



SALA STAMPA DELLA SANTA SEDE **BOLLETTINO**

HOLY SEE PRESS OFFICE BUREAU DE PRESSE DU SAINT-SIÈGE PRESSEAMT DES HEILIGEN STUHL
OFICINA DE PRENSA DE LA SANTA SEDE SALA DE IMPRENSA DA SANTA SÉ
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N. 0511

Sabato 03.09.2011

Sommario:

◆ RESPONSE TO MR EAMON GILMORE, TÁNAISTE AND MINISTER FOR FOREIGN AFFAIRS AND TRADE OF IRELAND, CONCERNING THE CLOYNE REPORT

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On 14 July 2011, following the publication of the Report of the Commission of Investigation into the Diocese of Cloyne (*Cloyne Report*), Mr Eamon Gilmore, Deputy Prime Minister (Tánaiste) and Minister for Foreign Affairs and Trade of Ireland, in the course of a meeting with the Apostolic Nuncio in Ireland, Archbishop Giuseppe Leanza, requested him to convey to the Holy See a copy of the *Cloyne Report* together with the Irish Government's views on the matters raised, to which the Minister requested a Response.

Recognising the seriousness of the crimes detailed in the Report, which should never have happened within the Church of Jesus Christ, and wishing to respond to the Irish Government's request, the Holy See, after carefully examining the *Cloyne Report* and considering the many issues raised, has sought to respond comprehensively.

This morning, 3 September 2011, Monsignor Ettore Balestrero, Under-Secretary for Relations with States, met with Ms. Helena Keleher, *Chargé d'Affaires, a.i.* of the Embassy of Ireland to the Holy See, and consigned to her the Holy See's Response to the Irish Government.

Here following the full text is published. Also published is an Executive Summary of it. For a fuller appreciation and understanding of the comprehensive information supplied by the Response, the reader is invited to read it in its entirety.

• TEXT OF THE RESPONSE BACKGROUND

On 14 July 2011, following the publication on the previous day of the Report of the Commission of Investigation into the Catholic Diocese of Cloyne (*Cloyne Report*), Mr Eamon Gilmore, Deputy Prime Minister (*Tánaiste*) and Minister for Foreign Affairs and Trade of Ireland, met with the Apostolic Nuncio in Ireland, Archbishop Giuseppe Leanza.

In his speaking points, a copy of which he gave to the Nuncio, the Minister stated: *"among the most disturbing of the findings of the Cloyne report is that the Vatican authorities undermined the Irish Church's own efforts to deal with clerical child sexual abuse by describing the framework document adopted by the Bishops' Conference as a mere 'study document'. The Commission have described this intervention by the Vatican as entirely unhelpful to any bishop which wanted to implement the procedures adopted by the Bishop's conference and as unsupportive, especially in relation to report to the civil authorities. Frankly, it is unacceptable to the Irish Government that the Vatican intervened to effectively have priests believe they could in conscience evade their responsibilities under Irish law."*¹ The Minister then requested him to convey to the Holy See a copy of the Report together with the Irish Government's views on the matters raised, and asked for the Holy See's response in the following terms: *"I would ask you to convey this report and my Governments view's to your authorities in the Vatican. I believe that a response is required and I look forward to receiving it."*

On 20 July 2011, the Irish Prime Minister (*Taoiseach*), Mr Enda Kenny, made a speech in *Dáil Éireann* in which he asserted that *"for the first time in Ireland, a report into child sexual abuse exposes an attempt by the Holy See to frustrate an Inquiry in a sovereign, democratic republic as little as three years ago, not three decades ago. And in doing so, the Cloyne Report excavates the dysfunction, disconnection, elitism ... the narcissism that dominates the culture of the Vatican to this day."* Commenting on the meeting between the Apostolic Nuncio and the Minister for Foreign Affairs, Mr Kenny stated: *"The Tánaiste left the Archbishop clear on two things: the gravity of the actions and attitude of the Holy See. And Ireland's complete rejection and abhorrence of same."*

Subsequently, a motion on the *Cloyne Report* was passed in which, among other things, *Dáil Éireann* *"deplores the Vatican's intervention which contributed to the undermining of the child protection framework and guidelines of the Irish State and the Irish Bishops"*. The same motion was passed by *Seanad Éireann* on 27 July 2011.

On 25 July 2011, the Press Office of the Holy See published the decision taken by the Secretariat of State to recall the Apostolic Nuncio for consultations.

RESPONSE OF THE HOLY SEE

The Holy See has received and carefully examined the Report of the Commission of Inquiry into the manner in which allegations of child sexual abuse committed by clerics in the Diocese of Cloyne were handled by the relevant authorities between 1996 and 2009 (henceforth referred to as the *Cloyne Report*). This Report has brought to light very serious and disturbing failings in the handling of accusations of sexual abuse of children and young people by clerics in the Diocese of Cloyne.

At the outset, the Holy See wishes to state its abhorrence for the crimes of sexual abuse which took place in that Diocese, and indeed in other Irish Dioceses. The Holy See is sorry and ashamed for the terrible sufferings which the victims of abuse and their families have had to endure within the Church of Jesus Christ, a place where this should never happen. It appreciates how difficult it must have been for them to approach the authorities and speak of their appalling and traumatic experiences, which continue to blight their lives, and hopes that the sharing of these experiences will go some way towards healing their wounds and allowing them to know inner peace and serenity.

Furthermore, the Holy See is close to the people of the Diocese of Cloyne, who are in an understandable state of anger, confusion and sadness because of what has happened, and to its priests, the majority of whom are irreproachable and continue to do much good in their communities in these trying circumstances, as they labour in the Lord's vineyard.

The Holy See is deeply concerned at the findings of the Commission of Inquiry concerning grave failures in the ecclesiastical governance of the Diocese of Cloyne and the mishandling of allegations of abuse. It is particularly disturbing that these failures occurred despite the undertaking given by the Bishops and Religious Superiors to apply the guidelines developed by the Church in Ireland to help ensure child protection and despite the Holy See's own norms and procedures relating to cases of sexual abuse.

The approach taken in recent times by the Church in Ireland to the problem of child sexual abuse has benefitted from ongoing experience, as was demonstrated by the publication in December 2008 by the Diocese of Cloyne of the report of the Church's National Board for Safeguarding Children (known as the *Elliott Report*), which did not hesitate to criticise severely the manner in which cases of sexual abuse had been handled by that Diocese. The publication of this report appears to have played a significant role in the Irish Government's decision to refer the Diocese of Cloyne to the Dublin Archdiocese Commission of Inquiry, a decision taken despite the Irish Health Service Executive's recommendation that "*a referral to this Commission was not warranted*" (6.96). The *Elliott Report* also led to the Diocese implementing major changes to the handling of child abuse allegations, as the *Cloyne Report* acknowledges (6.99).

The *Cloyne Report*, while acknowledging "*that the standards which were adopted by the Church are high standards which, if fully implemented, would afford proper protection to children*" (1.15), challenges all involved to ensure more effective implementation of the relevant norms and guidelines.

Since the *Cloyne Report* is being examined by the relevant Irish civil authorities with a view to determining whether there are grounds for criminal and civil prosecution, the Holy See does not wish to encroach on matters which may currently be the object of study and investigation by these instances.

This Response, therefore, refers to issues directly relating to the Holy See which were raised in the *Cloyne Report*, by the *Tánaiste* in the above-mentioned meeting with the Apostolic Nuncio, by the *Taoiseach* in his *Dáil* speech of 20 July 2011 and in the motion passed by *Dáil Éireann* on the same day and by *Seanad Éireann* a week later. It also provides a more complete account of the Church's legislation on child sexual abuse than that described in the *Cloyne Report*, and states clearly the Holy See's view regarding cooperation between Church and civil authorities.

1. Issues regarding the Holy See raised by the *Cloyne Report*

Having carefully examined the content of the *Cloyne Report*, the Holy See concludes that the criticisms and accusations made against it are based primarily on the Report's assessment of the letter addressed to the members of the Irish Bishops' Conference on 31 January 1997 by the then Apostolic Nuncio, Archbishop Luciano Storero, concerning the response of the Congregation for the Clergy to the 1996 document entitled *Child Sexual Abuse: Framework for a Church Response*, generally known as the *Framework Document*. This letter is quoted extensively in the earlier *Dublin Report* (7.13-7.14) and was the object of considerable public attention in January 2011. The Holy See acknowledges, moreover, that, taken out of context, the letter could be open to misinterpretation, giving rise to understandable criticism. In what follows, an explanation of that context is offered, including, crucially, explanation of the knowledge that the letter presupposes of the workings of the Church and the relationship between episcopal conferences and the Holy See.

The *Cloyne Report* quotes the text of Archbishop Storero's letter and offers an assessment. In chapter 1 the Report quotes excerpts from the letter to the effect that the Congregation for the Clergy informed the Bishops that the document in question was "*not an official document of the Episcopal Conference but merely a study document*" and that it contained "*procedures and dispositions which appear contrary to canonical discipline and which, if applied, could invalidate the acts of the same Bishops who are attempting to put a stop to these problems. If such procedures were to be followed by the Bishops and there were cases of eventual hierarchical recourse lodged at the Holy See, the results could be highly embarrassing and detrimental to those same Diocesan authorities. In particular, the situation of 'mandatory reporting' gives rise to serious reservations of both a moral and canonical nature*" (1.18).

The Commission states its view that "*This effectively gave individual Irish bishops the freedom to ignore the*

procedures which they had agreed and gave comfort and support to those who, like Monsignor O'Callaghan, dissented from the stated official Church policy" (1.18). In the conclusion to the same chapter, the *Cloyne Report* states: "Those who thought like Monsignor O'Callaghan had their positions greatly strengthened by the Vatican's response to the Framework Document. This response, discussed in chapter 4, can only be described as unsupportive especially in relation to reporting to the civil authorities. The effect was to strengthen the position of those who dissented from the official stated Irish Church policy" (1.76).

In chapter 4, the *Cloyne Report* states that "The Irish bishops sought recognition from Rome for the Framework Document but it was not forthcoming" (4.21). It then quotes in full Archbishop Storero's letter to the Irish Bishops. The *Cloyne Report* does not present a detailed discussion of this letter, or of the Holy See's response, but simply asserts that "There can be no doubt that this letter greatly strengthened the position of those in the Church in Ireland who did not approve of the Framework Document as it effectively cautioned them against its implementation." (4.22). The same assessment is repeated towards the end of the chapter: "The fact that the Papal Nuncio wrote to the bishops expressing the Congregation for the Clergy's reservations about the Framework Document was significant. This gave comfort to those, including Monsignor O'Callaghan, who fundamentally disagreed with the policies in the document" (4.91).

The *Cloyne Report*, however, provides no evidence in support of the Commission's assessment and, in fact, never claims that such was the Holy See's intention. Its view, however, may be based on the explanation that was published in the *Dublin Report*. (Cf. *Dublin Report*, 7.14). This Response will offer clarifications to show that the Commission's assessment is inaccurate.

Before addressing the issues raised in connection with Archbishop Storero's letter, it should also be noted that there is no suggestion in the *Cloyne Report* that the Cloyne diocesan authorities invoked the content of that letter to justify ignoring the *Framework Document* guidelines. In fact, according to *Cloyne Report*, Bishop John Magee declares that he accepted and sought to implement the guidelines (1.16, 1.19, 4.17-4.20), while Monsignor Denis O'Callaghan made no secret of his disapproval of them (1.17, 1.20), preferring instead to implement what he described as a "pastoral approach" (4.78-4.80). However, the *Cloyne Report* provides no evidence that he invoked the Congregation's response in support of his views.

On the basis of the findings of the *Cloyne Report*, it would appear that Monsignor O'Callaghan, failed to apply not only the *Framework Document*, but also the existing norms of canon law (particularly canons 1717-1719),² despite their universal applicability and despite the Congregation's observation that the procedures established by the Code of Canon Law were to be observed. The *Cloyne Report* states that the Diocese did not carry out proper canonical investigations; in the five cases where an investigation was ordered under canon 1717, the investigation was commenced but never completed (1.49-1.50).

The *Cloyne Report* notes that prior to 2005 the Diocese of Cloyne did not refer any case to the Holy See. Subsequently, on 1 December 2005, one case was referred to the Congregation for the Doctrine of the Faith (21.40), which gave its decision on 17 April 2007 (21.62). Following risk assessment of the priests involved, four additional cases were referred to the Congregation for the Doctrine of the Faith in 2009 (4.25).

The Framework Document

Some clarifications about the *Framework Document* should help to dispel a number of common misconceptions.

When a number of high-profile cases of child sexual abuse perpetrated by clerics came to light in Ireland during the 1990s, the Irish Bishops' Conference established an Advisory Committee in 1994 to discuss how such cases should be handled and to formulate guidelines in that regard. The Chairman of the Advisory Committee, Bishop Laurence Forristal, explained the brief of that Committee in the following way: "Our immediate brief is to provide co-ordinated, orderly advice to bishops and religious superiors on how to deal with allegations of child sexual abuse and also to provide ongoing advice. What many people perhaps don't realise is that each diocese is an independent unit, and forms its own policies. The idea behind the committee was to avail of the advice of experts and to formulate guidelines that would allow a more uniform approach" (*The Irish Times*, 15 October 1994, p. 3).

While these guidelines were being developed, the Conference engaged in a process of consultation with the Congregation for the Clergy regarding the content of the document so as to ensure its effective application. In the light of these consultations, various amendments were made to the text. It was the Conference's right to consult and, given the Holy See's responsibility for the laws of the Church which apply universally, it was certainly appropriate for the Congregation to offer its advice and considered opinion on the content of the document.

The definitive draft of the *Framework Document* was communicated by fax to the Congregation on 23 December 1995 and this was followed by a faxed letter addressed to the then Prefect of the Congregation, Cardinal José T. Sánchez, which was dated 4 January 1996 and signed by Cardinal Cahal Daly, then President of the Irish Episcopal Conference, and by Archbishop Desmond Connell, then Vice-President of the Conference. According to that letter, "*The text is not an official publication either of the Episcopal Conference or of the Conference of Religious. It is a framework, offered to the Bishops and Religious Superiors as a code of recommended practice to facilitate them in dealing with cases which may arise within their respective jurisdictions*" and "*The present text is by no means a final word from the Bishops and Religious Superiors on this issue.*"

The letter also stated that since the publication date had been set for 16 January 1996, further amendments could be incorporated only before 7 January; otherwise a complete reprint would be necessary. Given that deadline, the Congregation was unable to examine the document and communicate to the Bishops its considered assessment of the revised text prior to the publication of the *Framework Document*.

(a) The nature of the Framework Document

The text in question was published as the *Framework Document*, the subtitle of which describes it as a "*report*" of the Advisory Committee. In fact, it is, as Cardinal Daly and Archbishop Connell had earlier explained, not an official document of the Irish Bishops' Conference but a document of the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious, which holds the copyright. In the Foreword, signed by Cardinal Daly and by the Reverend John Byrne OSA, then President of the Conference of Religious of Ireland, the text is continuously referred to as a "*report*" and is recommended "*to individual dioceses and congregations as a framework for addressing the issue of child sexual abuse*" (p. [9]). The authors of the Foreword also state: "*This document is far from being the final word on how to address the issues which have been raised. In common with others in society the Church must continuously seek ways to improve its response to this grave wrong, the sexual abuse of children*" (p. [10]).

Subsequently, in a letter addressed to Archbishop Storero on 10 October 1996, the then Secretary of the Irish Bishops' Conference, Bishop Michael Smith, in reference to the *Framework Document* confirmed that "*The document was not promulgated by decree of the Episcopal Conference nor was it approved by the Conference. It was accepted by the Conference and offered to each individual Bishop and religious Superior as guidelines that could – and indeed should – be followed in dealing with allegations of child sexual abuse against priests and religious*". As the *Cloyne Report* acknowledges, "*The understanding was that each diocese or religious institute would enact its own particular protocol for dealing with complaints*" (4.16).

The Congregation for the Clergy wrote to Archbishop Storero on 21 January 1997 and pointed out the existence of various difficulties concerning the *Framework Document*, which the Nuncio subsequently communicated to the Bishops. These are commented on in the following sections.

The Congregation's description of the *Framework Document* as a "*study document*", which was based on the explanations of its nature as provided by the Irish Bishops and in the published text itself, was not a dismissal of the serious efforts undertaken by the Irish Bishops to address the grave problem of child sexual abuse. The Congregation, taking cognizance of the Bishops' intention not to make the document binding, while at the same time aware that each individual Bishop intended to adopt it for his Diocese to deal with cases as they arose, wished to ensure that nothing contained in it would give rise to difficulties should appeals be lodged to the Holy See.

From these considerations, the following conclusions may be drawn as to the nature of the *Framework*

Document. On the one hand, it was an advisory document designed to provide a uniform code of practice for individual Bishops to improve child protection measures and procedures in their Dioceses, and was recommended to them as such. On the other hand, from a more strictly canonical viewpoint, it was not an official document of the Episcopal Conference but a report of the above-mentioned Advisory Committee, deserving of serious study and which could serve as a source for the development of a more formal legislative project.

(b) Clarifications on the notion of "recognitio"

The *Cloyne Report* is incorrect in stating that "*The Irish bishops sought recognition from Rome for the Framework Document but it was not forthcoming*" (4.21). As will be clear from what follows, the Irish Bishops never sought *recognitio* from the Holy See for the *Framework Document*.

To dispel misunderstandings, it may be helpful to clarify the canonical notion of *recognitio*. Conferences of Bishops may propose canonical legislation for their territories that is complementary with the universal law of the Church. For this to be binding, there are procedures which must be followed in order to enact the proposed legislation. In the Church, this procedure is called *recognitio*.

The relevant norm is canon 455 of the Code of Canon Law which states: "*§ 1. The Bishops' Conference can make general decrees only in cases where the universal law has so prescribed, or by special mandate of the Apostolic See, either on its own initiative or at the request of the Conference itself. § 2. For the decrees mentioned in § 1 validly to be enacted at a plenary meeting, they must receive at least two-thirds of the votes of those who belong to the Conference with a deliberative vote. Those decrees do not oblige until they have been reviewed by the Apostolic See (nisi ab Apostolica Sede recognita) and lawfully promulgated. § 3 The manner of promulgation and the time they come into force are determined by the Bishops' Conference. § 4. In cases where neither the universal law nor a special mandate of the Apostolic See gives the Bishops' Conference the power mentioned in § 1, the competence of each diocesan Bishop remains intact. In such cases, neither the Conference nor its president can act in the name of all the Bishops unless each and every Bishop has given his consent.*"

As canon 455 makes clear, the *recognitio* of the Holy See is required for any validly adopted decision of an Episcopal Conference which is to have binding force on all its members but it is not required for guidelines as such, nor is it required for the particular norms of individual Dioceses. Within the framework of ordinary episcopal jurisdiction, a Bishop is always free to enact laws or adopt guidelines for his own Diocese without any need to refer to the Holy See.

While the Irish Bishops did engage in consultations with the Congregation for the Clergy about the contents of the *Framework Document*, the Irish Bishops' Conference did not take the canonical vote required by canon 455 § 2 and never sought the *recognitio* of the Holy See for it. While the Congregation for the Clergy may contribute to the discussion leading to the formulation of complementary legislation, it is the Congregation for Bishops which is the competent dicastery for granting the *recognitio* to general decrees of the Episcopal Conferences in its territory. Since the Irish Bishops did not choose to seek *recognitio* for the *Framework Document*, the Holy See cannot be criticized for failing to grant what was never requested in the first place.

However, the lack of *recognitio* would not of itself prevent the application of the *Framework Document* in individual Dioceses. Despite the fact that the *Framework Document* was not an official publication of the Conference as such, each individual Bishop was free to adopt it as particular law in his Diocese and apply its guidelines, provided these were not contrary to canon law. In the above-mentioned letter, Bishop Smith states: "*All dioceses have accepted this document and set in place a framework for handling future allegations of child sexual abuse by priests.*" The firm and determined approach adopted by the Irish Bishops was respected by the Holy See and made it unnecessary for it to intervene further.

In the light of the findings of the *Cloyne Report*, the basic difficulty with regard to child protection in that Diocese seems to have arisen not from the lack of *recognitio* for the guidelines of the *Framework Document* but from the fact that, while the Diocese claimed to follow the guidelines, in reality it did not.

As the *Cloyne Report* notes, the child protection guidelines of the Church in Ireland were revised and further improved in subsequent years, leading to the publication of *Our Children, Our Church* in 2005 and *Safeguarding Children – Standards and Guidance Document for the Catholic Church in Ireland* in 2009 (4.42-4.62). Unfortunately, the introduction of new guidelines does not seem to have led to significant improvements in the Diocese of Cloyne until 2009.

(c) Canonical difficulties

The *Framework Document* correctly recognizes the need to respect both civil and canon law.

With regard to canon law, it states: "*In responding to complaints of child sexual abuse, Church authorities must also act in accordance with the requirements of the Code of Canon Law and must respect the rights and uphold the safeguards afforded in that Code both to those who complain of abuse and to those who are accused. The Church has its own inherent right to constrain with penal sanctions its members, including priests and religious, who commit offences. These penal sanctions are clearly indicated in the Code of Canon Law (cf. c. 1311ff)*" (pp. [14]-[15]).

Turning to the question of the canonical difficulties alluded to by the Congregation for the Clergy, it should be pointed out that since both canon and civil law hold to the principles that everyone has a right to his or her good name and that an accused person is presumed innocent until proven guilty, both ecclesiastical and civil authorities rightly insist on the necessity of due process and respect for the basic rights of all the parties involved. In addition, the Congregation itself is bound by canon law and has no power to modify it. Hence, whatever observations the Congregation made in relation to the *Framework Document* had to take into account the canonical norms then in force. As explained below, in order to respond more effectively to the problem of child sexual abuse, important changes were introduced to the relevant canonical legislation from 2001 onwards.

While the *Framework Document* does recognize the need for compatibility with canon law, the Congregation for the Clergy – as Archbishop Storero's letter explains – noted that the definitive text of the *Framework Document* contained procedures and dispositions which appeared contrary to canonical discipline. In pointing this out, the Congregation *did not* reject the *Framework Document*. Rather, it offered advice to the Bishops with a view to ensuring that the measures which they intended to apply would prove effective and unproblematic from a canonical perspective. For this reason, the Congregation drew attention to the requirement that these measures should be in harmony with canonical procedures in order to avoid conflicts that could give rise to successful appeals in Church tribunals. The Holy See, in recognising the great difficulties and complexities faced by the Bishops in confronting the disciplinary aspects of child sexual abuse, wanted to ensure that the application of the measures contained in the *Framework Document* would not undermine the Bishops' efforts to discipline those guilty of child sexual abuse in the Church. As has been explained above (part b), the question of *recognitio* did not arise, nor was it necessary, given that all the Bishops and Religious Superiors in Ireland had agreed to accept and apply the guidelines of the *Framework Document*. The lack of *recognitio* did not in any way undermine the application of the *Framework Document*, especially in the context of the Holy See's decision in 1996 to extend to Ireland special provisions already granted to the Bishops of the United States in 1994. (This matter will be presented in detail in Part Six of this Response).

It is worth noting that these provisions, and other specific measures introduced by the Holy See throughout the 1990s and up to the current time led to the development of more comprehensive norms. They also resulted in the simplification of procedures, based on the developing best practices and suggestions of Bishops in various parts of the world.

Thus, the Congregation's response of January 1997 to the *Framework Document* was intended as an invitation to the Bishops to re-examine the document carefully, bearing in mind as well that certain difficulties might come to light only in the course of its concrete application.

(d) Cooperation with the civil authorities

With regard to civil law, the *Framework Document* correctly states that "*A Church response to child sexual abuse by priests and religious must accord with the legal framework in society for the investigation and prosecution of*

criminal offences and for ensuring the protection and welfare of children. It is vital that Church authorities, and in particular those responsible for implementing procedures in dioceses and institutes of consecrated life or societies of apostolic life, act in a spirit of co-operation with the civil authorities in their local area" (p. [14]).

In its response to the *Framework Document*, the Congregation for the Clergy expressed reservations about mandatory reporting. At the outset, it should be pointed out that this response should not be construed as implying that the Congregation was forbidding reporting or in any way encouraging individuals, including clerics, not to cooperate with the Irish civil authorities, let alone disobey Irish civil law. It should be borne in mind that, without ever having to consult the Holy See, every Bishop, is free to apply the penal measures of canon law to offending priests, and has never been impeded under canon law from reporting cases of abuse to the civil authorities.

The question of cooperation with the civil authorities was clarified by the then Prefect of the Congregation for the Clergy, Cardinal Darío Castrillón Hoyos, in his meeting with the Irish Bishops at Rosses Point, County Sligo (Ireland), on 12 November 1998, when he unequivocally stated: "*I also wish to say with great clarity that the Church, especially through its Pastors (Bishops), should not in any way put an obstacle in the legitimate path of civil justice, when such is initiated by those who have such rights, while at the same time, she should move forward with her own canonical procedures, in truth, justice and charity towards all.*" In this way, the Cardinal drew attention to the fact that canon law and civil law, while being two distinct systems, with distinct areas of application and competence, are not in competition and can operate in parallel. This basic principle has been repeated on several occasions in the Holy See's subsequent interventions on this matter, including the Pope's *Letter to the Catholics of Ireland* (No. 11) and the Circular Letter issued by the Congregation for the Doctrine of the Faith on 3 May 2011, which, in addition, explicitly addresses the question of reporting requirements (see below).

It should be noted that, at the time, not only the Church in Ireland but also the State was engaged in efforts to improve its response to the problem of child sexual abuse. In 1996, apart from cases relating to misprision of felony, the reporting of incidents of child sexual abuse to either the relevant health board or the Irish police was not mandatory. Furthermore, misprision of felony was removed from the Irish Statute Book by the Criminal Justice Act of 1997.

The Holy See is aware that public consultations about placing a legal obligation on designated professionals to report known or suspected abuse to the authorities took place in Ireland in 1996 following the publication of the document *Putting Children First* at the request of the then Minister of State at the Departments of Health, Education and Justice, Mr Austin Currie. At that time, while some Church-related bodies, such as the above-mentioned Advisory Committee, were broadly favourable to the introduction of mandatory reporting, other Church-related bodies and professional groups in civil society, including representatives of the medical, social service, educational and legal areas, expressed reservations or in some cases were opposed to the proposal. The complex issues relating to mandatory reporting were acknowledged by Mr Currie in a detailed presentation in *Seanad Éireann* on 14 March 1996.

On 6 November 1996, Mr Currie stated in *Dáil Éireann* that over two hundred submissions from groups and individuals had been received in response to *Putting Children First*, that the submissions reflected a wide diversity of views on mandatory reporting and that the majority expressed reservations or opposition to mandatory reporting. Following these consultations, which, among other things, drew attention to various complex issues relating to the advisability and feasibility of mandatory reporting (including use of resources, professional judgment, the types of abuse that should be subject to mandatory reporting and who should become mandated reporters), the Irish Government decided not to introduce it in a formal way but instead to issue guidelines for the reporting of suspected child abuse by professionals and non-professionals, postponing any further consideration of mandatory reporting for three years. Given that the Irish Government of the day decided not to legislate on the matter, it is difficult to see how Archbishop Storero's letter to the Irish Bishops, which was issued subsequently, could possibly be construed as having somehow subverted Irish law or undermined the Irish State in its efforts to deal with the problem in question.

The Holy See notes that in a statement in *Dáil Éireann* on 25 March 1997, the then Minister for Health, Mr Michael Noonan, explained why the Government of the day had decided not to introduce mandatory reporting. He recognized that all who participated in the relevant consultative process, including those who expressed reservations or were opposed to mandatory reporting, had the "*best interests of children*" as their "*paramount concern*". Explaining the Government's decision he stated: "*However, it was suggested in a number of submissions that sight should not be lost of a person's right to his or her good name in dealing with the reporting of child abuse and the Minister of State was conscious of the need to maintain an appropriate balance in developing the initiatives outlined.*" Thus, the reservations expressed by the Congregation for the Clergy about mandatory reporting were in line with those expressed at the time by various professional groups and individuals in Ireland, including members of the Irish Government.

It should also be noted that in reply to a question posed by Deputy Liz O'Donnell, Mr Noonan added: "*The Minister of State has proceeded to strengthen the framework and he has also talked about establishing a body, such as an ombudsman for children, to further strengthen the position, but he stopped short of introducing mandatory reporting at this time. That was a consensus view of those involved in the day to day care of children. That decision was not made in the interest of the professions, it was made in the interest of the protection of children. The Deputy is aware there is major potential downside to mandatory reporting, as experienced in the United States. The Minister of State has brought the professionals with him. He has introduced a series of initiatives, said they will be evaluated after an appropriate time and if the mandatory route is deemed to be necessary we can reconsider the position with a view to taking that route.*"

Like the Irish Government of the time, and like those who made submissions to the public consultation on mandatory reporting, the Holy See too was and is deeply committed to ensuring the protection of children and young people, while being well aware of the complexity of the issues surrounding mandatory reporting. It notes that although mandatory reporting was not introduced in Ireland in subsequent years, the Irish State did introduce various sets of guidelines, including *Children First: National Guidelines for the Protection and Welfare of Children* (1999), *Child Protection – Guidelines and Procedures* (2001) and *Child Protection Guidelines for Post-Primary Schools* (2004).

The Holy See has taken note of the present Irish Government's intention "*to introduce legislation to making it a criminal offence to withhold information about serious offence against a child*" (Speaking points presented by Mr Gilmore to the Apostolic Nuncio). While the Holy See obviously cannot comment on the proposed legislation without knowing the details, it does welcome and support whatever will genuinely contribute to the protection of children. With regard to the question of reporting to the civil authorities, the Holy See's position, while not new, is explicitly stated in the above-mentioned Circular Letter of 3 May 2011, namely: "*Specifically, without prejudice to the sacramental internal forum, the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed.*"

2. The Taoiseach's speech on the Cloyne Report

The Holy See understands and shares the depth of public anger and frustration at the findings of the *Cloyne Report*, which found expression in the speech made by the *Taoiseach*, Mr Enda Kenny, in *Dáil Éireann* on 20 July 2011. However, it has significant reservations about some elements of the speech.

In particular, the accusation that the Holy See attempted "*to frustrate an Inquiry in a sovereign, democratic republic as little as three years ago, not three decades ago*", which Mr Kenny made no attempt to substantiate, is unfounded. Indeed, when asked, a Government spokesperson clarified that Mr Kenny was not referring to any specific incident. In fact, accusations of interference by the Holy See are belied by the many Reports cited as the basis for such criticisms. Those Reports – lauded for their exhaustive investigation of sexual abuse and the way it was managed – contain no evidence to suggest that the Holy See meddled in the internal affairs of the Irish State or, for that matter, was involved in the day-to-day management of Irish dioceses or religious congregations with respect to sexual abuse issues. Indeed, what is impressive about these Reports, and the vast information that they rely upon, is that there is no support for these accusations.

The *Cloyne Report* itself contains no statement that would lend support to Mr Kenny's accusations. In fact, when the Apostolic Nuncio in Ireland was asked by the Commission of Inquiry "*to submit to it any information which you have about the matters under investigation*", the Commission received a reply to the effect that the Apostolic Nunciature "*does not determine the handling of cases of sexual abuse in Ireland and therefore is unable to assist you in this matter. In fact, such cases are managed according to the responsibility of local ecclesiastical authorities, in this instance, the Diocese of Cloyne. Like all ecclesiastical entities in Ireland, the Diocese of Cloyne is bound to act in accordance with canon law and with all civil laws and regulations of Ireland as may be applicable*" (2.11).

In this regard, the Holy See wishes to make it quite clear that it in no way hampered or interfered in the Inquiry into child sexual abuse cases in the Diocese of Cloyne. Furthermore, at no stage did it seek to interfere with Irish civil law or impede the civil authority in the exercise of its duties. In point of fact, as the Apostolic Nuncio's response to the Commission indicates, the Holy See expected the Diocesan authorities to act in conformity with Irish civil law. It should also be noted that the Commission of Inquiry acknowledges "*the full co-operation it received from all parties involved in the investigation and their legal advisers*" (1.79).

Mr Kenny also cited the then Cardinal Joseph Ratzinger to the effect that "*Standards of conduct appropriate to civil society or the workings of a democracy cannot be purely and simply applied to the Church*" and goes on to state: "*I am making it absolutely clear that when it comes to the protection of the children of this State, the standards of conduct which the Church deems appropriate to itself, cannot and will not, be applied to the workings of democracy and civil society in this republic. Not purely, or simply or otherwise.*"

The quotation in question is taken from the *Instruction on the Ecclesial Vocation of the Theologian*, otherwise known as *Donum Veritatis* (*The Gift of the Truth*), published by the Congregation for the Doctrine of the Faith on 24 May 1990, and signed by the then Prefect and Secretary of the Congregation. It is not a private text of the then Cardinal Ratzinger but an official document of the Congregation. This document is concerned with the theologian's service to the Church community, a service which can also be of help to society at large, and not with the manner in which the Church should behave within a democratic society nor with issues of child protection, as Mr Kenny's use of the quotation would seem to imply.

As a basic methodological principle, a quotation extracted from a given text can be correctly understood only when it is interpreted in the light of its context. The quotation used by Mr Kenny is taken from paragraph 39 of the Instruction, which reads: "*The Church, which has her origin in the unity of the Father, Son, and Holy Spirit, is a mystery of communion. In accordance with the will of her founder, she is organized around a hierarchy established for the service of the Gospel and the People of God who live by it. After the pattern of the members of the first community, all the baptized with their own proper charisms are to strive with sincere hearts for a harmonious unity in doctrine, life, and worship (cf. Acts 2:42). This is a rule which flows from the very being of the Church. For this reason, standards of conduct, appropriate to civil society or the workings of a democracy, cannot be purely and simply applied to the Church. Even less can relationships within the Church be inspired by the mentality of the world around it (cf. Rom 12:2). Polling public opinion to determine the proper thing to think or do, opposing the Magisterium by exerting the pressure of public opinion, making the excuse of a "consensus" among theologians, maintaining that the theologian is the prophetic spokesman of a "base" or autonomous community which would be the source of all truth, all this indicates a grave loss of the sense of truth and of the sense of the Church.*"

This text rejects a trend among some contemporary theologians to treat the Church's teaching as though it were the product of public debate, to dissent from "official teaching" and to impose their opinions on the faithful by means of public statements, protests and other such actions, which are legitimate in modern democracy but unsuited for handing on the truth of divine revelation, which theologians in their research are called to investigate and explain.

3. Response to the *Tánaiste's* accusations and to the *Dáil* and *Seanad* motions

In his meeting with the Apostolic Nuncio, the *Tánaiste* and Minister for Foreign Affairs and Trade, Mr Eamon Gilmore, stated that "*among the most disturbing of the findings of the Cloyne report is that the Vatican authorities*

undermined the Irish Church's own efforts to deal with clerical child sexual abuse by describing the framework document adopted by the Bishops' Conference as a mere 'study document'. As has been made clear above, this charge is not supported by an objective reading of the *Cloyne Report* nor by the fact that the common practice of the Irish Bishops was to apply the *Framework Document*. Furthermore, given that the Church has always insisted on the duty of all citizens to obey the just laws of the State (cf. Romans 13:1-2; *Catechism of the Catholic Church*, Nos. 1897-1904; 2238-2243), the Holy See does not accept the charge that "*the Vatican intervened to effectively have priests believe they could in conscience evade their responsibilities under Irish law.*"

On 20 July 2011, the *Dáil* passed a motion on the *Cloyne Report* which, among other things, deplored "*the Vatican's intervention which contributed to the undermining of the child protection framework and guidelines of the Irish State and the Irish Bishops*". The same motion was passed by *Seanad Éireann* a week later. The Holy See wishes to clarify that at no stage in the past did it make any comment about the Irish State's child protection framework and guidelines, let alone seek to undermine them. The Holy See further observes that there is no evidence cited anywhere to support the claim that its "*intervention*" contributed to their "*undermining*". As for the child protection framework and guidelines of the Irish Bishops, the observations made above should suffice to dispel the notion that these were in any way undermined by any intervention of the Holy See.

4. The nature of the Church and the responsibility of individual Bishops

For a more adequate understanding of some of the points made in this Response, it should be borne in mind that the social organization of the Catholic Church, a communion of many particular Churches (i.e. Dioceses and their equivalents, such as Territorial Prelatures, Apostolic Vicariates, Military Ordinariates, etc.) throughout the world, is not like that of a modern State with a central government nor is it comparable to that of a federal State.

In the Church, the Bishops are neither representatives nor delegates of the Roman Pontiff but of Christ (cf. Second Vatican Council, Dogmatic Constitution on the Church *Lumen Gentium*, No. 27), though, as Catholic Bishops, they are to act in communion with the Bishop of Rome and the other Bishops throughout the world; this is the principle of "episcopal collegiality", as described by the Second Vatican Council (cf. *ibid.*, Nos. 21-25). Hence, while the diocesan Bishop is to act in conformity with universal canonical legislation, it is he who is primarily responsible for penal discipline in his Diocese, just as he is responsible for the concrete actuation in his Diocese of the liturgical and sacramental life of the Church in conformity with the universal law governing liturgy and the sacraments (cf. *ibid.* No. 27).

In the Catholic Church, this particular relationship among the various Dioceses within the one Church is expressed by the term "ecclesial communion" and it has been particularly evident since the Second Vatican Council, which placed special emphasis on the proper responsibility of each Bishop. In order to coordinate better their activities at the national level, Episcopal Conferences were created to promote initiatives consonant with the needs of each national territory, while respecting the autonomy of individual Bishops in their Dioceses. Without having to refer either to the Holy See or to the Episcopal Conference, and provided he respects the requirements of the universal law of the Church and the just laws of the State, each individual Bishop has the right and the obligation to take whatever initiative he deems necessary in order to promote charity and justice in his Diocese.

In this context, with due respect for the prerogatives and responsibilities of individual Bishops, the Holy See has the responsibility of ensuring the unity of faith, sacraments and governance in the Church, and the maintaining and strengthening of ecclesial communion. Where this unity and ecclesial communion are compromised, the Roman Pontiff may act directly or through the offices of the Roman Curia to rectify matters.

5. Civil law and canon law

The sexual abuse of children is a crime. It is a crime in civil law; it is a crime in canon law. Sexual abuse perpetrated by clerics has two distinct aspects. The first is concerned with the civil and criminal responsibility of individuals, and this, being a matter for the civil authorities, is regulated by the laws of the State where the crime is committed. As has already been stated, all citizens, including members of the Church, are subject and accountable to these laws. It is the State's responsibility to legislate in order to protect the common good and

adopt measures to deal effectively with those who infringe its laws. The State has the duty to investigate allegations of crime, to ensure due process and the presumption of innocence until guilt is proven and to punish wrongdoers, without favour or distinction, in accordance with the principles of justice and equity.

The second aspect is religious in nature and as such comes under the internal responsibility of the Church, which, in this regard, applies her own legal or canonical system. Positive ecclesiastical laws are binding on all those who "*were baptized in the Catholic Church or received into it, and who have a sufficient use of reason and, unless the law expressly provides otherwise, who have completed their seventh year of age*" (Code of Canon Law, canon 11). It is evident that the Church, in accordance with her own nature and internal organization, has the duty to punish wrongdoers for the grave and grievous damage done to the community of the Church. With regard to those areas of responsibility for which the Church has competence, her canonical system stipulates the norms, procedures and penalties which the relevant Church authority is to apply, without interference from any outside body. When cases arise of child sexual abuse committed by clerics or by religious or lay people who function in ecclesiastical structures, Church authorities are to cooperate with those of the State, and are not to impede the legitimate path of civil justice.

6. Church legislation on child protection

The *Cloyne Report* presents some of the more important elements of the canonical legislation of the Church concerning the handling of cases of child sexual abuse and notes how this legislation has evolved in recent years. However, in his *Dáil* speech Mr Kenny did not acknowledge that, especially from 2001 onwards, the Holy See, in consultation with Episcopal Conferences and individual Bishops, and following careful examination of the various aspects of the problem, has modified the relevant canonical legislation and procedures in order to make them simpler to apply, more effective and more expeditious.

A brief overview of this legislation may prove helpful. For centuries canonical discipline has provided for dealing with the abuse of minors, even before most modern nation States introduced legislation in this regard. Prior to the Code of Canon Law promulgated by Pope John Paul II in 1983, such cases were handled according to the norms of the previous edition of the Code of Canon Law, promulgated by Pope Benedict XV in 1917. In 1922, the Holy Office issued the Instruction *Crimen Sollicitationis* which provided a framework of procedures to guide diocesan bishops dealing with the canonical crime or "delict" of solicitation in their application of canon law. The Instruction also included certain provisions on the crime of sexual abuse of prepubescent children. In 1962, Pope John XXIII authorized a reprint of the 1922 Instruction, with a section added regarding the administrative or judicial procedures to be used in those cases in which religious clerics were involved.

The 1983 Code updated the previous discipline in canon 1395 § 2: "*A cleric who in another way has committed an offence against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.*"

The 1983 Code provides that the diocesan Ordinary (the Bishop or equivalent) is responsible for judging cases in the first instance. Prior to 2001, when the competence for cases of child sexual abuse perpetrated by a cleric was transferred to the Congregation for the Doctrine of the Faith, appeals against judicial sentences could be presented to the Tribunal of the Roman Rota, while administrative recourses (i.e. legal review of administrative decisions) against penal decrees were to be presented to the Congregation for the Clergy. As the *Cloyne Report* states, during the period 1996-2001, not a single case of child sexual abuse perpetrated by a cleric in the Diocese of Cloyne was referred to the competent authorities of the Roman Curia.

At the request of Bishops in some countries, the Holy See introduced certain changes during the 1990s because of its concern about incidents of child sexual abuse which, though often historical cases, were coming to light more frequently than before in those countries. For this reason, the Holy See granted an indult to the Bishops of the United States in 1994: the age for the canonical crime of sexual abuse of minors was raised from 16 to 18 and prescription (canonical term for statute of limitations) was extended to a period of 10 years from the 18th birthday of the victim (this was done to take account of the fact that many incidents of abuse are reported only after the victim reaches adulthood). Similarly, the Holy See extended that 1994 indult to Ireland in 1996.

In order to provide more comprehensive norms and simplify some of the procedures, on 30 April 2001 Pope John Paul II promulgated the *motu proprio* "*Sacramentorum Sanctitatis Tutela*", which included the sexual abuse of a minor under 18 by a cleric among the new list of canonical delicts reserved to the Congregation for the Doctrine of the Faith. As was the case in the earlier indults granted to the Bishops of the United States and Ireland, prescription for these cases was extended to ten years from the 18th birthday of the victim. All Catholic Bishops were informed of the new law and the new procedures. The acts that constitute the most grave delicts reserved to the Congregation were specified in this letter, both those against the moral law and those committed in the celebration of the Sacraments. Also listed were special procedural norms to be followed in cases concerning these grave delicts, including those norms regarding the determination and imposition of canonical sanctions. The procedures applicable to cases of child sexual abuse are noted by the *Cloyne Report* (4.23).

The new legislation proved notably effective in dealing with cases of child sexual abuse perpetrated by clerics. During the period 2001-2010, the Congregation for the Doctrine of the Faith considered accusations against about three thousand diocesan and religious priests, referring to crimes committed over the previous fifty years. The Congregation provided for the respective Dioceses or Religious Orders to conduct penal processes, whether judicial or administrative, in a number of cases. In other cases, the penal process was not used, and instead administrative and disciplinary provisions were issued against the accused priests, including limitations on the celebration of Mass, prohibitions against the hearing of confessions and mandatory withdrawal into a retired life of prayer, with no public contact. In particularly serious cases, a decree of dismissal from the clerical state was issued. In some cases, the accused priests themselves requested dispensation from their clerical obligations.

In April 2010, with a view to providing information to non-specialists on the canon law and procedures applicable to allegations of child sexual abuse perpetrated by clerics, the Congregation for the Doctrine of the Faith issued a *Guide to Basic CDF Procedures concerning Sexual Abuse Allegations*. This Guide, which is quoted in the *Cloyne Report* (4.26), does not introduce new legislation but does describe in a non-technical way how the Congregation deals with cases of child sexual abuse according to the norms of *Sacramentorum sanctitatis tutela* and how it responds to various other queries which frequently arise in connection with such cases. With regard to cooperation with civil authorities, the *Guide* explicitly states: "*Civil law concerning reporting of crimes to the appropriate authorities should always be followed.*"

While *Sacramentorum Sanctitatis Tutela* proved distinctly helpful in dealing with cases of child sexual abuse, the Congregation for the Doctrine of the Faith considered it necessary to introduce certain modifications to improve its application. Following examination of the proposals, on 21 May 2010 Pope Benedict XVI promulgated *Normae de gravioribus delictis* ("*Norms concerning more grave delicts*"), a text which contains, among other things, the current substantive and procedural norms applicable to cases of sexual abuse of minors committed by members of the clergy.

With regard to delicts against the moral law, article 6 of these Norms stipulates: "§ 1. *The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are: 1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor. 2° the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology; § 2. A cleric who commits the delicts mentioned above in § 1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.*" Furthermore, the preliminary investigation may be, but need not be, undertaken directly by the Congregation (art. 17) and, with due regard for the rights of the local Ordinary, the Congregation itself may take the precautionary measures provided for in canon 1722 of the Code of Canon Law during the preliminary investigation.

7. Circular Letter of the Congregation for the Doctrine of the Faith (3 May 2011)

As the *Cloyne Report* was submitted to the Minister for Justice and Law Reform on 23 December 2010, it was not possible for it to include reference to the Circular Letter issued by the Congregation for the Doctrine of the Faith on 3 May 2011. This document is intended as a practical help to Episcopal Conferences worldwide in

developing guidelines for dealing with cases of sexual abuse of minors perpetrated by clerics. The full text of the Circular Letter is available on the Holy See's website (www.vatican.va).

The Circular Letter was issued following the promulgation of *Normae de delictis gravioribus*. With a view to facilitating the correct application of these norms and other issues relating to the abuse of minors, the Congregation considered it opportune for each Episcopal Conference to prepare guidelines to ensure clear and coordinated procedures in dealing with instances of abuse. The Circular Letter contains specific elements to assist each Episcopal Conference in the preparation of such guidelines or in reviewing those which already exist.

The Circular Letter covers various issues, including some that lie outside of the remit of canon law. In particular, it refers to cooperation with the civil authorities in three places and explicitly addresses the question of reporting:

In the introductory paragraph the basic principles are stated: *"Among the important responsibilities of the Diocesan Bishop in his task of assuring the common good of the faithful and, especially, the protection of children and of the young, is the duty he has to give an appropriate response to the cases of sexual abuse of minors by clerics in his diocese. Such a response entails the development of procedures suitable for assisting the victims of such abuse, and also for educating the ecclesial community concerning the protection of minors. A response will also make provision for the implementation of the appropriate canon law, and, at the same time, allow for the requirements of civil law."*

In Part I (General Considerations), section e) is devoted to "Cooperation with Civil Authority". It states: *"Sexual abuse of minors is not just a canonical delict but also a crime prosecuted by civil law. Although relations with civil authority will differ in various countries, nevertheless it is important to cooperate with such authority within their responsibilities. Specifically, without prejudice to the sacramental internal forum, the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed. This collaboration, moreover, not only concerns cases of abuse committed by clerics, but also those cases which involve religious or lay persons who function in ecclesiastical structures."*

Finally, in Part III (Suggestions for Ordinaries on Procedures), it is stated that the guidelines *"are to make allowance for the legislation of the country where the Conference is located, in particular regarding what pertains to the obligation of notifying civil authorities."*

8. Specific attention to the situation in Ireland: the Letter of Pope Benedict XVI to the Catholics of Ireland (2010)

The Holy See does not accept that it was somehow indifferent to the plight of those who suffered abuse in Ireland, as Mr Kenny implied in his speech in *Dáil Éireann*. Besides the above-mentioned legislative initiatives, aimed at improving norms and procedures, the Holy See has devoted considerable attention to the Irish situation, through such initiatives as the meetings with the Irish Bishops, and in particular with Cardinal Seán Brady and Archbishop Diarmuid Martin, in the aftermath of the *Ryan Report* and the *Dublin Report*, the Letter which His Holiness Pope Benedict XVI addressed to the Catholics of Ireland on 19 March 2010 and the subsequent Apostolic Visitation.

The Holy See's position with regard to many of the issues raised in the *Cloyne Report* is clearly expressed in the *Letter to the Catholics of Ireland*, a document which is nowhere mentioned in the *Cloyne Report*. Pope Benedict XVI wrote this Letter because he was deeply disturbed at what had come to light in earlier Reports and he desired to express his closeness to the Irish people, especially to the victims of the various forms of abuse documented, and to propose a path of healing, renewal and reparation.

In his Letter the Pope, while acknowledging the grave failures of the past in dealing with child protection issues, expressed appreciation for the efforts being made to remedy past mistakes and to ensure that these do not happen again. Addressing the Bishops directly, he stated: *"It cannot be denied that some of you and your predecessors failed, at times grievously, to apply the long-established norms of canon law to the crime of child abuse. Serious mistakes were made in responding to allegations. I recognize how difficult it was to grasp the extent and complexity of the problem, to obtain reliable information and to make the right decisions in the light of*

conflicting expert advice. Nevertheless, it must be admitted that grave errors of judgement were made and failures of leadership occurred. All this has seriously undermined your credibility and effectiveness. I appreciate the efforts you have made to remedy past mistakes and to guarantee that they do not happen again" (No. 11).

In the same Letter, His Holiness also called Bishops and religious superiors to implement the Church's law regarding these crimes, to cooperate with the civil authorities and to update and apply child safety norms fully and in conformity with canon law: *"Besides fully implementing the norms of canon law in addressing cases of child abuse, continue to cooperate with the civil authorities in their area of competence. Clearly, religious superiors should do likewise. They too have taken part in recent discussions here in Rome with a view to establishing a clear and consistent approach to these matters. It is imperative that the child safety norms of the Church in Ireland be continually revised and updated and that they be applied fully and impartially in conformity with canon law" (No. 11).*

From the foregoing considerations, it should be clear that the Holy See expects the Irish Bishops to cooperate with the civil authorities, to implement fully the norms of canon law and to ensure the full and impartial application of the child safety norms of the Church in Ireland.

9. Concluding remarks

When he met with the Irish Bishops on the occasion of their *ad limina* visit on 28 October 2006, Pope Benedict XVI expressed his concern about child sexual abuse: *"In the exercise of your pastoral ministry, you have had to respond in recent years to many heart-rending cases of sexual abuse of minors. These are all the more tragic when the abuser is a cleric. The wounds caused by such acts run deep, and it is an urgent task to rebuild confidence and trust where these have been damaged. In your continuing efforts to deal effectively with this problem, it is important to establish the truth of what happened in the past, to take whatever steps are necessary 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."*

The publication of the *Cloyne Report* marks a further stage in the long and difficult path of ascertaining the truth, of penance and purification, and of healing and renewal of the Church in Ireland. The Holy See does not consider itself extraneous to this process but shares in it in a spirit of solidarity and commitment.

In a spirit of humility, the Holy See, while rejecting unfounded accusations, welcomes all objective and helpful observations and suggestions to combat with determination the appalling crime of sexual abuse of minors. The Holy See wishes to state once again that it shares the deep concern and anxiety expressed by the Irish authorities, by Irish citizens in general and by the Bishops, priests, religious and lay faithful of Ireland with regard to the criminal and sinful acts of sexual abuse perpetrated by clergy and religious. It also recognizes the understandable anger, disappointment and sense of betrayal of those affected – particularly the victims and their families – by these vile and deplorable acts and by the way in which they were sometimes handled by Church authorities, and for all of this it wishes to reiterate its sorrow for what happened. It is confident that the measures which the Church has introduced in recent years at a universal level, as well as in Ireland, will prove more effective in preventing the recurrence of these acts and will contribute to the healing of those who suffered abuse and to the restoration of mutual confidence and collaboration between Church and State authorities, which is essential for the effective combating of the scourge of abuse. Naturally, the Holy See is well aware that the painful situation to which the episodes of abuse have given rise cannot be resolved swiftly or easily, and that although much progress has been made, much remains to be done.

Since the early days of the Irish State and especially since the establishment of diplomatic relations in 1929, the Holy See has always respected Ireland's sovereignty, has maintained cordial and friendly relations with the country and its authorities, has frequently expressed its admiration for the exceptional contribution of Irish men and women to the Church's mission and to the betterment of peoples throughout the world, and has been unfailing in its support of all efforts to promote peace on the island during the recent troubled decades. Consistent with this attitude, the Holy See wishes to reaffirm its commitment to constructive dialogue and cooperation with the Irish Government, naturally on the basis of mutual respect, so that all institutions, whether public or private, religious or secular, may work together to ensure that the Church and, indeed, society in

general will always be safe for children and young people.

¹ All texts are quoted according to the version made available to the Holy See.² **Can. 1717 §1.** Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous. §2. Care must be taken so that the good name of anyone is not endangered from this investigation. §3. The person who conducts the investigation has the same powers and obligations as an auditor in the process; the same person cannot act as a judge in the matter if a judicial process is initiated later. **Can. 1718 §1.** When it seems that sufficient evidence has been collected, the ordinary is to decide: 1. whether a process to inflict or declare a penalty can be initiated; 2. whether, attentive to can. 1341, this is expedient; 3. whether a judicial process must be used or, unless the law forbids it, whether the matter must proceed by way of extrajudicial decree. §2. The ordinary is to revoke or change the decree mentioned in §1 whenever new evidence indicates to him that another decision is necessary. §3. In issuing the decrees mentioned in §§1 and 2, the ordinary is to hear two judges or other experts of the law if he considers it prudent. §4. Before he makes a decision according to the norm of §1 and in order to avoid useless trials, the ordinary is to examine carefully whether it is expedient for him or the investigator, with the consent of the parties, to resolve equitably the question of damages. **Can. 1719** The acts of the investigation, the decrees of the ordinary which initiated and concluded the investigation, and everything which preceded the investigation are to be kept in the secret archive of the curia if they are not necessary for the penal process. [01227-02.01] [Original text: English] • **SUMMARY OF THE RESPONSE** Testo in lingua originale inglese Traduzione in lingua italiana Traduzione in lingua spagnola Testo in lingua originale inglese Summary of the Response to Mr Eamon Gilmore, *Tánaiste* and Minister for Foreign Affairs and Trade of Ireland, concerning the Cloyne Report On 14 July 2011, following the publication of the Report of the Commission of Investigation into the Diocese of Cloyne (*Cloyne Report*), Mr Eamon Gilmore, Deputy Prime Minister (*Tánaiste*) and Minister for Foreign Affairs and Trade of Ireland, in the course of a meeting with the Apostolic Nuncio in Ireland, Archbishop Giuseppe Leanza, conveyed the Irish Government's request for a response from the Holy See to the Report and to the Government's views in its regard. **1. General remarks about the Cloyne Report** The Holy See has carefully examined the *Cloyne Report*, which has brought to light very serious and disturbing failings in the handling of accusations of sexual abuse of children and young people by clerics in the Diocese of Cloyne. The Holy See wishes to state at the outset its profound abhorrence for the crimes of sexual abuse which took place in that Diocese and is sorry and ashamed for the terrible sufferings which the victims of abuse and their families have had to endure within the Church of Jesus Christ, a place where this should never happen. It is very concerned at the findings of the Commission concerning grave failures in the ecclesiastical governance of the Diocese and the mishandling of allegations of abuse. It is particularly disturbing that these failures occurred despite the undertaking given by the Bishops and Religious Superiors to apply the guidelines developed by the Church in Ireland to help ensure child protection and despite the Holy See's norms and procedures relating to cases of sexual abuse. However, the approach taken by the Church in Ireland in recent times to the problem of child sexual abuse is benefitting from ongoing experience and proving more and more effective in preventing the recurrence of these crimes and in dealing with cases as they arise. **2. Issues raised by the Cloyne Report** The Holy See's Response addresses in detail the various charges made against it, which seem to be based primarily on the *Cloyne Report's* account and assessment of the letter addressed to the Irish Bishops on 31 January 1997 by the then Apostolic Nuncio, Archbishop Luciano Storero, concerning the response of the Congregation for the Clergy to the document *Child Sexual Abuse: Framework for a Church Response* (the *Framework Document*). The Commission of Inquiry asserts that this response gave comfort to those who dissented from the stated official Church policy and was unsupportive especially in relation to reporting to the civil authorities. The Holy See wishes to state the following in relation to the response of the Congregation for the Clergy: The Congregation described the *Framework Document* as a "*study document*" on the basis of information provided by the Irish Bishops, who described the text not as an official document of the Irish Bishops' Conference, but, rather, as a "*report*" of the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious, recommended "*to individual dioceses and congregations as a framework for addressing the issue of child sexual abuse.*" The Irish Bishops never sought the *recognitio* of the Holy See for the *Framework Document*, which, in accordance with canon 455 of the Code of Canon Law, would have been required only if they intended it to be a general decree of the Conference binding on all its members. However, the lack of *recognitio* itself did not preclude the application of the document's guidelines, since individual Bishops could adopt them without having to refer to the Holy See.

This is, in fact, what generally happened in Ireland. The Irish Bishops consulted the Congregation to resolve difficulties relating to some of the content of the *Framework Document*. The Congregation offered advice to the Bishops with a view to ensuring that the measures which they intended to apply would prove effective and unproblematic from a canonical perspective. For this reason, the Congregation drew attention to the requirement that these measures should be in harmony with canonical procedures in order to avoid conflicts that could give rise to successful appeals in Church tribunals. The Congregation did not reject the *Framework Document*. Rather, it wanted to ensure that the measures contained in the *Framework Document* would not undermine the Bishops' efforts to discipline those guilty of child abuse in the Church. At the same time, it is important to bear in mind the decision of the Holy See in 1994 to grant special provisions to the Bishops of the United States to deal with child sexual abuse in the Church. These provisions were extended to the Bishops of Ireland in 1996 to assist them to overcome difficulties that they were experiencing at that time (cf. Part Six of the Response). Meeting canonical requirements to ensure the correct administration of justice within the Church in no way precluded cooperation with the civil authorities. The Congregation for the Clergy did express reservations about mandatory reporting, but it did not forbid the Irish Bishops from reporting accusations of child sexual abuse nor did it encourage them to flout Irish law. In this regard, the then Prefect of the Congregation, Cardinal Darío Castrillón Hoyos, in his meeting with the Irish Bishops at Rosses Point, County Sligo (Ireland), on 12 November 1998 unequivocally stated: "*I also wish to say with great clarity that the Church, especially through its Pastors (Bishops), should not in any way put an obstacle in the legitimate path of civil justice, when such is initiated by those who have such rights, while at the same time, she should move forward with her own canonical procedures, in truth, justice and charity towards all.*" It should be noted that, at the time, not only the Church but also the Irish State was engaged in efforts to improve its own legislation on child sexual abuse. To this end, the Irish Government organized an extensive consultation on mandatory reporting in 1996 and, after taking into account the reservations expressed by various professional groups and individuals in civil society – views broadly in line with those expressed by the Congregation – it decided not to introduce mandatory reporting into the Irish legal system. Given that the Irish Government of the day decided not to legislate on the matter, it is difficult to see how Archbishop Storero's letter to the Irish Bishops, which was issued subsequently, could possibly be construed as having somehow subverted Irish law or undermined the Irish State in its efforts to deal with the problem in question.

3. Issues raised by Irish political leaders The Holy See wishes to state the following in relation to some of the reactions of Irish political leaders: While the Holy See understands and shares the depth of public anger and frustration at the findings of the *Cloyne Report*, which found expression in the speech made by the *Taoiseach*, Mr Enda Kenny, in *Dáil Éireann* on 20 July 2011, it has significant reservations about some aspects of the speech. In particular, the accusation that the Holy See attempted "*to frustrate an Inquiry in a sovereign, democratic republic as little as three years ago, not three decades ago*" is unfounded. Indeed, when asked, a Government spokesperson clarified that Mr Kenny was not referring to any specific incident. In fact, accusations of interference by the Holy See are belied by the many Reports cited as the basis for such criticisms. Those Reports – lauded for their exhaustive investigation of sexual abuse and the way it was managed – contain no evidence that the Holy See meddled in the internal affairs of the Irish State or was involved in the day-to-day management of Irish dioceses or religious congregations with respect to sexual abuse issues. Indeed, what is impressive about these Reports, and the vast information that they rely upon, is that there is no support for these accusations. In this regard, the Holy See wishes to make it quite clear that it in no way hampered or sought to interfere in any inquiry into cases of child sexual abuse in the Diocese of Cloyne. Furthermore, at no stage did the Holy See seek to interfere with Irish civil law or impede the civil authority in the exercise of its duties. The Holy See would also point out that the text of the then Cardinal Joseph Ratzinger quoted by Mr Kenny in his speech is taken from No. 39 of the *Instruction on the Ecclesial Vocation of the Theologian*, published by the Congregation for the Doctrine of the Faith on 24 May 1990. This text is concerned neither with the manner in which the Church should behave within a democratic society nor with issues of child protection, as Mr Kenny's use of the quotation would seem to imply, but with the theologian's service to the Church community. In his meeting with the Apostolic Nuncio, the *Tánaiste* and Minister for Foreign Affairs and Trade, Mr Eamon Gilmore, stated that "*among the most disturbing of the findings of the Cloyne report is that the Vatican authorities undermined the Irish Church's own efforts to deal with clerical child sexual abuse by describing the framework document adopted by the Bishops' Conference as a mere 'study document'.*" As is made clear in the Holy See's Response this description was based on the explanations of its nature as provided by the Irish Bishops and in the published text itself. In no way was it a dismissal of the serious efforts undertaken by the Irish Bishops to address the scourge of child sexual abuse. With regard to the motion passed in *Dáil Éireann* on 20 July 2011, and by *Seanad Éireann* a week later, deploring "*the Vatican's intervention which contributed to the undermining of the child protection framework and guidelines of the Irish State and the Irish Bishops*" the Holy See wishes to clarify that at no stage did it make any comment about the Irish State's child

protection measures, let alone seek to undermine them. The Holy See observes that there is no evidence cited anywhere in the *Cloyne Report* to support the claim that its supposed "*intervention*" contributed to their "*undermining*". As for those of the Irish Bishops, the Response offers sufficient clarifications to show that these were in no way undermined by any intervention of the Holy See. **4. Concluding remarks** In its Response, the Holy See offers a presentation of the Church's approach to child protection, including the relevant canonical legislation, and refers to the Holy Father's *Letter to the Catholics of Ireland*, published on 19 March 2010, in which Pope Benedict indicates his expectation that the Irish Bishops will cooperate with the civil authorities, to implement fully the norms of canon law and to ensure the full and impartial application of the child safety norms of the Church in Ireland. The publication of the *Cloyne Report* marks a further stage in the long and difficult path of ascertaining the truth, of penance and purification, and of healing and renewal of the Church in Ireland. The Holy See does not consider itself extraneous to this process but shares in it in a spirit of solidarity and commitment. In a spirit of humility, the Holy See, while rejecting unfounded accusations, welcomes all objective and helpful observations and suggestions to combat with determination the appalling crime of sexual abuse of minors. The Holy See wishes to state once again that it shares the deep concern and anxiety expressed by the Irish authorities, by Irish citizens in general and by the Bishops, priests, religious and lay faithful of Ireland with regard to the criminal and sinful acts of sexual abuse perpetrated by clergy and religious. It also recognizes the understandable anger, disappointment and sense of betrayal of those affected – particularly the victims and their families – by these vile and deplorable acts and by the way in which they were sometimes handled by Church authorities, and for all of this it wishes to reiterate its sorrow for what happened. It is confident that the measures which the Church has introduced in recent years at a universal level, as well as in Ireland, will prove more effective in preventing the recurrence of these acts and contribute to the healing of those who suffered abuse and to the restoration of mutual confidence and collaboration between Church and State authorities, which is essential for the effective combating of the scourge of abuse. Naturally, the Holy See is well aware that the painful situation to which the episodes of abuse have given rise cannot be resolved swiftly or easily, and that although much progress has been made, much remains to be done. Since the early days of the Irish State and especially since the establishment of diplomatic relations in 1929, the Holy See has always respected Ireland's sovereignty, has maintained cordial and friendly relations with the country and its authorities, has frequently expressed its admiration for the exceptional contribution of Irish men and women to the Church's mission and to the betterment of peoples throughout the world, and has been unfailing in its support of all efforts to promote peace on the island during the recent troubled decades. Consistent with this attitude, the Holy See wishes to reaffirm its commitment to constructive dialogue and cooperation with the Irish Government, naturally on the basis of mutual respect, so that all institutions, whether public or private, religious or secular, may work together to ensure that the Church and, indeed, society in general will always be safe for children and young people. [01228-02.01] [Original text: English]

Traduzione in lingua italiana Sintesi della risposta all'On. Eamon Gilmore, Vice-Primo Ministro d'Irlanda (Tánaiste) e Ministro degli Esteri e del Commercio, a riguardo del Cloyne Report Il 14 luglio 2011, a seguito della pubblicazione del Rapporto della Commissione d'Inchiesta sulla diocesi di Cloyne, conosciuto come *Cloyne Report*, l'On. Eamon Gilmore, Vice-Primo Ministro d'Irlanda (*Tánaiste*) e Ministro degli Esteri e del Commercio, nel corso di un incontro con S.E. Mons. Giuseppe Leanza, Nunzio Apostolico in Irlanda, ha chiesto alla Santa Sede, a nome del Governo irlandese, di intervenire a riguardo del *Cloyne Report* e delle considerazioni formulate sullo stesso da parte del Governo. **Osservazioni generali circa il Cloyne Report** La Santa Sede ha esaminato con attenzione il *Cloyne Report*, riscontrando gravi ed inquietanti errori nel modo di affrontare le accuse di abuso sessuale di bambini e minori da parte di sacerdoti della diocesi di Cloyne. La Santa Sede desidera riaffermare, anzitutto, il proprio orrore verso i crimini di abuso sessuale che sono avvenuti in quella diocesi; è profondamente addolorata e si vergogna per le terribili sofferenze che le vittime e le loro famiglie hanno dovuto sopportare nella Chiesa di Gesù Cristo, un luogo dove ciò non deve mai accadere. La Santa Sede, inoltre, non può nascondere la propria grave preoccupazione per le conclusioni della Commissione, circa le gravi mancanze nel governo della Diocesi e il trattamento inadeguato delle accuse di abuso. È particolarmente inquietante che tali mancanze siano potute accadere nonostante i Vescovi e i Superiori religiosi avessero assunto l'impegno di applicare le linee guida sviluppate dalla Chiesa in Irlanda per garantire la protezione dei minori, e nonostante le norme e le procedure della Santa Sede relative ai casi di abuso sessuale. Comunque, l'approccio adottato dalla Chiesa in Irlanda nei tempi recenti a riguardo del problema dell'abuso sessuale sui minori sta beneficiando dell'esperienza in corso e si sta dimostrando sempre più efficace nel prevenire la ripetizione di tali crimini e nel trattare i casi che emergono. **Questioni sollevate dal Cloyne Report** Il testo della Risposta della Santa Sede affronta nel dettaglio le diverse accuse mosse contro di essa, che sembrano essere fondate principalmente sul resoconto e la valutazione che il *Cloyne Report* ha dato della

lettera indirizzata ai Vescovi irlandesi, il 31 gennaio 1997, da S.E. Mons. Luciano Storero, allora Nunzio Apostolico in Irlanda. Tale lettera comunicava la risposta della Congregazione per il Clero al documento *Child Sexual Abuse: Framework for a Church Response* (d'ora in poi, Documento Quadro). La Commissione d'Inchiesta afferma che la suddetta risposta ha fornito appoggio a coloro che dissentivano dalla linea ufficiale della Chiesa ed è stata di poco aiuto specialmente rispetto alla denuncia alle Autorità civili. La Santa Sede desidera affermare quanto segue in relazione alla risposta della Congregazione per il Clero: La Congregazione ha descritto il Documento Quadro come "documento di studio" sulla base delle informazioni fornite dai Vescovi irlandesi, che hanno descritto il testo non come un documento ufficiale della Conferenza Episcopale Irlandese, ma piuttosto come un "rapporto" della *Commissione consultiva dei Vescovi Cattolici irlandesi sugli abusi sessuali sui minori compiuti dal clero e da religiosi*. Tale rapporto era stato allora raccomandato *"alle singole diocesi e alle congregazioni religiose come documento quadro per affrontare le problematiche relative all'abuso sessuale sui minori"*. I Vescovi irlandesi non hanno mai chiesto la *"recognitio"* della Santa Sede per il Documento Quadro, che, secondo il Can. 455 del Codice di Diritto Canonico, sarebbe stato necessario richiedere solo se essi intendevano che il documento fosse un decreto generale della Conferenza Episcopale, con forza obbligatoria su tutti i suoi membri. Comunque, la mancanza della *"recognitio"* di per sé non precludeva l'applicazione delle indicazioni contenute nel documento, dato che ogni singolo Vescovo poteva adottarle, senza dover riferire alla Santa Sede. E tale applicazione è quanto è generalmente accaduto in Irlanda. I Vescovi irlandesi hanno consultato la Congregazione per risolvere delle difficoltà relative ad alcuni contenuti del Documento Quadro. La Congregazione ha consigliato i Vescovi al fine di assicurare che le misure che essi volevano applicare, risultassero efficaci e non problematiche da un punto di vista canonico. Per tale ragione, la Congregazione ha attirato l'attenzione sulla necessità che tali misure fossero in armonia con le procedure canoniche per evitare conflitti che avrebbero potuto generare appelli dall'esito positivo nei Tribunali ecclesiastici. La Congregazione non ha respinto il Documento Quadro. Essa ha, piuttosto, voluto assicurare che le misure contenute nel Documento Quadro non ostacolassero gli sforzi dei Vescovi nell'applicare le misure disciplinari contro coloro che erano colpevoli di abuso sessuale nella Chiesa. Allo stesso tempo, è importante ricordare la decisione della Santa Sede nel 1994 che accordava una normativa speciale ai Vescovi degli Stati Uniti nel trattare l'abuso sessuale sui minori nella Chiesa. Questa normativa fu accordata ai Vescovi d'Irlanda nel 1996 per assisterli a superare le difficoltà che stavano sperimentando a quel tempo (Cfr. Parte VI della Risposta). La necessità di seguire il Diritto Canonico per assicurare la corretta amministrazione della giustizia nella Chiesa in nessun modo impediva la cooperazione con le Autorità civili. La Congregazione per il Clero ha espresso riserve circa l'obbligo di denuncia; non ha però proibito ai Vescovi irlandesi di denunciare alle Autorità civili le accuse di abuso sessuale sui minori, né ha incoraggiato i Vescovi a non osservare la legge. A tale riguardo, l'allora Prefetto della Congregazione, Cardinal Darío Castrillón Hoyos, nel suo incontro con i Vescovi irlandesi a Rosses Point, Contea di Sligo, in Irlanda, il 12 novembre 1998, ha inequivocabilmente affermato: *"Desidero anche dire con grande chiarezza che la Chiesa, specialmente attraverso i suoi Pastori (i Vescovi), non deve in nessun modo porre ostacoli al legittimo cammino della giustizia civile, quando esso è stato avviato da coloro che ne hanno diritto, mentre allo stesso tempo la Chiesa deve proseguire con le proprie procedure canoniche, nella verità, nella giustizia e nella carità verso tutti"*. Si deve poi notare che, a quel tempo, non solo la Chiesa ma anche lo Stato in Irlanda erano impegnati a sforzarsi di migliorare la propria legislazione concernente gli abusi sessuali sui minori. A tal fine, il Governo Irlandese organizzò nel 1996 un'ampia consultazione sull'obbligo di denuncia alle Autorità civili e, dopo aver preso in considerazione le riserve espresse da vari gruppi di professionisti e da individui della società civile, che erano in larga misura in linea con quelle segnalate dalla Congregazione, decise di non introdurre l'obbligo di denuncia all'interno del sistema giuridico irlandese. Dato che il Governo Irlandese di allora ha deciso di non legiferare sulla materia, è difficile comprendere come la lettera di Mons. Storero ai Vescovi irlandesi, che è stata scritta successivamente, abbia potuto essere interpretata come uno strumento che in qualche modo sovvertiva la legge irlandese o ostacolava lo Stato irlandese nei suoi sforzi per affrontare il problema in questione. **Questioni sollevate da alcuni esponenti politici irlandesi** La Santa Sede desidera precisare quanto segue in relazione ad alcune reazioni di esponenti politici irlandesi: La Santa Sede comprende e condivide i profondi sentimenti di rabbia e frustrazione manifestati pubblicamente a fronte di ciò che è emerso con il *Cloyne Report*, e che ha trovato espressione nel discorso dell'On. Enda Kenny, Primo Ministro (*Taoiseach*), tenuto alla Camera dei Deputati (*Dáil Éireann*) il 20 luglio 2011. Tuttavia la Santa Sede nutre significative riserve su alcuni aspetti del discorso. In particolare, è infondata l'accusa che la Sede Apostolica abbia tentato *"di ostacolare un'Inchiesta in una Repubblica sovrana e democratica, appena tre anni fa, non trent'anni fa"*. Del resto, un portavoce governativo, quando è stato interrogato in merito, ha chiarito che l'On. Kenny non si riferiva ad alcun episodio specifico. Del resto, le accuse di ingerenza da parte della Santa Sede sono smentite dai molti rapporti che pure vengono utilizzati per criticarla. Quei rapporti, lodati per la loro esaustiva investigazione degli abusi sessuali e del modo in cui essa è avvenuta, non forniscono prove che la

Santa Sede abbia interferito negli affari interni dello Stato Irlandese o, addirittura, sia stata implicata nell'ordinaria gestione delle diocesi irlandesi o delle congregazioni religiose circa i problemi degli abusi sessuali. Piuttosto, ciò che colpisce di questi rapporti e delle numerose informazioni sulle quali sono basati è la mancanza di documentazione a supporto di tali accuse. A tale riguardo, la Santa Sede desidera sottolineare che in nessun modo essa ha ostacolato o tentato d'interferire in alcuna delle indagini sui casi di abuso sessuale sui minori nella diocesi di Cloyne. Inoltre, in nessun momento, la Santa Sede ha cercato d'interferire nel diritto irlandese o di intralciare le Autorità civili nell'esercizio delle loro funzioni. La Santa Sede desidera anche sottolineare che il testo dell'allora Cardinale Joseph Ratzinger, richiamato dall'On. Kenny, è una citazione tratta dal N. 39 dell'*Istruzione sulla vocazione ecclesiale del teologo*, pubblicato dalla Congregazione per la Dottrina della Fede il 24 maggio 1990. Tale testo non riguarda la maniera con cui la Chiesa dovrebbe comportarsi all'interno di una società democratica e nemmeno ha a che fare con tematiche inerenti la protezione dell'infanzia, come l'uso della citazione che ne fa l'On. Kenny sembrerebbe sostenere, ma riguarda il servizio del teologo alla comunità ecclesiale. Nel suo incontro con il Nunzio Apostolico, il Vice-Primo Ministro d'Irlanda (*Tánaiste*) e Ministro degli Esteri e del Commercio, On. Eamon Gilmore, ha affermato che *"tra le più inquietanti conclusioni del Cloyne Report c'è quella secondo la quale le Autorità vaticane, descrivendo il Documento Quadro adottato dalla Conferenza Episcopale come un mero 'documento di studio', hanno ostacolato gli sforzi della Chiesa irlandese nel trattare gli abusi sessuali sui minori commessi dal clero,"*. Come è chiarito nella Risposta della Santa Sede, detta espressione era fondata sulle spiegazioni della sua natura fornite dai Vescovi irlandesi e sullo stesso testo pubblicato. In nessun modo intendeva squalificare i seri sforzi intrapresi dai Vescovi irlandesi per affrontare il flagello dell'abuso sessuale sui minori. Quanto alla mozione passata alla Camera dei Deputati (*Dáil Éireann*), il 20 luglio 2011, e al Senato (*Seanad Éireann*), una settimana dopo, che deplora *"l'intervento del Vaticano che ha contribuito ad ostacolare il Documento Quadro per la protezione dell'infanzia e delle linee guida dello Stato irlandese e dei Vescovi irlandesi"*, la Santa Sede desidera chiarire che, in nessun momento, si è espressa sulla misure di protezione dell'infanzia adottate dallo Stato irlandese, e tanto meno ha mai cercato di ostacolarle. La Santa Sede osserva che non ci sono prove citate in alcuna parte del *Cloyne Report* che permettano di concludere che il suo "presunto intervento" abbia favorito ad ostacolare dette misure. Per quanto riguarda, poi, le linee guida stabilite dai Vescovi irlandesi, la Risposta offre sufficienti chiarimenti per mostrare che esse in nessun modo sono state indebolite da alcun intervento della Santa Sede.

Osservazioni conclusive Nella sua Risposta, la Santa Sede offre una presentazione dell'approccio della Chiesa alla protezione dei minori, includendo la relativa normativa canonica, e fa riferimento alla *Lettera ai Cattolici d'Irlanda* del Santo Padre Benedetto XVI, pubblicata il 19 marzo 2010, nella quale il Pontefice indica che si attende che i Vescovi irlandesi cooperino con le Autorità civili, applichino pienamente le norme del Diritto Canonico e assicurino piena e imparziale applicazione delle norme della Chiesa in Irlanda per la protezione dei minori. La pubblicazione del *Cloyne Report* segna un ulteriore passaggio nel lungo e difficile cammino di accertamento della verità, di penitenza e purificazione, di guarigione e rinnovamento della Chiesa in Irlanda. La Santa Sede non si considera estranea a questo processo ma lo condivide in spirito di solidarietà ed impegno. La Santa Sede, mentre rigetta le accuse infondate, accoglie in spirito d'umiltà tutte le osservazioni e i suggerimenti obiettivi e utili per combattere con determinazione lo spaventoso crimine dell'abuso sessuale sui minori. La Santa Sede desidera ribadire che condivide la profonda preoccupazione e l'inquietudine espresse dalle Autorità irlandesi, dai cittadini irlandesi in generale e dai Vescovi, sacerdoti, religiosi e laici d'Irlanda a riguardo dei criminali e peccaminosi atti di abuso sessuale perpetrati da membri del clero e da religiosi. La Sede Apostolica è anche consapevole della comprensibile rabbia, della delusione e del senso di tradimento sperimentati da coloro, particolarmente le vittime e le loro famiglie, che sono stati segnati da questi vili e deplorabili atti e dal modo in cui essi talvolta sono stati affrontati dalle autorità ecclesiastiche. Per questo la Santa Sede desidera riaffermare il proprio dolore per ciò che è accaduto. Essa si augura che le misure che la Chiesa ha introdotto negli ultimi anni a livello universale, come anche in Irlanda, si dimostrino più efficaci nell'impedire il ripetersi di tali atti e contribuiscano alla guarigione di coloro che hanno sofferto per gli abusi, come pure a ristabilire la fiducia reciproca e la collaborazione tra le Autorità ecclesiastiche e quelle statali, che sono essenziali per combattere efficacemente il flagello dell'abuso. Naturalmente, la Santa Sede sa bene che la dolorosa situazione provocata dagli episodi di abuso non può essere risolta rapidamente o facilmente e che, benché siano stati compiuti molti progressi, molto rimane ancora da fare. Sin dai primi giorni dello Stato Irlandese, e specialmente dallo stabilimento delle relazioni diplomatiche nel 1929, la Santa Sede ha sempre rispettato la sovranità dell'Irlanda, ha mantenuto relazioni cordiali e amichevoli con il Paese e le sue Autorità, ha frequentemente espresso la propria ammirazione per lo straordinario contributo offerto da uomini e donne irlandesi alla missione della Chiesa e al miglioramento delle condizioni di vita delle popolazioni in tutto il mondo; inoltre, la Santa Sede non ha fatto mancare il proprio supporto a tutti gli sforzi per promuovere la pace sull'isola durante gli ultimi travagliati decenni. In linea con tale atteggiamento, la Santa Sede desidera riaffermare il suo impegno ad un dialogo costruttivo e alla cooperazione

con il Governo irlandese, naturalmente sulla base del reciproco rispetto, così che tutte le istituzioni, sia pubbliche che private, religiose o civili, possano cooperare per assicurare che la Chiesa, e anzi la società in generale, siano sempre un luogo sicuro per l'infanzia e i giovani. [01229-01.01] [Testo originale:

Inglese] **Traduzione in lingua spagnola** **Síntesis de la Respuesta al señor Eamon Gilmore, vice primer ministro de Irlanda (Tánaiste) y ministro de Exteriores y Comercio, acerca del Cloyne Report** El 14 de julio de 2011, después de la publicación del Informe de la Comisión de Investigación sobre la diócesis de Cloyne, conocido como *Cloyne Report*, el señor Eamon Gilmore, vice primer ministro de Irlanda (*Tánaiste*) y ministro de Exteriores y Comercio, en el curso de un encuentro con el Nuncio Apostólico en Irlanda, el arzobispo Giuseppe Leanza, trasladó la petición del Gobierno irlandés de una respuesta por parte de la Santa Sede al Informe y a las consideraciones del Gobierno sobre el mismo. **Observaciones generales acerca del Cloyne Report** La Santa Sede ha examinado cuidadosamente el *Cloyne Report*, que ha evidenciado graves e inquietantes errores en la forma de afrontar las acusaciones de abuso sexual de niños y jóvenes por parte de eclesiásticos en la diócesis de Cloyne. La Santa Sede desea reafirmar, ante todo, su profunda repugnancia por los delitos de abuso sexual sucedidos en esa diócesis y lamenta y se avergüenza profundamente por los terribles sufrimientos que las víctimas y sus familias han tenido que soportar en la Iglesia de Jesucristo, lugar donde eso jamás tendría que ocurrir. La Santa Sede está muy preocupada por los hallazgos de la Comisión respecto a las graves carencias en el gobierno eclesial de la diócesis y el trato inadecuado de las acusaciones de abuso. Es particularmente alarmante que todas estas deficiencias hayan podido suceder a pesar de que los obispos y los superiores religiosos hayan asumido el compromiso de aplicar las líneas guía desarrolladas por la Iglesia en Irlanda a fin de ayudar a garantizar la protección de los niños, y a pesar de las normas y de los procedimientos de la Santa Sede relativos a los casos de abuso sexual. En cualquier caso, la actitud adoptada por la Iglesia en Irlanda en tiempos recientes respecto al problema del abuso sexual de menores se está beneficiando de la experiencia en marcha y está demostrando cada vez mayor eficacia en la prevención de la repetición de tales delitos y en el trato de los casos que surgen. **Cuestiones suscitadas por el Cloyne Report** El texto de la Respuesta de la Santa Sede afronta detalladamente las diversas acusaciones presentadas contra ella, que parecen fundarse principalmente en la relación y la valoración que el *Cloyne Report* ha dado respecto a la carta dirigida a los obispos irlandeses el 31 de enero de 1997 por el entonces Nuncio Apostólico, el arzobispo Luciano Storero, relativa a la respuesta de la Congregación para el Clero al documento *Child Sexual Abuse: Framework for a Church Response* (el *Documento Marco*). La Comisión de Investigación afirma que la mencionada respuesta proporcionó apoyo a quienes disientían de la línea oficial de la Iglesia y fue de poca ayuda especialmente respecto a la denuncia ante las autoridades civiles. La Santa Sede desea afirmar cuanto sigue en relación a la respuesta de la Congregación para el Clero: La Congregación describió el *Documento Marco* como un "documento de estudio" sobre la base de la información que le habían proporcionado los obispos irlandeses, quienes describieron el texto no como un documento oficial de la Conferencia Episcopal Irlandesa, sino más bien como un "informe" del *Comité consultivo de los obispos católicos irlandeses sobre los abusos sexuales de menores cometidos por clérigos y religiosos*; informe recomendado "a las diócesis individuales y a las congregaciones como marco para afrontar la cuestión del abuso sexual de menores". Los obispos irlandeses jamás buscaron la *recognitio* de la Santa Sede para el *Documento Marco*, que, según el canon 455 del Código de Derecho Canónico, habría sido necesario solicitar sólo si ellos pretendían que el documento fuera un decreto general de la Conferencia Episcopal vinculante para todos sus miembros. En cualquier caso, la falta de la *recognitio* de por sí no impide la aplicación de las indicaciones contenidas en el documento, dado que cada obispo podía adoptarlas sin tener que referirse a la Santa Sede. Esto es, de hecho, cuanto generalmente ha sucedido en Irlanda. Los obispos irlandeses consultaron a la Congregación para resolver dificultades relativas a algunos contenidos del *Documento Marco*. La Congregación aconsejó a los obispos con el fin de asegurar que las medidas que querían aplicar resultasen eficaces y no problemáticas desde un punto de vista canónico. Por esa razón, la Congregación llamó la atención sobre la necesidad de que dichas medidas estuvieran en armonía con la normativa canónica para evitar conflictos que pudieran dar lugar a apelaciones con éxito en los tribunales eclesiásticos. La Congregación no ha rechazado el Documento Marco. La Congregación no rechazó el *Documento Marco*. Ésta, más bien, quiso asegurar que las medidas contenidas en el *Documento Marco* no minaran los esfuerzos de los obispos en la aplicación de las medidas disciplinarias contra los culpables de abuso sexual de menores en la Iglesia. Al mismo tiempo, es importante recordar la decisión de la Santa Sede en 1994 de conceder una normativa especial a los obispos de los Estados Unidos para tratar los abusos sexuales de menores en la Iglesia. Esta normativa se extendió a los obispos de Irlanda en 1996 para ayudarles a superar las dificultades que estaban experimentando en aquel tiempo (Cfr. Parte VI de la Respuesta). Cumplir con los requisitos canónicos para asegurar la correcta administración de justicia en la Iglesia de ningún modo impedía la cooperación con las autoridades civiles. La Congregación para el Clero expresó reservas acerca de la obligación de denuncia, pero no prohibió a los obispos irlandeses denunciar a las autoridades civiles las

acusaciones de abuso sexual de menores, ni animó a los obispos a que no observaran la ley irlandesa. Al respecto, el entonces prefecto de la Congregación, el cardenal Darío Castrillón Hoyos, en su encuentro con los obispos irlandeses en Rosses Point, Condado de Sligo (Irlanda), el 12 de noviembre de 1998, afirmó inequívocamente: *"Deseo también decir con gran claridad que la Iglesia, especialmente a través de sus pastores (los obispos), no debe de ningún modo poner obstáculos al legítimo camino de la justicia civil, cuando éste es emprendido por quienes tienen ese derecho, mientras que al mismo tiempo la Iglesia debe proseguir con sus propios procedimientos canónicos, en la verdad, en la justicia y en la caridad hacia todos"*. Se debe observar que, en ese tiempo, no sólo la Iglesia, sino también el Estado irlandés estaba comprometido en el esfuerzo de mejorar su propia legislación sobre abuso sexual de menores. A tal fin, el Gobierno irlandés organizó en 1996 una amplia consulta sobre la obligación de denuncia y, después de haber tomado en consideración las reservas expresadas por varios grupos profesionales e individuos de la sociedad civil -que estaban en gran medida en sintonía con las indicadas por la Congregación-, decidió no introducir la obligación de denuncia en el sistema legal irlandés. Dado que el Gobierno irlandés de entonces decidió no legislar sobre la materia, difícilmente se comprende cómo la carta del arzobispo Storero a los obispos irlandeses, que se escribió con posterioridad, pudo ser interpretada como un instrumento que de algún modo subvertía la ley irlandesa o debilitaba al Estado irlandés en sus esfuerzos por tratar el problema en cuestión.

Cuestiones suscitadas por líderes políticos irlandeses La Santa Sede desea precisar lo siguiente respecto a algunas reacciones de líderes políticos irlandeses: La Santa Sede comprende y comparte los profundos sentimientos de enfado y frustración ante las conclusiones del *Cloyne Report*, y que se manifestaron en el discurso del señor Enda Kenny, primer ministro (*Taoiseach*), pronunciado en la Cámara de Diputados (*Dáil Éireann*) el 20 de julio de 2011. Sin embargo, la Santa Sede mantiene importantes reservas sobre algunos aspectos del discurso. En particular, es infundada la acusación de que la Santa Sede pretendiera *"frustrar una Investigación en una República soberana y democrática hace sólo tres años, no hace tres décadas"*. Por lo demás, un portavoz gubernamental, cuando se le preguntó al respecto, aclaró que el señor Kenny no se refería a ningún incidente específico. De hecho, las acusaciones de injerencia contra la Santa Sede se desmienten en muchos informes que, con todo, se utilizan para criticarla. Tales informes -elogiados por su exhaustiva investigación del abuso sexual y la forma en que se trató- no proporcionan pruebas de que la Santa Sede haya interferido en los asuntos internos del Estado irlandés o de que haya estado involucrada en la gestión ordinaria de las diócesis irlandesas o de las congregaciones religiosas acerca de los problemas de abuso sexual. Más bien lo que impacta de estos informes, y de la amplia información sobre la que se basan, es que no existe base para tales acusaciones. Al respecto, la Santa Sede desea dejar bien claro que de ningún modo ha obstaculizado o intentado interferir en ninguna investigación de casos de abuso sexual de menores en la diócesis de Cloyne. Además, en ningún momento la Santa Sede ha intentado interferir en la ley civil irlandesa o impedir a las autoridades civiles el ejercicio de sus funciones. La Santa Sede desea señalar que el texto del entonces cardenal Joseph Ratzinger, mencionado por el señor Kenny en su discurso, está tomado del número 39 de la *Instrucción sobre la vocación eclesial del teólogo*, publicada por la Congregación para la Doctrina de la Fe el 24 de mayo de 1990. Este texto no se refiere a la manera en que la Iglesia debe comportarse en una sociedad democrática ni tampoco tiene relación con temáticas de protección de la infancia, como parecería sostener el uso que, de la cita, hizo el señor Kenny, sino que se refiere al servicio del teólogo a la comunidad eclesial. En su encuentro con el Nuncio Apostólico, el vice primer ministro de Irlanda (*Tánaiste*) y ministro de Exteriores y Comercio, el señor Eamon Gilmore, afirmó que *"entre las conclusiones más inquietantes del Cloyne Report se encuentra aquella según la cual las autoridades vaticanas, describiendo el Documento Marco adoptado por la Conferencia Episcopal como un mero 'documento de estudio', socavaron los esfuerzos de la Iglesia irlandesa para tratar los abusos sexuales de menores cometidos por el clero"*. Como se aclara en la Respuesta de la Santa Sede, tal descripción se basó en las explicaciones de su naturaleza, proporcionadas por los obispos irlandeses y en el texto mismo publicado. De ningún modo fue una desestimación de los serios esfuerzos emprendidos por los obispos irlandeses para afrontar el flagelo del abuso sexual de menores. En cuanto a la moción aprobada en la Cámara de Diputados (*Dáil Éireann*) el 20 de julio de 2011 y, una semana después, en el Senado (*Seanad Éireann*), deplorando *"la intervención Vaticana que contribuyó a obstaculizar el Documento Marco para la protección de la infancia y las líneas guía del Estado irlandés y de los obispos irlandeses"*, la Santa Sede desea aclarar que en ningún momento se pronunció sobre las medidas de protección a la infancia adoptadas por el Estado irlandés, y menos aún intentó obstaculizarlas. La Santa Sede observa que no existen pruebas citadas en ninguna parte del *Cloyne Report* que permitan concluir que su presunta *"intervención"* contribuyera a *"obstaculizar"* dichas medidas. En lo que respecta a las líneas guía establecidas por los obispos irlandeses, la Respuesta ofrece suficientes aclaraciones para mostrar que aquellas en modo alguno fueron debilitadas por una intervención de la Santa Sede.

Observaciones finales En su Respuesta, la Santa Sede ofrece una presentación de la actitud de la Iglesia hacia la protección de menores, incluyendo la correspondiente

legislación canónica, y hace referencia a la *Carta a los católicos de Irlanda* del Santo Padre Benedicto XVI, publicada el 19 de marzo de 2010, en la que el Papa Benedicto indica su vivo deseo de que los obispos irlandeses cooperen con las autoridades civiles, apliquen plenamente las normas del Derecho Canónico y aseguren la aplicación plena e imparcial de las normas de la Iglesia en Irlanda para la protección de los menores. La publicación del *Cloyne Report* es un paso más en el largo y difícil camino de comprobación de la verdad, de penitencia y purificación, de sanación y renovación de la Iglesia en Irlanda. La Santa Sede no se considera ajena a este proceso, sino que lo comparte en espíritu de solidaridad y compromiso. La Santa Sede, a la vez que rechaza las acusaciones infundadas, acoge con espíritu de humildad todas las observaciones y sugerencias objetivas y útiles para combatir con determinación el espantoso delito del abuso sexual de menores. La Santa Sede desea manifestar de nuevo que comparte la profunda preocupación e inquietud expresadas por las autoridades irlandesas, por los ciudadanos irlandeses en general y por los obispos, sacerdotes, religiosos y laicos de Irlanda respecto a los actos delictivos y pecaminosos de abuso sexual perpetrados por miembros del clero y por religiosos. La Santa Sede es también consciente de la comprensible rabia, de la desilusión y del sentimiento de traición experimentados por quienes, particularmente las víctimas y sus familias, se han visto afectados por estas acciones viles y deplorables y por el modo en que a veces se han afrontado por parte de las autoridades eclesásticas. Y por ello la Santa Sede desea reiterar su dolor por lo sucedido. Desea que las medidas que la Iglesia ha introducido en los últimos años, universalmente, como también en Irlanda, sean más eficaces para prevenir la repetición de dichos actos y contribuyan a la sanación de quienes han sufrido los abusos y a restablecer la confianza recíproca y la colaboración entre las autoridades eclesásticas y las estatales, lo cual es esencial para luchar eficazmente contra el flagelo del abuso. Naturalmente, la Santa Sede sabe bien que la dolorosa situación provocada por los episodios de abuso no puede resolverse rápida o fácilmente y que, aunque se hayan realizado muchos progresos, queda aún mucho por hacer. Desde los primeros días del Estado irlandés, y especialmente desde el establecimiento de relaciones diplomáticas en 1929, la Santa Sede siempre ha respetado la soberanía de Irlanda, ha mantenido relaciones cordiales y amistosas con el país y sus autoridades, frecuentemente ha expresado su admiración por la extraordinaria contribución de hombres y mujeres de Irlanda a la misión de la Iglesia y a la mejora de las condiciones de vida de poblaciones de todo el mundo; además, la Santa Sede no ha ahorrado su apoyo a todos los esfuerzos para promover la paz en la isla durante las últimas atormentadas décadas. En sintonía con dicha actitud, la Santa Sede desea reafirmar una vez más su compromiso por dialogar constructivamente y cooperar con el Gobierno irlandés, diálogo y cooperación que naturalmente deben basarse en el respeto mutuo, de forma que todas las instituciones, tanto públicas como privadas, religiosas o civiles, trabajen juntas para asegurar que la Iglesia, más aún, la sociedad en general, sea siempre un lugar seguro para la infancia y los jóvenes.[01230-04.01] [Texto original: Inglés][B0511-XX.01]
