



Northern Ireland
Assembly

Research and Information Service Briefing Note

Paper 43/13

14 February 2013

NIAR 027-13

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Child abuse inquiries: victims and survivors who were abused in other settings

Introduction

The Northern Ireland Historical Institutional Abuse (HIA) Inquiry deals with abuse which occurred in residential institutions. The Committee for OFMDFM agreed that it would engage further with the Department on how to meet the needs of victims who were abused outside of institutions. To gain some insight into how this might be addressed this paper examines five inquiries in other jurisdictions, three from the Republic of Ireland and two from Australia. In each of the Irish examples the abuse happened to children who were not residents of institutions but occurred in settings such as church premises and schools, hospitals, holiday accommodation and the victim's own home. It must be noted that the purpose of these inquiries, was not to establish whether or not the abuse actually took place but to investigate the response made to the complaints by the Church and State authorities. All of the Irish inquiries were statutory and public in nature, two were historical, going back thirty and forty years, while a third focussed solely on the previous decade since the instigation of new child protection practices by the State.

Developments in Australia

This paper also outlines two recently established inquiries in Australia, one at State level and one at National level. These are of particular interest in that they are setting out to investigate the handling of complaints of sexual abuse which occurred in a very wide range of religious *and secular* settings and by a *wide range of perpetrators*. The inquiries will investigate complaints against clergy and other personnel in churches and religious organisations (of all denominations) in addition to staff and volunteers working in state organisations, NGO's, schools, sporting clubs, orphanages and foster care. It will also aim to identify those who were complicit in the abuse by moving the offenders around or who committed acts of omission by 'averting their eyes'. It will also examine how the police responded to the problem. Prior to the setting up of the national inquiry the Prime Minister undertook a wide consultation with victims and survivors. Victims, child protection experts and the public in general in Australia have welcomed the setting up of the Royal Commission although there are fears that the inquiry is so broad that it will be counterproductive¹.

Republic of Ireland: Ferns Inquiry²

- The Ferns Inquiry was an official Irish government inquiry into the allegations of clerical sexual abuse in the Irish Catholic diocese of Ferns in County Wexford. The investigation was established in the wake of the broadcast of a BBC Television documentary which highlighted the case of Fr. Seán Fortune.
- The inquiry investigated the handling of complaints of clerical sexual abuse which occurred in settings which included day schools, boarding schools, parochial houses, victims' homes, parish churches, clubs/youth meetings, priests' cars.
- The inquiry was formally established in March 2003, the report was released in October 2005. The panel consisted of a three person team under the chairmanship of Mr. Justice Francis D Murphy, formerly of the Supreme Court.
- It identified more than 100 allegations of child sexual abuse made between 1962 and 2002 against twenty one priests operating under the aegis of the diocese of Ferns.

¹ <http://theconversation.edu.au/royal-commission-into-child-abuse-terms-of-reference-experts-respond-11555>
<http://www.smh.com.au/opinion/politics/vital-to-get-this-inquiry-right-20121112-298by.html>

² http://www.nochildsbehindleft.org/docs/Ferns_Report.pdf

- The Inquiry did not concern itself with the truth or otherwise of the complaints and allegations made, but entirely with the response to those allegations.
- The inquiry found that the nature of the response by the Church authorities to allegations of child sexual abuse by priests had varied over the forty years to 2002.
- The main failures of church and state were:
 - a) failure to exclude unsuitable candidates from the priesthood;
 - b) failure to ensure that alleged abusers were kept away from children;
 - c) failure to report incidents of abuse and failure to establish sound child protection measures;
 - d) Police failure to properly investigate sexual abuse complaints prior to 1990.
- The inquiry cost €2.3 million.

Republic of Ireland: Commission of Investigation, Dublin Archdiocese (Murphy Inquiry)³

- The Murphy Inquiry, which was commissioned by government, was a judicial inquiry into the abuse of children by priests in Dublin. The abuse occurred in settings such as holiday accommodation, swimming pools, victims' homes, club outings, priests' cars, children's hospitals, parochial houses, schools.
- The inquiry was set up in the wake of television programme Prime Time's special report in October 2002 entitled *Cardinal Secrets* which contained accounts of children abused by Catholic priests serving in the Archdiocese of Dublin.
- It led to the passage of the *Commission of Investigation Act 2004*, enacted in 2006 which established the Murphy Commission. The report was released in 2009. The Commission's remit was to examine the manner in which allegations of sexual abuse of children by priests over the period 1975 to 2004 were dealt with by Church and State authorities.

³ Report by Commission of Investigation into Catholic Archdiocese of Dublin Department of Justice and Equality <http://www.justice.ie/en/JELR/Pages/PB09000504>

- The Commission was headed by Judge Yvonne Murphy. The report identified 320 people who complained of child sexual abuse between 1975 and 2004. It also stated that since May 2004, 130 complaints against priests operating in the Dublin archdiocese had been made.
- The inquiry set out to investigate only a representative sample of priests against whom complaints or allegations of abuse had been made. The original brief was to report in 18 months, but such was the volume of evidence and allegations concerning the abusive behaviour of the sample of 46 priests that time extensions had to be allowed.
- The report was released in 2009. It found that clerical child sexual abuse was covered up by the Archdiocese of Dublin and other Church authorities over much of the period covered by the Commission's remit. The structures and rules of the Catholic Church facilitated the cover-up. The State authorities failed in their responsibilities to ensure that the law was applied equally to all and allowed the Church institutions to be beyond the reach of the normal law enforcement processes. The diocese's main priority had been avoidance of scandal and the preservation of the good name of the church and its priests rather than the welfare of children.

Republic of Ireland: Cloyne Inquiry⁴

- In March 2009 the Irish Government asked the Commission that had just completed the Dublin Diocese inquiry to investigate Cloyne Diocese.
- This inquiry also investigated the handling of complaints of clerical sexual abuse. Cases investigated were from the period from 1 January 1996 to 1 February 2009. In 1996 the Church introduced new procedures for dealing with child sexual abuse. The abuse occurred in places such as parochial houses, schools, churches, priests' cars, victims' homes, industrial school laundry, vocations workshop, diocesan college.

⁴ *Report by Commission of Investigation into Catholic Diocese of Cloyne* Department of Justice and Equality www.justice.ie/en/JELR/Pages/Cloyne_Rpt

- In tandem with its discovery orders, the Commission launched an advertising/information campaign to alert complainants of sexual abuse of its existence and for the purpose of inviting contributions from those who wished to assist the Commission in its work. The campaign covered the entire geographical area of the Diocese of Cloyne.
- The intention of the inquiry was not to establish whether or not child sexual abuse actually took place but rather to record the manner in which complaints were dealt with by the Church and State authorities. The investigatory Commission was to consider whether the response was “adequate or appropriate” and to establish the response to suspicions and concerns about clerical child sexual abuse.
- The Commission reported in 2011. It found that contrary to repeated assertions on its part, the Diocese of Cloyne did not implement the procedures set out in the Church protocol for dealing with allegations of child sexual abuse. The main failures were:
 - (a) The failure to report all complaints to the Gardaí;
 - (b) The failure to report any complaint to the health authorities between 1996 and 2008;
 - (c) The failure to appoint support people;
 - (d) The failure to operate an independent advisory panel
- The total cost of the Commission’s work in relation to the Cloyne Diocese to December 2010 was €1.9million. This did not include third party costs.
- In the period under review by the Commission, the Diocese of Cloyne incurred costs in relation to counselling for Complainants, contributions to the Stewardship Trust⁵, compensation payments to complainants, legal fees, counselling and treatment of priests and child protection costs.

⁵ From 1996 until 2005 the main source of compensation payments to the victims of clerical child sexual abuse in the dioceses of Ireland was the Stewardship Trust. This was established in 1996 by the Irish Bishops’ Conference utilising in the first instance monies received under an agreement with the Church’s insurance company together with subscriptions from the various dioceses.

Australia: Parliamentary Inquiry into the Handling of Allegations of Child Abuse by Religious and Other Organisations, State of Victoria⁶

- Following a significant number of reports in the Australian press about child abuse the Parliament of Victoria set up a wide ranging inquiry in 2012 focussing on the handling of allegations of abuse in religious and non-governmental organisations⁷. The remit of this on-going inquiry is to scrutinise the adequacy of current safeguarding arrangements in the State and to make recommendations for improvements. It will examine the processes by which the organisations responded to the criminal abuse of children within their organisation including:
 - The practices, policies and protocols in such organisations for the handling of allegations of abuse of children, including the measures put in place in response to concerns about abuse or the potential for abuse to occur.
 - Whether there are systemic practices in the organisations that operate to preclude or discourage the reporting of suspected abuse of children to State authorities, and
 - Whether changes to law or to practices, policies or protocols in such organisations are required to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of abuse.
- The Committee has substantial powers and privileges, the same or equivalent as a court, judicial inquiry or royal commission. It has the power to call for any witness to come before the Inquiry, to produce any and all documents and to answer questions relevant to the terms of reference⁸.
- Several hundred written submissions have been received to date. Hearings are currently underway. The Commission is expected to publish its report later in 2013.
- Although welcomed at the time it was announced by victims and survivors and the public, some criticism was made of the fact that it is being run by a Parliamentary Committee rather than by a panel containing child safeguarding and legal experts. Since the establishment of the inquiry the Prime Minister of Australia has created a Royal Commission to undertake a national inquiry into the handling of child abuse

⁶ <http://www.parliament.vic.gov.au/fcdc/inquiries/inquiry/340>

⁷ Family and Community Development Committee, Parliament of Victoria

<http://www.parliament.vic.gov.au/fcdc/inquiries/inquiry/340>

⁸ <http://www.parliament.vic.gov.au/fcdc/inquiries/article/1972>

complaints which will address some of these concerns. It is likely that information gathered by the Committee inquiry will be shared with the national inquiry.⁹

Australia: Royal Commission into Institutional Responses to Child Sexual Abuse¹⁰

- This recently established Royal Commission will inquire into how institutions with a responsibility for children throughout Australia have managed and responded to allegations and instances of child sexual abuse. This includes government agencies, schools, sporting clubs, orphanages, foster care, and religious organisations.
- On 11 January 2013, a six-member Royal Commission was appointed to lead the investigation. Justice Peter McClellan AM is appointed as Chair of the Commission.
- It will investigate where systems have failed to protect children, and make recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.
- The Commissioners can look at any private, public or non-government organisation that is, or was in the past, involved with children, including government agencies, schools, sporting clubs, orphanages, foster care, and religious organisations. This includes where they consider an organisation caring for a child is responsible for the abuse or for not responding appropriately, regardless of where or when the abuse took place.
- Under the *Royal Commissions Act* the Commission has powers to compel the production of evidence, including documents. The Commission will be assisted by a legal team drawn from the Australian Government Solicitor.
- The Commission is not a prosecuting body and it will establish links with the appropriate authorities in each State and Territory to whom a matter may be referred with the expectation that where appropriate prosecutorial proceedings may commence. The Commission is not charged with determining whether any person may be entitled to compensation for any injury which they may have suffered.

⁹ <http://www.theage.com.au/opinion/politics/abuse-inquiry-doomed-to-fail-20120715-2242w.html>

¹⁰ <http://www.childabuseroyalcommission.gov.au/Pages/default.aspx>

- The Commissioners have been appointed for three years and will begin their inquiry as soon as possible. The Commission will prepare an interim report by no later than 30 June 2014. In the interim report, the Commissioners will also identify when their final report will be completed. The final reporting date has been set initially at the end of 2015, but this will be subject to advice from Commissioners in their interim report.