

## **“Children’s rights and religion”**

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Hiding in plain sight is a longstanding, systemic and overlooked severe restriction on children’s rights with regard to religion that warrants but has yet to receive serious examination. It impacts Ireland in a special way and contemporary circumstances make Ireland an ideal place to conduct that examination.

Let me set the scene with a couple of brief interrelated stories relevant to the core of this talk in which I intend to focus on the relationship between children’s rights and religion in Ireland and certain unchallenged aspects of the canon law of Ireland’s major Christian denomination and provider of education, the Latin Catholic Church, which restricts children’s rights as set out in the Universal Declaration of Human Rights (1948) and United Nations Convention on the Rights of the Child (1989), to which both Ireland and the Holy See which governs the Catholic Church and is effectively the author of canon law, are State Parties.

It’s an area where I have both direct empirical experience as a Catholic Church member by Baptism, for almost seventy-five years and academic expertise as both an academic civil lawyer and canon lawyer specializing in the Catholic Church’s system of canon law as it impacts children’s rights and is impacted by contemporary understanding of children’s rights in international law and the obligations the Holy See undertook as a State Party to the UNCRC. Now briefly to the two stories.....

The first story. Any of you who are theologically literate and have seen the recent film *Mary Queen of Scots* starring Saoirse Ronan will have noticed a glaring error in the dramatic piece of text with which the film opened. It declared: “Mary Queen of Scots was born a Catholic”. In fact she was not. No-one is Catholic by birth but becomes a Catholic by Baptism. She became a member of the Catholic Church when within hours of her birth she was baptised in a brief ceremony in the local Catholic Church as a consequence of which Church law deemed her to have been enrolled as a member for life with substantial inescapable obligations of membership. Church membership is the man-made juridic effect of Baptism. There are other effects which are spiritual and divinely ordained in nature according to Church teaching and with which I take no issue.

The second story. Four hundred years later at two weeks old I too was baptised and enrolled as a life member of the Catholic Church in the briefest of ceremonies during which I am told, that to the delight of my parents, godparents and priest I stayed fast asleep. Ten years later

when I was automatically lined up with my Catholic convent school classmates, to receive the sacrament of Confirmation we were asked, as Catholic children are today at Confirmation, to “renew our Baptismal promises”. But there never were personal Baptismal promises. The idea is risible. What possible promises could non-sentient babies make? How can they be renewed when they were never made in the first place?

Yet these fictitious Baptismal promises are a significant part of the foundational narrative on which the Church’s governing authorities claim authority over Church members and claim members must honour the compulsory obligations of membership entered into at Baptism which mostly concern submission to magisterial control (that is to the authority and teachings of the Pope and bishops) rather than to Christian love of neighbour.

Catholic parents are under a strict Catholic canon law obligation to have their children baptised at the earliest opportunity hence infant baptism is normative. For the sake of clarity let me emphasise again I am not challenging the routine practice of infant baptism itself insofar as Baptism concerns gratuitous spiritual effects which the Church claims are indelible, like expunging original sin, opening up the possibility of salvation and the flow of God’s grace. Imposed life membership without sentient consent can by no means be regarded as indelible or as a divinely ordained spiritual effect.

Church teaching says that from conception humans are in a state of original sin and if they die unbaptized there is no guarantee they will go to heaven. For centuries the teaching claimed that unbaptised miscarried, aborted and still-born children went to hell. Theologians constructed a hypothesis called limbo to soften that harsh teaching though limbo still was not heaven. Pope Benedict XVI clarified that limbo has no basis in Church teaching and in 1980 the Congregation for the Doctrine of the Faith<sup>1</sup> and in 2007 the International Theological Commission<sup>2</sup> both concluded that the best the Church can offer is the hope that God may save such children and admit them to heaven.

Naturally parental fear of the uncertain salvific consequences of those children who die unbaptised still has a powerful psychological hold which bolsters the traditional practice of infant baptism. That practice is the single most important method of recruiting new Catholics. Eighty-four percent of the Catholic Church’s 1.4 billion members worldwide were enrolled as full members for

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<sup>1</sup> CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Instruction on Infant Baptism, Pastoralis actio*, 22. 20 October 1980, *AAS* 72 (1980) 1137-1156. English tr. *Origins* 10 (1981) 474-480

<sup>2</sup> INTERNATIONAL THEOLOGICAL COMMISSION, “The hope of salvation for Infants who die without being baptised,” available at [https://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_con\\_cfaith\\_doc\\_20070419\\_un-baptised-infants\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20070419_un-baptised-infants_en.html)

life of the Church while infants. There is no concept in canon law of temporary members, provisional members, or of conditional members; there is only automatic lifelong membership voluntarily assumed at baptism by a small number of previously unbaptised adults but normatively imposed at Baptism on non-sentient infants. That practice ignores their later rights as maturing children to freely decide for themselves their religious identity, to accept and embrace Church membership or to change religion if that is their choice. Some jurisdictions (for example Germany, Switzerland<sup>1</sup> and Austria) have laws prohibiting parents from changing the religion of their adolescent children without the child's consent or opportunity to be heard. They also acknowledge the right of adolescent children to change or exit religion without parental consent. No such right to change or exit religion is acknowledged in Canon law in fact the opposite is the case<sup>2</sup> as canon law imposes penalties on those who leave the Catholic Church even in adulthood (can. 751). Attempts to leave the Church or change religion or challenge Church teaching or magisterial authority constitute canonical crimes of heresy, apostasy, schism to which are attached penalties among them the much misunderstood penalty of excommunication which in fact leaves membership intact but subject to restrictions. Irish children's constitutional rights have a potential basis in law to challenge the intrusion into children's rights of these canon law presumptions which affect the vast majority of school-going children. A recent decision of the United Kingdom Supreme Court<sup>3</sup> restricting religious education and collective Christian worship in schools in Northern Ireland on the grounds of interfering with the child's autonomous rights, has potential to impact similar practices in the Republic of Ireland.

Nothing else was to shape my life so powerfully or impose such formidable restrictions on my inalienable intellectual human rights as that brief Sunday Baptism ceremony seven and a half decades ago. It does the same to the almost forty thousand children baptised every day across five continents, enrolling them as life members with a no-exit policy without their consent. That reality has remained intact despite the UDHR (1948) and despite UN Convention on the Rights of the Child (1989) to which the Holy See is a State Party as is Ireland.

Both entities as State Parties to that Convention are obliged through their laws and practices, to respect and vindicate a comprehensive list of children's rights among which for the particular purpose of this paper are a number which have direct relevance to Church teachings and its claimed authority over the lives of over 300 million Church members who are children. They include, the right not to be discriminated against on grounds of gender (art. 2); the intellectual human rights to freedom of thought, conscience and religion (art. 14) including the right to change

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<sup>3</sup> UK Supreme Court, November 2025, In the matter of an application by JR87 and another for judicial review.

religion (which is not specified in the UNCRC but is presumed);<sup>4</sup> freedom of expression including the right to be heard in all matters affecting the child (arts. 12 and 13), the right to know one's rights, and to the education that facilitates the exercise of one's rights (art. 17) and freedom from physical violence (art. 19 ). Despite sharp criticism from the Committee on the Rights of the Child which monitors State Party compliance with the UNCRC, the Catholic Church Catechism still encourages the use of corporal punishment by parents and those in loco parentis.<sup>5</sup>

It is important to understand that we are still in early transition stages of the radical watershed in children's rights and their development which UNCRC marked. It has been ratified by every member state of the United Nations except the United States. The normative longstanding paradigm up until then had been paternalistic, welfare oriented and protectionist, with the child subject with a few exceptions, to parental control and parental decisions until adulthood.<sup>6</sup> This is the paradigm which still largely operates in canon law<sup>7</sup> with the added reality that Catholic parental control is driven by Magisterial control.

Until the UNCRC the child as an autonomous rights holder was invisible barring some exceptional circumstances.. The Convention shifted that paradigm perceptibly and the child as an autonomous rights holder came prominently into view. It recognized an arc of time over which children move from the dependency of early years to growing and greater independence, acquiring autonomy along the way as agency shifts from parent to child, with the child's capacities evolving as it grows through adolescence towards adulthood.

The role of parents under the UNCRC is complex and nuanced. It is recognised that they are the primary educators of their children in the transmission of religious traditions and beliefs and they have the right to raise their children in their faith. However the UNCRC introduces a new paradigm in which parents rights and influence must be balanced against the maturing child's

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<sup>4</sup> Cf. UNGA, *Universal Declaration of human rights* (=UDHR), art. 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief;” The UDHR is non-binding. Contra. UNITED NATIONS HUMAN RIGHTS COMMITTEE, *General Comment no.22*. “The freedom to have or adopt a religion necessarily entails the right to replace one's current religion or belief with another or to adopt atheistic views”.

<sup>5</sup> Church teaching on corporal punishment by parents is set out in the Catechism of the Catholic Church (CCC 2223) and is at odds with the view of the Committee on the Rights of the Child that all forms of corporal punishment of children are outlawed by the UNCRC regardless of circumstances, including disciplinary use by a parent. Here there is no doubt that Church teaching infringes children's rights and is in defiance of the express instructions of the Committee on the Rights of the Child. The Catechism of the Catholic Church (cf. CCC 2223) refers approvingly to the Old Testament Book of Sirach 30. 1-2: “He who loves his son will not spare the rod.”<sup>5</sup> The Holy See first denied to the CRC that its teaching condoned corporal punishment but later agreed to reconsider its teaching. The Holy See then banned corporal punishment in the Vatican City State but left untouched the universal church teaching as set out in the Catechism.

<sup>6</sup> Some jurisdictions including canon law allow for “emancipation” before adulthood upon marriage, joining the military, or a religious order. Emancipation has the effect of conferring the agency on the child which would be conferred by reaching the age of majority (adulthood).

growing capacity for independent thought and freedom in conscientious decision-making. Parents now must respect their child's rights and provide "appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention" (art. 5). The net result is that legally, children when capable of doing so, are entitled to choose their own religious beliefs, to change religion or abandon religion if they wish. Their choices should be underpinned by access to information and education capable of helping them in exercising their rights. Importantly respect for their rights is demanded of all State Parties to the Convention.

It is not hard to see where the new paradigm headbutts the 1983 Code of Canon law which sets out what one canon lawyer has described as «a veritable bill of parental rights and obligations in the code»<sup>8</sup> with no concomitant bill of children's rights<sup>9</sup>. In reality Catholic parents are heavily guided in their choices by obligations imposed on them by the Code, for example where Catholic schools are accessible there are censures and penalties under can. 1366 attaching to parents «who hand over their children to be [...] educated in a non-catholic religious tradition».

Today the Code of Canon Law 1983 governs the lives of Church members all over the world. Here are some insights into how it impacts children. From age seven, with the use of reason, the baptised child is obliged by its membership imposed at Baptism to obey Church law (cf. can. 11). There are many laws that impose obligations, such as to evangelise, to lead a holy life, or to help fund the Church, but here are examples of those which trammel on the child's God-given freedom of conscience, opinion, and expression:

- At and from the age of discretion, usually also the age of reason, they must confess their grave sins at least once a year (cf. cans. 916; 989);
- They are always "obliged to maintain communion with the Church even in their external actions" (can. 209) in other words to obey Church teaching in their civic and political life;
- They are "bound to follow with Christian obedience those things which the sacred pastors ... declare as teachers or establish as rulers of the Church" (can. 212 §1);

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<sup>8</sup> D. BARR, «The obligations and rights of the lay Christian faithful», 294.

<sup>9</sup> Canon law (not in a nod to the UNCRC) does provide for a modest degree of autonomy and independent choice for those who are still minors in areas such as Baptism (from age seven with the use of reason cf. can. 852 §1) and possibly (though it is unclear) the other sacraments of initiation<sup>9</sup>; marriage from age fourteen for females and sixteen for males (cf. can. 1083 §1); choice of membership as between the Latin and other *sui juris* Churches from age fourteen (cf. cann. 111 §2; 112 §1, 3°). It allows them from age fourteen to plead and respond in canonical trials concerning spiritual or related matters (cf. can. 1478 §3); to become trial witnesses from age fourteen (cf. can. 1550 §1) and to become godparents from age sixteen (cf. can. 874). It renders those under sixteen not liable to canonical penalties (cf. can. 1323 1°) and mitigates canonical penalties for those aged between sixteen and eighteen (cf. can 1324 §1, 4°). It exempts them from the laws of abstinence until the age of fourteen (cf. can. 1252) and from fasting until the age of eighteen (cf. can 1252). It irrebuttably considers children to be *non sui compos* under the age of seven (cf. can. 97 §2) and though presumed to be *sui compos* after seven that presumption can be rebutted by evidence in an individual case (cf. can. 97 §2).

-While they have a right to manifest their opinion to each other and to their sacred pastors on matters pertaining to the good of the Church, they must do so “without prejudice to the integrity of faith and morals and with reverence toward their sacred pastors” (can. 212 §3);

- Those engaged in the sacred disciplines, like theologians or religious scholars, have “just freedom of enquiry” and of expressing their opinion prudently “while observing submission due to the magisterium of the Church (can. 218). Thus the child’s Catholic teachers and catechists are censored in ways which impact the development of the child’s right to freedom of expression and access to appropriate education to inform its faith choices;

- Ecclesiastical authority can “direct the exercise of rights” of Church members (can. 223 §1); In other words the Magisterium asserts its right to control how Church members exercise their rights which of course interferes directly with member’s fundamental freedoms;

- In exercise of the child’s fundamental freedoms in civil law they are “to heed the doctrine set forth by the magisterium of the Church” (can. 227).

The language of these canons is designed to exercise institutional control over members’ conscience, opinion, actions and freedom of speech. It is—the language of top down tight institutional control redolent of imperial and imperious times and out of line with the natural (God-given) rights set out in the UNCHR and UNCRC.

The baptised child is thus exposed from the beginning to a catechesis of obligation and not an invitational catechesis of voluntary commitment and free personal choice. There is no evidence of the impact of the UNCRC on canon law.

Child citizens impacted by failures to respect or vindicate their UNCRC rights have constitutional protections in Irish law and a number of ways of officially challenging Government’s State Party and constitutional obligations both in national and international legal forums. I make no comment on the effectiveness of these available options though they are ripe for future development.

In the case of the Holy See, its canon law legal system makes no provision for the recognition of the children’s rights set out in the UNCRC and consequently no provision at all for vindication of children’s rights. The Holy See is not amenable to any internal or external court, and the only forum where its performance regarding children’s rights is scrutinised is the UNCRC’s monitoring committee on the Rights of the Child which has quite sharply insisted the Holy See must adjust its canon law to provide for recognition of the children’s rights set out in the Convention as it is obliged to. It has never done so.

Under the terms of the Convention the Holy See should by now have submitted seven periodic reports to the CRC setting out and discussing with the committee how it has implemented the Convention. So far it has submitted only two periodic reports, the first in 1994 when remarkably no one raised the issue of clerical abuse and episcopal mismanagement and the second in 2011 when the issue was raised and when the question of amending canon law to take account of children's rights was discussed.

The Committee on the Rights of the Child has not heard from the Holy See since 2014 when the latter threatened to withdraw from the Convention, accused the Committee of exceeding its authority, and claimed for the first time since it ratified the convention in 1990 that it was only obliged to implement the convention in a physical territory. It argued that the only such it had was the tiny Vatican City State and it had no obligation to apply the Convention to the universal Church's canon law. The Committee was astounded and has sternly contradicted that assertion. That is where things rest today.

In Ireland the historically strong interlocking pieces that held Catholic children bound within a continuum of parents, parish, school, community, diocese and Church are not as well fitting as they once were. There are new stresses and strains on that comprehensive and embedded structure which once spoke of powerful Catholic Church control of its members through Baptism, parenting, god-parenting, schooling, parish, pastors, diocese, bishops, magisterium, weekly confession, weekly mass attendance, and a veritable cocoon that intensified identity and adherence to Church teaching. However its inherent weakness was and remains that it relied on compulsory obedience and a no-exit policy instead of free and voluntary adherence to the faith.

A new generation well educated in their inalienable human rights and fundamental freedoms and exercising new choices are contributing to a manifest contemporary weakening of that once almost invincible cocoon. Also partly responsible is a collapse in trust in the magisterium both in contentious aspects of its teachings and proven culpability in its systemic failure to protect children from clerical physical and sexual predators, protecting priests while ignoring victims.

When I left office in 2011 after fourteen years as President of Ireland, public trust in the Irish Catholic Church had been ruptured by revelations about the vast extent of clerical physical and sexual abuse of children<sup>10</sup> and a Church governance culture which protected predators while disregarding victims. The same story was replicated in many other jurisdictions for the Catholic Church is the biggest ngo in the world with a reach across five continents, thousands of schools,

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<sup>10</sup> The term "child" as used in the Latin Catholic Church Code of Canon Law (1983) (hereinafter CIC) refers to a person under the canonical age for the attainment of adulthood which is eighteen (cf. can. 97 §1). Under art. 1 of the United Nations Convention on the Rights of the Child (1989) (hereinafter UNCRC) a child is "every human being under eighteen years of age unless under the law applicable to the child, majority is attained earlier."

millions of pupils, thousands of clinics and hospitals. It is such a global influencer that it is the sole religion to have permanent representative status at the United Nations. Yet while it often finger wagged the world from its powerful moral pulpit it did not scrutinise its own internal operations. In the case of the abuse scandals that scrutiny was left to governments much to the shock of the Church which believed it was so untouchable that in the words of one senior Irish cleric, the State would never cross that line. The state did, time and time again here and in an increasing number of jurisdictions. When the *Murphy Report*<sup>11</sup> on clerical child sexual abuse in the Dublin Archdiocese (2009) remarked that canon law had been of no help to a single victim among the hundreds of abuse cases it investigated<sup>12</sup> I decided it was time to know more about the Church legal system. Before I left office I had a masters degree in canon law and following through on much earlier research interest in children's rights when I was teaching in Trinity College, I began to research the place of children's rights in canon law.

I searched in vain for serious canon law articles or publications on the broad field of children's rights, and for credible internal Church analyses of the impact on canon law and the rights of child members of the Holy See's ratification in 1990 of the Convention on the Rights of the Child (1989).<sup>13</sup> There was none apart from one lame study highly defensive of the Holy See and designed to flatter the Church as a champion of children. The two periodic reports of the Holy See to the CRC were exercises in avoidance and at times downright misleading. They were and remain an embarrassment.

I moved to Rome adding to my existing Master's degree in canon law, a Licentiate in canon law which is the professional qualification and Doctorate from the foremost Pontifical University. To my shock, the Licenciature curriculum made no mention of the Convention, no mention of children's rights, apart from mention of their canon law rights to the sacraments.

I undertook a doctorate on children's rights in canon law and wrote the first book on the subject. Rather ominously, by the time of completion, the title had changed from "Children's Rights in Canon Law", to "Children's Rights and Obligations in Canon Law."<sup>14</sup> The truth is that in canon law children have few rights and many obligations. Importantly and worryingly their fundamental inalienable intellectual human rights as set out in the UDHR and in the UNCRC are routinely disregarded; in fact, the current structure on which Magisterial authority over Church members rests depends on disregarding the inalienable intellectual human rights and fundamental freedoms

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<sup>11</sup> DEPARTMENT OF EQUALITY AND LAW REFORM, *Report of the Commission of Investigation into the Catholic Archdiocese of Dublin*, Dublin (2009) (hereinafter *Murphy Report*).

<sup>12</sup> *Murphy Report*, 76.

<sup>13</sup> The UNCRC was adopted by the United Nations General Assembly on 20 Nov. 1989 and came into effect on 2 Sept. 1990. The Holy See signed and ratified the Convention on the 20th of April 1990. It was the fourth State Party to do so.

<sup>14</sup> MARY MCALEESE, *Children's Rights and Obligations in Canon Law* (2019).

of Church members. It rules by what it claims is divine authority, but operates a culture of faith through compulsory compliance rather than faith by freely exercised conviction. That structure cannot sustain the sceptical pressure from an educated laity and the onward advance of inalienable intellectual human rights including those of children. Magisterial failure to acknowledge those rights in its internal legal system is like a toxin eating away at the credibility and sustainability of what is a leading global religious edifice which does much good in the world but also much harm, especially in its unscientific teachings on human reproduction, sexuality and its resistance to gender equality. In many respects however is no different from other major faith systems.

We are today a multi-faith society but I have no credible expertise in any of the other faith systems encountered among our citizens here and which in very differentiated numbers, are adhered to by a huge majority of the world's population, Anglicanism, Orthodox Christianity, Islam, Judaism, Hinduism, Buddhism or Shintoism. However some of what I have to say about how children are enrolled into membership of the Catholic Church and how their autonomous intellectual rights are compromised as a result, and how gender biased and unscientific teachings can hold back the full flourishing of humanity, may be relatable to other religious spheres and not just in Ireland.

It is impossible to estimate or overestimate the impact the worlds' faith systems have in shaping the differentiated cultures of laws, values, principles, politics, enmities, prejudices and fears of our contemporary world and our respective histories. It is also impossible to estimate or overestimate the extent to which sensitivity around the scope of religious freedom protects religious institutions from the kind of public scrutiny of their records regarding children's rights which I believe is essential today. They benefit from widespread media illiteracy on the subject of religion, public passivity, a culture of internal church compliance and silence, and the absence of accessible standing forums in which concerns can be pursued. They benefit from a lack of crossover and conversation between canon lawyers, civil lawyers and theologians, and from the absence of education about human rights in the formation of their leaders including Catholic school teachers and catechists. As a result the Catholic Church among others is largely missing in action when it comes to constructing, embracing and embedding a credible children's rights ethos based on the UNCRC, throughout the universal Church, in its law, its teachings, its practices and its polemic.

There are tragic contradictions here for it is all a far cry from 1980 when the idea for the Convention was mooted and its drafting strongly influenced by children's champion and Catholic priest Canon Joseph Moerman. The Holy See «participated actively in the travaux préparatoires»<sup>15</sup> and when the United Nations General Assembly opened the Convention to the

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<sup>15</sup> HOLY SEE, *Initial Report to the CRC on the UNCRC*, 12. Cf. S. DETRICK – J. DOEK – N. CANTWELL ed., *The UNCRC. A guide to the travaux préparatoires* (Dordrecht 1992).

nations of the world for signature and ratification<sup>16</sup>, the Holy See was one of the very first to sign and ratify it stating in an accompanying Declaration that; “The Holy See regards the present Convention as a proper and laudable instrument aimed at protecting the rights and interests of children”.<sup>17</sup> Today the Holy See has fallen, quite deliberately it seems, far behind the curve of history as the developing story of children’s autonomous rights and protections evolves apace at international and national levels in ways which would have seemed unlikely just a generation ago.

To those literate in human rights law the very idea that non-sentient infants can make promises or have promises made on their behalf which permanently compromise the rest of their thinking, believing and acting lives, is risible and very troubling. The very idea that a childhood ceremony which we could not comprehend nor take an active part in, irrevocably binds us for life to a faith system and obedience to teachings which comprehensively impact our lives but into which we have no input, is risible. It is based on figment and like the Emperor has no clothes. Ironically Canon law is riddled with inconsistencies which point up the figment. It regards all children under the age of seven to be *non sui compos* that is to say incapable of personal responsibility (cf. can. 97 §2) yet subsumes non-sentient infants into Church membership at Baptism without their knowledge or consent. At the same time it insists on thoroughgoing education and consent in the case of unbaptised adults thinking of converting to Catholicism.

It is only fair to acknowledge that the Catholic Church with its extensive reach to children through home, parish, school and diocese, is already a world leader in campaigning against child poverty and lack of education, and in supporting international efforts to prevent child trafficking and child pornography and to protect children in conflict, child workers, and migrant children. Yet with the exception of its reporting obligations to the monitoring Committee of the UNCRC it enjoys almost total lack of scrutiny or accountability for its continued failure to acknowledge the rights of its maturing child members to intellectual autonomy including their religious freedom.

The Holy See accepts that its 1990 ratification of the Convention was on behalf of two entities, the tiny Vatican City State and the Holy See which governs the universal Church and has that extensive canonical legal system. Its very late-in-the-day argument that it needs a territory in which to implement the Convention sounds like what it is, a conveniently rustled up self-serving attempt to reinvent the past and to maintain the heavy control system over members which is very light on their rights but heavy on their obligations. The current state of play between the Holy See and the CRC on this subject is one that reflects no credit on the Holy See. If anything its treatment

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<sup>16</sup> The United Nations Convention on the Rights of the Child (UNCRC) was adopted by United Nations General Assembly on 20<sup>th</sup> November 1989. It entered into force on 2<sup>nd</sup> September 1990.

<sup>17</sup> Cf. Instrument of Accession of the Holy See to the UNCRC, 20<sup>th</sup> April 1990.

of the CRC raises doubts about the sincerity of its commitment to honouring and protecting children's rights within its own internal sphere. When the Holy See accuses the Committee on the Rights of the Child of bad faith it is hard not to be impressed by its unmitigated brass neck. Yet it could all be so very different if membership was based on Baptism plus sentient voluntary belief not imposed obedience and if members intellectual fundamental freedoms were acknowledged and honoured. They are after all gifts from God and the very hallmarks of our humanity.

The Convention says the best interests of the child shall be a primary consideration (art. 3).<sup>2</sup> Is it in the best interests of our children in Ireland that such a key influencer in our education system has failed to implement the Convention in its canon law? Patronage of our schools is overwhelmingly dominated by Catholic Church control. The past conferred that on us. What will the future be?

A generation ago the insights and answers to these questions would have been considerably more monolithic and less complex than today. They would also have involved as they still do to a considerable extent today, a phalanx of assumptions, conventions, traditions, beliefs, theological hypotheses, figments and norms, which we now are free to and indeed must interrogate with fresh insights and perspectives, with new tools and a steely courage to challenge the solidified accretions of history and steer towards a future safe for children and their rights. The importance for teacher training, for curriculum content are considerations no matter what the school patronage. No religion can remove children's rights.

Even as we meet here, for the first time all parents and guardians of primary school children are being invited to take part in a national confidential survey to determine their preferences for their children's future schooling. Do they want co-educational or single sex schools? What is their preference for the patronage and ethos of primary schools? This second question goes to the role of religion in our education system. Does it go to the place of children's rights and religion? The voices and views of parents, guardians, school staff and boards of management, and ultimately government will be relied upon to make sure it does. However there is a real need to directly involve the institution or institutions which today still despite the UNCRC, claim the right to hold children in membership for life, subject to fixed beliefs for life and obedience to the magisterium for life. That is not the future charted by the UNCRC or a credible God.

I started with a personal story which is part of a disorderly journey from childhood conscription to adult conviction, for the great commandment to love one another is still the best idea I have ever heard, peace on earth and good will to all still strongly appeals despite the miserable centuries of religious conflicts. But what also appeals is the ambition for a world where children's rights, so long relegated to irrelevance, have come to be propounded, advocated and

understood as fundamental to their development as independent, informed, conscientious and responsible members of society. Today their rights are recognized and protected under national and international law but not Church canon law. Children are entitled to the freedom and the information and encouragement necessary to explore their own beliefs, their inherited beliefs, other beliefs, to ask questions, and make informed choices about religion. Just not in Catholic canon law.

Yet child members of the Catholic Church are growing up in a human rights literate world. They see the contradiction in two versions of God's law. One version says that God gave every human being freedom of conscience, opinion, belief, and religion, freedom to change religion, the right to the fullest information and fullest education necessary to use those freedoms well, and freedom from physical violence. The other says claims that God gave the magisterium the authority to impose Church membership and serious obligations on non-sentient children and to control Church members' rights from Baptism to death. The Church asserts that its magisterial authority derives from divine law.<sup>18</sup> Yet that same divine law sometimes characterised as natural law, is the very source of modern understanding of individual inalienable fundamental human rights. We are witnessing a clear clash between canon law and human rights law, a clash increasingly between the Church members and the Magisterium. It is a clash the Magisterium is losing in the West as Church members waken up to the reality that canon law has absolutely no hold over them, Baptism has no hold over them unless they want it to and they are free any day of the week, any hour of the day to walk away. And they do. And there is no catechesis of invitation or persuasion to fill the void.

Pope Leo XIV in his first substantial document the Apostolic Exhortation *Dilexi Te* says: "Children have a right to knowledge as a fundamental requirement for the recognition of human dignity. Teaching them affirms their value, giving them the tools to transform their reality."<sup>19</sup> A very worthy sentiment but there is a problem.

Their current reality is an imposed catechesis of obligation. What maturing children are entitled to is a catechesis of invitation not imposed obligation. They are entitled to an embedded culture of freedom to make their own informed choices. Forced belief is no belief at all. It is a house of cards and it is tumbling. The existential crisis facing the Catholic Church in the West is evidence of the disintegration of an outmoded Church membership and authority structure that serves the rights of children badly, serves Christ not at all.

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<sup>18</sup> Cf. Leo XIII, *Diuturnum illud* (June 29, 1881), at ¶¶ 4, 6, 7, 8, 12, 15, ; *Immortale Dei* (Nov. 11, 1885), at ¶¶ 10, 13; ; *Libertas præstantissimum* (Jun. 20, 1888), at ¶¶ 1, 11, 30, 33, 43; *Dignitatis humanae*; John Paul II, *Redemptor hominis* (Mar. 4, 1979), at ¶¶ 12, 17, 21; John Paul II, *Veritatis splendor* (Aug. 6, 1993), at ¶ 34; Francis, *Amoris laetitia* (Mar. 19, 2016), at ¶¶ 37, 222, 295, 300, 302-03.

<sup>19</sup> Leo XIV. Ap. Exh, *Dilexi Te*, October 2025.