacy. She wished to know whether that issue would be put on the agenda of a meeting to be held in the

autumn on parent-child relations, and whether the Holy See envisaged the possibility of removing that paragraph.

74. **Monsignor Tomasi** (Holy See) said that all the reservations made to the Convention were currently under review and, in particular, that set out in paragraph (b). The Holy See did not want to become embroiled in ideological definitions of the family. It wished to stick to the definition of the family as it normally understood it.

75. Turning to the questions concerning a possible compensation scheme for victims of sexual abuse and whether the Holy See was prepared to provide all available data from its archives on sexual abuse cases in general, he said that his delegation took the requests of the Committee seriously but was not currently in a position to provide answers.

76. **Mr. Mezmur** asked the delegation whether the Committee could expect a written response in the foreseeable future. He noted with appreciation the example of the Ethiopian orphanage. The Committee was not opposed to institutionalization in general. The problem was that the moment there were institutions, there would be children to fill them. Institutionalization must always be a measure of last resort.

77. **Monsignor Tomasi** (Holy See) said that he fully agreed that institutionalization should be seen as a last resort and that priority should be given to placing children in family settings.

78. **Ms. Wijemanne** expressed appreciation for the dialogue with the delegation. She trusted that the Holy See would take all of the Committee's recommendations seriously. The questions raised had all been raised in the spirit of the best interests of the child. She looked forward to further progress on the protection and promotion of the rights of the child.

79. **Ms. Oviedo Fierro** said that the Committee had great expectations that new steps would be taken, including enhanced dialogue with civil society, which would attest to the new era that had been ushered in for the Holy See. The influence and power of the Holy See could be used to ensure that children in need of protection were protected.

80. **The Chairperson**, speaking as Rapporteur for the Optional Protocols, said that she endorsed both statements by the Country Rapporteurs.

81. **Monsignor Tomasi** (Holy See) said that his delegation looked forward to the Committee's concluding observations and recommendations. He thanked the Committee members for voicing their concerns and for their interest in the activities and report of the Holy See. The Holy See would continue to work for all children and to advocate on their behalf, regardless of their race, colour or religion. The process on which it had embarked was leading to the fulfilment of the values and ideals of the Convention.

*The meeting rose at 5.35 p.m.*