

## **RCNI Submission to the working group on Child Protection, Dec. 2003**

### **Submission to the Working Group on Child Protection,**

Chaired by Ms Maureen Lynott

### **From the Rape Crisis Network Ireland.**

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### **About the Rape Crisis Network Ireland.**

The Rape Crisis Network is the umbrella body for Rape Crisis Centres (RCCs) in Ireland. As an all-Ireland organisation we represent and support 16 member RCCs. The RCNI has made submissions to a great variety of organisations and committees responding to sexual violence, including the Human Rights Commission, Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights, the Crime Council to name but a few.

The RCNI is a critical policy advisor to Government and Government led committees. We advocate on behalf of survivors and the sector as a whole and represent the sector on a number of committees. We have initiated a number of research projects. This includes a 3-year study tracking reported rapes through the legal system commencing in 2003. We are also the led agency in an EU wide response to sexual violence, through the European Rape Crisis Network.

The RCNI is an active member of the National Steering Committee on Violence Against Women, and the NGO Coalition, which shadows this process.

Our vision is a society where rape and all other forms of sexual violence no longer exist. Our mission statement is that we are the national forum of RCCs, which provides a strong voice for survivors and is a catalyst for social change to end rape and all other forms of sexual violence.

### **The Catholic Church.**

Rape Crisis Centres through-out Ireland are supporting survivors of sexual abuse by religious, which was perpetrated on both adults and children.

In 2002 the RCNI co-organised a conference with MACSAS (Minister & Clergy Sexual Abuse Survivors, UK ) entitled The Sexual Abuse of Adults by Helping Professionals, including the clergy. This

conference identified sexual relations between clergy and any member of their ministry as exploitative and abusive, and called for the introduction of legislation to address same.

The Working groups' invitation to hear from community based organisations working with survivors in order that our expertise can inform your response further is very timely. We welcome the opportunity to make a submission to this Working Group towards the development of a comprehensive and integrated child protection policy and a set of procedures for the Catholic Church on the island of Ireland.

In preparing the RCNI submission the Church's current *Child Sexual Abuse Framework for a Church Response* document was thoroughly considered. The RCNI is mindful of the fact that this document has provided clear guidelines and this is to be welcomed. The Church is beginning to develop appropriate responses. Before considering the report in detail I would outline the RCNI main concerns:

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### **1. The terminology in the Child Sexual Abuse Framework for a Church Response.**

The RCNI is deeply concerned at the absence of the use of the word crime in the 9 pages of the forward and Chapter 1. In these pages the crime of child sexual abuse is variously referred to as "the wrong", "this betrayal", "the particular evil", "sinfulness" and "the problem of child sexual abuse". This kind of language is not helpful, especially when the word crime does not appear at all. It is very unhelpful given the Church's response to date. It is also surprising, given that survivors in contact with RCCs describe their disempowerment having reported abuse and being met by the very legalist response of the Catholic Church.

### **2. The Reality of the Irish Judicial System and the Absence of Legal Redress for Victims of Child Sexual Abuse.**

The SAVI report conducted a national survey on sexual violence. It found that "Legal redress for sexual crimes...was the exception rather than the rule." (Executive summary). In the SAVI research of cases of child sexual abuse reported to the Gardai only 16% resulted in any court proceedings, with less again resulting in actual convictions. (SAVI Executive Summary)

"What is disturbing about Irish conviction rates is the fluctuation year on year and the extremely low rate of 1 – 2 per cent from 1993 – 2000. The overall trends are that whilst prosecutions have risen alongside reporting, convictions have fallen in both percentages and absolute terms. *Ireland has the lowest conviction rate amongst countries providing data.*" (Emphasis added. pg 8).

The above data tells us that whilst reporting of sexual violence has increased in Ireland the percentage of reports now resulting in a conviction at an all time low of 1 – 2%! The reasons for this are complex and beyond the remit of this submission. However, it is without doubt that the Irish Judicial system is not capable of providing legal redress to victims of child sexual abuse in the vast majority of cases.

The Church document does not remotely recognise the reality of the failure of judicial response to sexual violence in Ireland. It appears from the Framework for A Church Response that every allegation of child sexual abuse against a member of the religious that does not result in a conviction is automatically deemed a false allegation. The document includes one statement in an appendix on page 57: "The operation of this principle means that, in cases of doubt, guilty persons may sometimes be acquitted". This minor reference to the flaws in our current judicial system falls far short of any recognition of the reality and is a simplistic analysis, given the data that is available.

The document then proceeds to place great emphasis on the obligations of the church to restore the good name of the alleged perpetrator. In fact, this is exceptionally strongly worded on pg 15: "if it is found that an accusation is without foundation, *extreme* care is to be taken that the person wrongly accused is completely reinstated in good standing and that all blot or stain is entirely removed from his or her character and good name". (Emphasis added). This statement is exceptionally strong, and is very revealing of the inherently divided agenda and loyalties of the Catholic Church.

Such a statement, and the repeated and numerous references through-out the document to false allegations are very distressing to survivors of sexual violence where cases have not proceeded for a number of reasons. They know that their accusations were not without foundation, and the absence of legal re-dress serves to further compound experiences of isolation and disempowerment.

The RCNI is not stating that there are no false allegations. However, false allegations are rare and are greatly exceeded by the numbers of survivors to whom legal redress is not available. We urge the Working Group to re-consider their position that absence of conviction equals a false allegation. The document seems unfairly weighted towards the protection of the good name and reputation of alleged abusers and any "tarnishing" of them, given what we know about the rate of attrition in Ireland. There are six references to false or unfounded allegations and only one to any flaw in our legal system.

### **3. Monitoring of the Church's Guidelines and Accountability.**

How is the implementation of the guidelines monitored? Who monitors their implementation? What authority do the findings of any monitoring procedure have? How would the outcome or recommendations of any monitoring process be taken on board? This later point relates especially to Bishops who have an over-riding decision making position to the advisory panel. What is the procedure if allegations are made against a bishop?

How could non-statutory NGOs such as RCNI continue to have meaningful exchange with the Church regarding child protection issues, and other abuses perpetrated by the clergy and religious, including sexual exploitation of parishioner and adult residents of church run organisations, such as children and adults with disabilities and the

### **4. Response to specifics of the document.**

Pg 16: The RCNI is not convinced that therapeutic help for offenders is an *important* element in the prevention of abuse and protection of children: given the on-going debates regarding effectiveness of programmes they are an element.

On occasion the language used in the document is unhelpful, for example where disclosures and allegations are described as “revelations”. Pg 16.

Reporting of Child Sexual Abuse:

This section includes very helpful definitions and guidelines.

Pg 24:

“The Bishop or religious superior should conduct a regular review of the matter”: Do review and monitoring mechanisms involve professionals from outside of the church? Could they?

Why has the church chosen to appoint *legal support* for the alleged perpetrator, and *support* for the victim? “The advisor should have regard to all pastoral, legal and therapeutic issues arising for the accused priest or religious” PG 26: again we are struck by the imbalance of what is offered.

The role of the delegate:

How is 4.4.3 monitored? How often is the support person not available?

4.4.5 “the Delegate should ask the complainant to provide a detailed account of the wrongful acts alleged and their background and circumstances” The term “wrongful acts” is unhelpful. But why is the delegate to do this? The purpose of encouraging someone to discuss abuse allegations in detail is entirely unclear and may be very unhelpful in the context of a criminal investigation. Does this occur whether or not the complainant is making a statement to Gardai? This could be deeply traumatic for a victim – even though it may not appear to be at the time as some survivors have developed excellent skills of dissociation and disembodiment.

Does this ever take place in the absence of a support person and prior to any counselling and support? If this is the first time someone has disclosed they may be very vulnerable to taking direction from others and may later regret giving such deeply personal information.

We would recommend that the Working Group seek legal advice from the office of the DPP or the Attorney General on this, as it may have the potential to prejudice future proceedings.

The experience of RCCs is that many survivors first make disclosures during times of personal crisis; when the coping mechanisms used to keep the abuse at bay are no longer functioning. The survivor may be especially vulnerable at this time, as new coping strategies have not yet emerged. We are very concerned at this recommendation regarding requesting detailed information by the Delegate.

This section goes on to recommend that at an appropriate time the delegate conduct an interview with the accused priest or religious (pg32): is this considered in light of Gardai investigations, and are guidelines available regarding the possible “tipping-off” of offenders?

The role of the support person does not include that of ensuring that legal support is made available, and this is where the document reads as unbalanced as this is ensured for the alleged perpetrator.

This is re-enforced in the following section where the alleged perpetrator is described as feeling "isolation and vulnerability" No mention is made of the need for the Advisor to be particularly alert to the capacity of sex offenders to manipulate and operate in an entirely calculated manner throughout the denial of allegations.

It is difficult not to be struck by the service provided by the Church to the accused; it is almost as if a second layer of legal expertise is at all times available, whereas the victims experience will be that of being reduced to a witness, should the case even proceed to a trial, which in itself is unlikely. It is difficult not to read this as a bias on the behalf of the Church towards the accused, given the absence of any Church campaigns to address the absence of legal redress in Ireland for victims of child sexual abuse.

How will the "bishop or religious superior "satisfy" after consideration of the facts and circumstances of the complaint that the priest or religious has been wrongly accused" (pg 17)? It is difficult to accept that one individual, from within an organisation that has a history of putting the protection of the Church first should make this decision single-handed.

The situation is of course entirely different where an allegation is admitted to be false, but it is interesting to note that the document does not make any reference to the therapeutic or spiritual needs of someone who has made a false allegation.

"Where an allegation is not subsequently substantiated a grave injustice will have been caused to the accused person. (Pg 37)." As outlined above, this is not necessarily the case.

Regarding the section titled:

The Assessment and Treatment of Priests and Religious Accused of Child Sexual Abuse"

As a prevention mechanism treatment programmes are entirely limited to cases where the offender can acknowledge that he or she has committed an offence and is prepared to accept responsibility for it. A far more effective prevention mechanism would be an effective legal system that provides legal redress and convicts sex offenders.

Section regarding Selection and Formation for the Diocesan Priesthood and for the Religious Life.

8.8.8: "an effective maturity which includes reasonable awareness and acceptance of their sexuality, and an ability to relate to all those to whom they will be expected to minister – both adults and children." The response of the Church to sexual violence must extend beyond child sexual abuse to include the sexual abuse and exploitation of vulnerable adults by members of the religious, and this must be included in training.

Furthermore, the Church must support the introduction of legislation which recognises that sexual relations with parishioners and/or others to whom religious administer a professional helping relationship is sexual abuse.

The section on creating greater awareness of Child Sexual abuse is good, but again child sexual abuse is described as a “problem” both in the header and the text. The appropriate term is crime.

The need for therapeutic help for abusers must be communicated with realistic assessment of its limitations and cognisance taken of its appropriate context being within a properly functioning judicial system which is achieving the twin goals of punishment and containment coupled with deterrence and rehabilitation.

Education and training should also include the nature of the behaviour of perpetrators, including the levels of manipulation and grooming of victims.

The RCNI supported the Department of Education & Science Exploring Masculinities Programme in schools, particularly because of its naming and recognising of male violence against women and children. What is the Catholic Church position on the running of this programme in schools? Are schools encouraged to run the programme?

The RCNI would again like to acknowledge the opportunity to make a submission to this valuable forum. We trust that our submission will be given the consideration it deserves in the interest of survivors of sexual violence and our member RCCs who represent them.