

'Our Children, Our Church': Significant Problems

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# ‘Our Children, Our Church’

– *significant problems*

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Patrick Connolly

When published last December, the document *Our Children, Our Church*<sup>1</sup> (hereafter *OCOC*) received a broad welcome. In recent months, however, it has come in for more detailed scrutiny as its practical implications have become apparent.<sup>2</sup> This paper is best understood as an attempt to further the discussion by putting some of the problematic aspects of *OCOC* under the spotlight in order to seek a level of clarity that is in the best interests not only of Church personnel to whom the guidelines apply but also of those whom the guidelines seek to protect. It therefore does not seek to be comprehensive nor will it be evaluating what might be considered more praiseworthy aspects of the guidelines.

In the Irish Church we have not been very used to academic critique of such Church policy documents ‘from within’ by theologians, canonists, and others. Thus, such critique can be misunderstood and even mistakenly judged as disloyal. Yet the absence of theological and other critique in the past may well have contributed to the regrettable situation in which the Irish Church now finds itself. Furthermore, informed and constructive discussion of such documents, documents that of their nature are provisional and imperfect, can only be good for the Church in the long term in its attempt to grapple with very complex issues that require, in order to be responded to, all the gifts that the Spirit has put at the Church’s disposal. Significantly, canon law itself recognizes the right and duty of Catholics to express opinion on matters which pertain to the good of the Church (c. 212 §3).

In response to concerns about one aspect of *OCOC*, namely its treatment of the rights of accused Church personnel, Dr Michael

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1. Irish Bishops’ Conference/Conference of Religious of Ireland/Irish Missionary Union, *Our Children, Our Church: Child Protection Policies and Procedures for the Catholic Church in Ireland* (Dublin: Veritas, 2005).

2. For a practical look at *OCOC* in the context of an accusation, see P. Connolly, E. Conway, E. Duffy, and E. Lyons, ‘Accused but Innocent – What Should a Priest Do?’, *The Furrow* 57/4 (2006), 207-220.

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Mullaney, a member of the Lynott Working Group responsible for drafting the document, recently offered a defence of *OCOC*.<sup>3</sup> Given the quasi-official nature of the article, its views warrant attention. It may be thought that this discussion is only of interest to clergy or religious, but this should not be the case as many of its provisions also apply to lay pastoral workers and parish volunteers.

Our discussion will begin with the fact that questions have been raised about the status of the new document. It can be in nobody's interest, not least of victims, their support groups, and clergy and other pastoral workers, that there is doubt about *OCOC*'s precise status. We will then proceed to examine issues relating to civil law and State guidelines; seemingly this dimension weighed heavily upon the Lynott Working Group. This will be followed by looking at the text from a canonical perspective. Finally, we identify some related theological issues which, perhaps tellingly, do not seem to have received sufficient weight.

### THE STATUS OF THE DOCUMENT

In June 2005 the Irish Episcopal Conference announced that the new proposed Church guidelines were being sent to Rome for approval. If a Conference is enacting particular law by general decree for its own territory, then it requires the *recognitio* of the Holy See for it to be binding in the dioceses concerned (c. 455); the alternatives to this route are legislation of a plenary council subject to Roman approval (c. 439) or legislation promulgated at diocesan level by each bishop individually. If there were to be any additional norms canonically binding in Ireland beyond those already found in universal Church law, one of these routes would have to be followed. The unanimous adoption of a text by the bishops, CORI and the IMU, which would seem to be all that has happened in the case of *OCOC*, cannot lessen this requirement nor indeed make the text binding juridically.

It was generally understood after June last year that the bishops were awaiting Roman approval for a new document. When it was published without this approval last December, the impression still existed that a text was under consideration in Rome with a view to a *recognitio* being granted. However, it has now been stated by Dr Mullaney that *OCOC* in its final form was not and is not eligible for *recognitio*, which still makes one wonder why Roman approval was sought, at least in some form, in the first place.<sup>4</sup>

3. See M. Mullaney, 'Balancing Rights and Responsibilities in *Our Children, Our Church*', *The Furrow* 57/5 (2006) 263-273.

4. See Mullaney, 'Balancing Rights and Responsibilities', 263-264. Certainly, *OCOC* as published is unsuitable for *recognitio* because it outlines a system of structures and an unknown number of offices which have to be put in place at some indefinite point in the future, along with, for instance, reporting procedures whose start date is equally unclear. Even for the ordinary reader, this can be perplexing.

## 'OUR CHILDREN, OUR CHURCH'

So what is the current status of *OCOC*? Obviously things could change in the future, but currently the situation is as follows. It is a policy document, with a set of guidelines or recommendations, not obligatory norms, civil or canonical, in other words not binding in a juridical sense beyond the provisions already found in the law of the land and universal Church law. Because no supplementary canonical legislation has been approved by Rome, the bishops and religious superiors of Ireland are bound to follow the universal law of the Church (found in the 1983 Code and in the 2001 special papal law<sup>5</sup>), and of course the law of the land. In this area, there is no real conflict between current domestic law and canon law, only between what some commentators would like to be the law of the land and Church law.

Therefore, aside from the civil and canon law already in force, the procedures in *OCOC* are simply guidelines, no more than that for now. They embody policy that individual bishops and superiors may wish to follow and may in practice choose to adhere to, as indeed they have committed themselves to doing. However, bishops and superiors could, in principle, individually or collectively, choose not to follow *OCOC*. If it emerges that there is a conflict between the guidelines (or their interpretation) and any provision of civil or canon law, the relevant law will prevail. It is worth noting that the guidelines can be modified more easily and quickly than could local canonical legislation approved by Rome.<sup>6</sup> This is an advantage. On the other hand, the lack of binding force for procedures not already found in canon law may also adversely affect the ability of bishops and superiors to enforce the guidelines to which they have committed both themselves and others.

### CIVIL ISSUES

In March, it was reported in the media that *OCOC* would not be operative in Northern Ireland, and another text would have to be prepared for that jurisdiction. There has been as yet no official denial of this, so pending clarification and in the interests of brevity, we confine ourselves here to the situation in the Republic. The examination of *OCOC* from the viewpoint of Irish statute and constitutional law is a matter for legal experts. However, we

5. John Paul II, *Motu Proprio, Sacramentorum Sanctitatis Tutela*, 30 April 2001, *Acta Apostolicae Sedis* 93 (2001), 737-739.

6. It is not quite accurate to say (Mullaney, 'Balancing Rights and Responsibilities', 264) that *OCOC* keeps open the possibility of a review of its procedures by the National Board for Child Protection. Rather, the document only provides for a review and evaluation of the *operation* of its procedures, etc (2.8,17).

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always need to remember the distinction, sometimes lost in public discussion, between Irish law and civil guidelines.<sup>7</sup>

Here, we just look at two aspects connected with the Church's relationship to civil society. First, we turn to the 'Guiding Principles' enunciated in *OCOC*. They are generally good, especially the 'Principles from Gospel Values'. However, the section entitled 'Principles from Domestic Legislation' (1.4, 7) is misleading. There is a real problem in how the 'paramountcy principle' (the idea that the welfare of children is paramount) is expressed here. The section takes a text ('the welfare of the child should be the first and paramount consideration') based on the Republic's 1991 Child Care Act,<sup>8</sup> and then adds a phrase 'and this overrides all other considerations', taken from a Northern Ireland guideline.<sup>9</sup> Thus, *OCOC*'s expression of the 'paramountcy principle' in this section isn't drawn from domestic legislation as such but from a mixture of civil law and guidelines.

The inclusion of the phrase, 'this overrides all other considerations' is worrisome, especially since it has also now been inferred that the bishops associated themselves with this particular expression in their 2005 Lenten Reflection.<sup>10</sup> A careful reading of this thoughtful letter, *Towards Healing*,<sup>11</sup> shows, however, that this inference is not correct. This is fortuitous, since if the bishops had indeed used this particular phrase in a magisterial or pastoral document, it would lead inevitably to the conclusion that, in their view, offenders, no matter how good the treatment, support or prognosis, could never be released into society, since they will always pose some risk, however reduced, and this must 'override all other considerations'. In short, the inclusion of this phrase by *OCOC*, thereby giving it approval, is most unfortunate, and undermines the document's attempt at balance.

Another issue is how the document diverges from current State

7. For example, in Mullaney, 'Balancing Rights and Responsibilities', 268, there is a puzzling reference to a bishop delegating his 'statutory obligations' to the Director of Child Protection in the context of reporting allegations to the statutory authorities. There is as yet no clear statutory obligation on a bishop to report allegations *per se*; rather it is the bishops' self-imposed decision to report them, thus following the national guidelines.

8. Notably, this Act, in section 3.2(b)(i), puts the principle in a constitutional context: 'a Health Board shall ... having regard to the rights and duties of parents, whether under the Constitution or otherwise – regard the welfare of the children as the first and paramount consideration ....'

9. Department of Health, Social Services and Public Safety, *Co-operating to Safeguard Children* (Belfast: Department of Health, Social Services and Public Safety, 2003), 11.

10. See Mullaney, 'Balancing Rights and Responsibilities', 271.

11. Irish Catholic Bishops' Conference, *Towards Healing: A Lenten Reflection* (Dublin: Veritas, 2005).

guidelines, especially with regard to the procedure for mandatory reporting that *OCOC* adopts for Church personnel accused of any kind of child abuse (emotional, physical, sexual or neglect). Basically, an accused person is not to be told of an allegation or given an opportunity to respond before being reported to the civil authorities, regardless of the circumstances. In addition, reporting is *immediate* once the Director of Child Protection has ‘reasonable grounds for concern’ about any form of child abuse having occurred, recently or in the distant past. There is a difference between ‘immediate’ and ‘without delay’. The accused is informed only as the result of a subsequent meeting of the Director with the civil authorities, the timing of this communication effectively being decided at this meeting or meetings. In contrast, the national guidelines state that when an employer becomes aware of an allegation of abuse, the employer should privately inform the employee/volunteer of the fact and nature of the allegation and afford him/her an opportunity to respond. The employer should also record the response and pass it on when making the formal report to the HSE.<sup>12</sup>

The Department of Education and Science guidelines say that when the chairperson of a school board of management becomes aware of an allegation against an employee (e.g. teacher), he/she is to inform the employee of the fact/nature of the allegation, and of whether or not it has been reported to the HSE by the Designated Liaison Person; the employee is entitled to a written account of the allegation and other relevant documentation, while being given a specified time in which to respond, and this response is to be forwarded to the HSE.<sup>13</sup>

There is no provision in the Church guidelines for any kind of flexibility in the policy of immediate reporting without informing the accused. At the same time, *OCOC* does allow ‘wriggle room’ for Church authorities in regard to when and in what manner a priest/religious/employee/volunteer must be told of an allegation. And after reporting, *OCOC* makes no provision for the accused person to be given details of the allegation in writing; nor is he/she necessarily invited to make a written response which would be passed along to the HSE, as would happen in the case of a teacher. In one sense, *OCOC* would seem to compartmentalize the rights of Church personnel from those of comparable workers.

In short, while all the guidelines very appropriately stress that no child can be exposed to unnecessary risk, safeguards for the

12. See Department of Health and Children, *Children First: National Guidelines for the Protection and Welfare of Children* (Dublin: Stationery Office), 1999, 82.

13. See Department of Education and Science, *Child Protection: Guidelines and Procedures* (Dublin: Department of Education and Science), 2001, 16.

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accused are more explicit in State guidelines than in Church guidelines. And State guidelines are implicitly more flexible in the timing of reporting, allowing for diverse circumstance and cases.

It is neither reasonable nor wise to try to justify this by appeal to the special nature of the work of Church personnel and their access to children, as if there were not similar groups of workers. Now it may be suggested that by going beyond current State guidelines, *OCOC* is leading the way to what some people see as best practice in regard to child protection. However, three contrary points are at least worth considering:

- it seems to say that the Church itself has accepted the implication that it as an organization cannot be trusted to exercise any discretion whatsoever about the exact timing of reporting, even that implicitly allowed in State guidelines. This will hardly help dispel the widespread misconception that abuse is a special problem in the Catholic Church as distinct from society generally;
- in diverging from State guidelines in how it treats its own personnel, *OCOC* may inadvertently further the view that the Church in its internal workings can be less respectful of human rights than other organizations;
- it will scarcely inspire confidence among priests, religious and other pastoral workers that they are being treated in the same balanced way as other comparable professionals.<sup>14</sup>

Designing a set of guidelines involves making difficult prudential decisions, and this must be acknowledged. Nonetheless, it would probably have been wiser to have adhered rigidly to State guidelines, like, for example, those for teachers. These guidelines have apparently stood the test of time and are subject to periodic review.

### CANONICAL PERSPECTIVES

*OCOC* not only cites canon law but also attempts to read it in a very definite way, one that requires careful scrutiny. For instance, the introduction to Chapter 10 (canon law procedures for clergy and religious) cites c. 223 §2, which says that ecclesiastical authority can, in view of the common good, direct the exercise of rights proper to the Christian faithful. *OCOC* then adds and asserts its own explanation of how it thinks this canon should be implemented: regulation of these rights shall always hold as paramount the welfare of children, and if a doubt exists as to whether

14. For diocesan priests, effectively left in a worse position by *OCOC* than comparable professionals such as teachers, this may raise a canonical question as to why this was agreed to by the bishops, since a bishop has a canonical responsibility to defend the rights of his priests (c. 384).

a person is deemed to pose a risk to that welfare, bishops/superiors have authority to restrict the ministry of a cleric as long as this situation prevails (10.1, 55). This emphasis on 'restriction in case of any doubt' leaves the reader in no uncertainty about how *OCOC* would wish canon law to be applied in the context of allegations and suspicions.

*OCOC* needs to be read in the light of canon law, not the other way round. Hence it's worth deliberating upon c. 223 §2 itself, since clearly *OCOC* sees this canon as important as setting the scene for the rest of its canonical chapter. In recent times, for some Church authorities this has become a 'catch-all' solution to the perceived need speedily to 'step aside' priests facing an allegation, or to deal with clergy against whom, after investigation, nothing is proven civilly or canonically. Concern has been expressed that this canon can potentially be misused to impose virtual laicization without even an administrative process. Therefore, study of the canon's doctrinal background and canonical context is instructive.<sup>15</sup>

Canon 223 is ultimately derived from Vatican II's Declaration on Religious Liberty (*Dignitatis Humanae*), no. 7, which, in speaking of the competence of the authorities regarding public order, does so in the context of the responsibility to maximize freedom. The Council's concern for freedom should be borne in mind in interpreting the canon, which also needs to be understood in its canonical context. Laws that curtail the free exercise of rights are to be interpreted *strictly* (c. 18), and the same can be said for administrative acts (c. 36 §2). While c. 223 can be used to protect the wider good of the community, it allows for the *regulation* of the exercise of rights (e.g. regarding clerical dress, residence, celebrating the sacraments), not their outright or effective *denial*. So it cannot be used as a backdoor arbitrary imposition, without canonical process, of what are known as 'expiatory penalties' (e.g. the indefinite deprivation of, or prohibition to exercise, a right, function or office). Canon 223 §2 can only justify very temporary and exceptional specific measures, and each specific measure needs to be justified in each case; it doesn't countenance the simple application of a policy, without considering the individual circumstances.<sup>16</sup> Thus it doesn't provide any 'quick-fix, one size fits all' solution for dealing with difficult cases.

We now turn to the problematic issue of the 'stepping aside' of priests facing an allegation of child sexual abuse. *OCOC* (10.2.2,

15. See D. Cenalmor, 'Canon 223', in A. Marzoa, J. Miras, and R. Rodríguez-Ocaña (eds.), *Exegetical Commentary on the Code of Canon Law* (Montreal: Wilson & Lafleur, 2004), Vol II/I, 147-151.

16. See G. F. Read, 'Clerical Sexual Abuse of Minors: Recent Developments', *Canon Law Society of Great Britain & Ireland Newsletter* 139 (September 2004), 26.

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58) clearly prefers priests to do so voluntarily. For somebody who won't go voluntarily, without Roman approved local law there is a problem. The canon which clearly provides for an 'involuntary stepping aside' is c. 1722. However, it may only be applied once a formal penal process has been commenced, a decision about which now lies with the CDF for all cases of alleged child sexual abuse. This decision is made only after the results of the preliminary investigation are sent to Rome.<sup>17</sup> Hence c. 1722 cannot legitimately be employed at the outset to 'step aside' a priest forcibly. This is probably why it is not mentioned in *OCOC*.

Instead, *OCOC* looks to other parts of the Code for disciplinary measures to be used against the priest refusing to 'step aside'.<sup>18</sup> For example, it cites the canons for the procedure to remove a parish priest, a canon about the removal of a curate, while also mentioning in general the removal of faculties. Removing a parish priest requires a canonical procedure; removing a curate and taking away faculties, while easier, are administrative acts, requiring reasons, and are subject to recourse, something *OCOC* doesn't mention.

In short, forcibly 'stepping aside' a priest is not straightforward, which probably explains the document's convoluted language in this section.<sup>19</sup> Under the 1917 Code (cc. 2186-2194), the suspension of clergy by a bishop *ex informata conscientia*, that is on the basis of his informed conscience, was possible if the offence was not public and using normal legal methods posed a grave inconvenience; this was not a permanent penalty. However, the 1983 Code rightly attempted to balance various rights, and so this provision was dropped, as it was deemed arbitrary, contrary to the thinking of Vatican II on human rights, and moreover, susceptible to grave misuse. However, whatever about the theory, we seem to have witnessed its return of late in day-to-day practice.<sup>20</sup> Some canonists think the old provision (or a version of it) should be reinstated officially; in their view such a change would be more

17. An allegation must have a 'semblance of truth' for a preliminary investigation to start, and this investigation is meant to give the bishop/superior some sense of probability that an offence did or did not occur. At the very least, the investigation must find some foundation to the allegation for it to be concluded that the allegation is credible and thus worthy of being referred to the CDF.

18. There are errors in the citation of the canons by *OCOC*, in section 10.2.5 (second paragraph), 58. The reference to cc. 1740-44 should be to cc. 1740-47 (the procedure for the removal of parish priests). The reference to c. 1319 §2 should be to c. 1319 §1 or simply c. 1319 (a penal precept threatening a determined penalty).

19. See Connolly, Conway, Duffy and Lyons, 'Accused but Innocent', 215-217.

20. See R. E. Jenkins, 'The Charter and Norms Two Years Later: Towards a Resolution of Recent Canonical Dilemmas', *Canon Law Society of America Proceedings* 66 (2004), 133-134.

honest than attempting to interpret the post-conciliar Code in such a way as to achieve the same result.

Finally, a reading of other parts of *OCOC* points to new offices and a body which might explain why a Roman *recognitio* was under consideration at some point:

- The potentially powerful office of Director of Child Protection will, in practice, take over governance functions traditionally exercised by bishops and superiors. For example, Directors will assess whether a suspicion constitutes a reasonable ground for concern and as such report it to the civil authorities, and, in the case of uncertainty about a suspicion, consult these authorities about what to do (*de facto*, this is a report).
- The national Professional Practice Committee, for instance, in certain cases 'rules out appointment to any ministry' (12.3.2, 68). One might wonder about the wisdom of putting such an infrastructure in place without a clear canonical basis. In the absence of particular law, this office and body and the procedures associated with them are, in the strict canonical sense, simply advisory.

#### ASSOCIATED THEOLOGICAL ISSUES

The document raises a number of theological issues that can only be referred to here in passing. The first of these is the issue of forgiveness for abusers, and perhaps for Church leaders who were negligent in handling cases.<sup>21</sup> This is not dealt with in *OCOC* and it is regrettable because it would seem to imply that not only society but also the Church is in 'punishment mode' in reaction to the horror of child abuse. The word 'forgiveness' does not appear once in *OCOC*, unlike in the 1996 guidelines (the 'Green Book'), which at its beginning had some profound words about offenders belonging to a Church founded on a Gospel message of love and forgiveness.<sup>22</sup> *OCOC* does have a very good section on 'Promoting Healing and Reconciliation', unfortunately placed at the very end of the document, where it mentions victims and accused people but not offenders.

Another interesting point is how the abuse crisis has cut across the usual theological fault-line of conservative and liberal, in that theologians of diverse viewpoints concur in their apprehension that the Church hierarchy has been and continues to be corralled into dealing with the crisis in exactly the same way as a secular institution might, perhaps a less exemplary one, both in its earlier

21. See B. Cosgrave, 'Clerical Sexual Abuse in the Church', *The Furrow* 57/4 (2006), 199-200.

22. *Child Sexual Abuse. Framework for a Church Response – Report of the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious* (Dublin: Veritas, 1996), 15-16.

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legalistic response to victims and now in its treatment of offenders. Some theologians go so far as saying there is an underlying Calvinism found in the US 'zero tolerance,' policies, expressing the total depravity of the sinner and giving short shrift in practice to the Catholic belief in grace and redemption. An authentic Christian response must address victims, offenders, showing a duty of care to all, and also open the way to forgiveness and reconciliation.

A related but distinct theological issue is whether clerical offenders should be dismissed from the priesthood. Such a practice is called into question not because of a desire to cover up, or to show any disregard for the sheer horror of child abuse, but because there are theological implications for the understanding of the priesthood and of the Church itself. Moreover, those who express concern that institutional self-protection may be prompting a rush to 'defrocking' offenders are not questioning the integrity of the process or of the ecclesiastical judges appointed to deal with cases,<sup>23</sup> but rather are raising questions about issues beyond the actual judicial procedures. In traditional theological and canonical thinking dismissal was supposed to be rare indeed.<sup>24</sup> It should give pause for reflection that a process which was hardly ever invoked a few years ago is now becoming not at all unusual in the US. As the number of dismissals grows, to hold that such dismissals have no effect on the theological understanding of the priesthood or the priest-bishop relationship is to disregard the historical interplay between canon law and theology, and to imagine that pragmatic solutions have no long-term theological consequences.

There is no evidence at the pastoral level that throwing offenders out of the clergy is doing or would do much to restore confidence in the priesthood or the institutional Church, as it is not obvious to the thinking public that such actions support the

23. Contrary to what is said in Mullaney, 'Balancing Rights and Responsibilities', 273. Also, the decision on dismissal from the clergy is not always a matter for an ecclesiastical court; administrative dismissal by Rome is also possible, by two routes. See C. J. Scicluna, 'The Procedure and Praxis of the Congregation for the Doctrine of the Faith regarding *Graviora Delicta*', *Canon Law Society of Great Britain & Ireland Newsletter* 139 (September 2004), 10-11.

24. When appeals concerning clerical sexual abuse were heard at the Roman Rota, first instance findings of guilt being upheld were often accompanied by the penalty of dismissal being reduced to another punishment. See R. E. Jenkins, 'Jurisprudence in Penal Cases: Select Themes from the Judicial Doctrine of the Tribunal of the Roman Rota', *Canon Law Society of America Proceedings* 67 (2005), 103-106. The CDF now has exclusive competence in the area of CSA; it does not officially publish its jurisprudence, though over time the principles will likely become clear. Incidentally, a real problem in the canonical system is that it is not unknown for a bishop simply to ignore an ecclesiastical court's decision which he doesn't favour (*ibid.*, 117).

protection of children. Bishops and superiors here in Ireland need to reflect on whether this way of proceeding can be of real assistance in the wider project of providing a distinctively Christian response to the abuse crisis.

Another associated theological question has been that concerning the general implications of the abuse crisis for the priest-bishop relationship.<sup>25</sup> One particular aspect of this is the 'father-son' paradigm, and legitimate concern has been expressed that an over-emphasis on it can lead to a culture of confidentiality which could be used to justify secrecy and cover-up.<sup>26</sup> This point of view stresses the limitations of the 'father-son' analogy, saying that in the context of an allegation it ceases to be appropriate. However, the reasons for past cover-ups were complex, and while confidentiality between bishop and priest no doubt played a part, it needs to be said that promises of confidentiality made to abused persons were also significant, a factor which receives little or no public discussion.

Concern about the effect of various policies like *OCOC* on the priest-bishop relationship comes from different sources. From a conservative theological perspective, like that of the two distinguished Jesuit scholars, Gianfranco Ghirlanda and Avery Cardinal Dulles, the underlying concern is that the long-standing 'father-son' ecclesial paradigm endorsed by Vatican II is being undermined.<sup>27</sup> Other scholars, while not especially attached to the paradigm as such, think it inauthentic to retain it while depriving it of any practical effects. In other words, there is no point in speaking of a father-son relationship if it is dropped once the going gets tough. They note too how long-hallowed ecclesial traditions can be down-graded when they prove inconvenient. For many priests, this theological discussion will seem arcane. All they will remember is there is now no absolute confidentiality between a priest and his bishop, as *OCOC* makes clear.<sup>28</sup> This has implications far beyond the particular issue of abuse.

#### CONCLUSION

In my view, *OCOC* has significant problems, not least its lack of clarity and coherence. Arguably, we are not significantly further

25. See P. Connolly, 'Priest and Bishop – Implications of the Abuse Crisis', *The Furrow* 57/3 (2006), 131-141.

26. See Mullaney, 'Balancing Rights and Responsibilities', 266-267.

27. See G. Ghirlanda, 'Doveri e diritti implicate nei casi di abusi sessuali perpetrati da chierici', *Periodica* 91 (2002), 29-48; A. Dulles, 'Toward a Revision of the Dallas Charter and the Essential Norms', *America* 190 (June 21/28, 2004).

28. This is confirmed by Mullaney, 'Balancing Rights and Responsibilities', 266. The idea that this will help protect children is far from clear. Self-reporting by a priest, for example, will probably never happen again.

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on from the Green Book. Perhaps we are even in a worse situation, given that elaborate and costly structures are being put in place to implement *OCOC*, structures that subsequently may need to be seriously modified or even dismantled.

Perhaps the fundamental weakness of *OCOC* is that it seems to reflect a pre-occupation with socio-political realities, rather than theological and ecclesiological considerations that are indispensable if such documents are faithfully to charter a way forward for the institutional Church in Ireland. The Church must be careful not to lose sight of its own distinctive identity, mission and purpose in its attempts to deal with serious failures of the past.

Finally, despite all the structures, offices, reporting procedures and advisory bodies outlined in *OCOC*, one has a feeling that if things go wrong it is still the bishop or superior who will have to be accountable for any mistakes. Though *OCOC* takes away discretion and indeed *de facto* some decision-making authority from bishops and superiors, they still end up taking ultimate responsibility. No enviable task.

**Passion for justice.** Contemporary Ireland is not uncaring. But is the rationale for our caring sufficient to sustain the bonds that are necessary for a practical justice that is structurally cohesive? On this point too, I want to explore the genealogical roots of recent competing visions of Irish society. Benevolence, a general sense of goodwill, is often presented as the best family line to pursue. An eloquent contemporary exponent of this view is the philosopher Peter Singer who argues 'if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought morally to do so'. Strong as the argument is on a utilitarian level, I believe it places the burden of justice in the wrong place. The problem of injustice should be tackled not merely because it happens to be part of the overall good that we can achieve in society, and which would be overlooked were we to stand idly by. The reason why there is a moral duty to be involved in the struggle for justice is because it is individual people who are not treated accordingly as fellow humans. The passion for justice comes from the cry of people who are obviously treated unjustly. It is never some abstract principle in my head, no matter how high-minded, that fuels this passion.

—RAPHAEL GALLAGHER, CSSR, 'A Necessary Passion' in *An Easter People* (ed. John Scally. Veritas) p. 73