



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

DEBATE SOUGHT OVER ACC CHANGES

A health group is suggesting that the basis and consequences of the new ACC legislation which includes lump sum payments for sexual abuse allegations, that came into effect in April this year, should be debated.

Asking 'What initiated this legislation?', their website shows that the number of claims made in the two months of March and April 2002 were 2949 compared to 975 for the comparable period last year, a trebling of claims.

As ACC clients do not have to have their case prosecuted, the complaints must meet ACC's technical criteria relating to incidents which fit the description of a sexual crime. This leaves falsely accused people who find they have been nominated as responsible and/or guilty, very upset, with no place to go, for challenge or redress.

The website, of the National Centre for Health and Social Ethics at Auckland University of Technology, asks for clarification of the criteria used to obtain compensation, and the policy's therapeutic, social and political implications.

There will be implications if the cases are accepted without evidentiary material, police report, inquiry or prosecution, and they ask for these to be spelled out. They also ask the following questions:

- Is sexual abuse injury of a distinct nature that justifies this distinct approach?
- What are the justifications and objections to notifying the public regarding the potential for compensation if legal advice and advocacy is not required?
- Will compensation for sexual abuse achieve a clearly identifiable purpose?
- If sexual abuse is prevalent, what additional responses are warranted?
- What are the financial implications to ACC and to claimants with conditions that are not related to sexual abuse?

No. 15 NOVEMBER 2002

Debate sought over ACC changes

Wakefield fliers: breach Fair Trading Act?

Crime, Justice, and the Media: a Journalist's View

Report of a talk by Journalist Cate Brett - plus 'Mind the media'

Reith lecturer says 'press freedom' imposes real responsibility

Malicious leaflet placed in letterboxes

A year's contentious institutional sex allegations

- Summaries of 30 items of news over sex allegations, from New Zealand and Australia, Ireland, Canada, & the United States

UK news

'A new genre of miscarriages of justice'

Lillie/Reed libel case decision not appealed; review team caves in

Whistleblower - or off-loader? - re Louise Deans' allegations in an Anglican context

Including: Inheriting the whirlwind: out of the religio-politico-sexual complaints nexus

Justice prevails

Not guilty of sex violation; DNA test freed teenager; More DNA work sees another man charged after Dougherty's exoneration; Girl says she made up rape story; NZ: One innocence project exoneration!; and US: Many innocence project exoneration!

Why wrongful convictions?

Body of work links false memories to cultist 'mind control'

Titbits

Non sequitur?; Press Freedom in New Zealand was not evaluated in new international scaling; Uniformly legitimated; Defeated at the ballot box.

· What additional issues flow from this policy?

'Debating points' is an initiative of AUT's "National Centre for Health and Social Ethics", for which see http://www.aut.ac.nz/research_showcase/research_activity_areas/ and then click on their section headed "National Centre for Health and Social Ethics".

The site also highlights "Disagreements between Professionals and Families about Health-care for Children and Young Persons", with a discussion document prepared for the Paediatric Society of New Zealand and the Board of Paediatrics and Child Health of the Royal Australasian College of Physicians, of August, 2001. This pertains to a disputes body proposal, possibly of relevance to COSA concerns.

If you wish, contact the AUT or cosa@i4free.co.nz, with your responses.

WAKEFIELD FLIERS: BREACH FAIR TRADING ACT?

The firm of Wakefield Associates is attempting to charge a woman \$2000 after she tried to opt out of her 'contract' with them to pursue her sex-abuse-allegations-case with ACC, but a lawyer has been working to try to find loopholes in the contractual basis of Wakefield's claim on her.

Bill Evans, speaking to Radio New Zealand's Linda Clarke in the Nine to Noon program in July, said Wakefield Associates might have breached the Fair Trading Act's rules for door-to-door sales.

Wakefield's tried to make a person's signed "Authority to Act" form, when received by the firm, into a legal contract binding on the applicant.

Under the door-to-door sales regulations, however, a person is allowed a certain length of time to retract and cancel their initial contract.

This fact, and the period of time allowed for cancellation, have to be conveyed to signatories at the time of signing.

The fliers may fit the description of a door-to-door sale because they were delivered un-addressed to people's mailboxes, not individually addressed, and neither the fliers nor the form filled out and returned by any respondents to Wakefield's, stated anything about a cancellation or cooling-off period.

In June, the consumer watchdog program 'Fair Go' also took up aspects of the Wakefield flier, but it did not specify any main contention. The programme mainly gave explanatory material.

Wakefield Associates, a law firm, had in January distributed, to households all over the country, provocative fliers soliciting people to make claims to ACC for sexual abuse by contracting with them in return for a percentage of any money won in the claim. The fliers' arrival in households, including an 'Authority to Act' section, was timed to precede new ACC legislation that came into effect on 1 April.

The timing coincidence caused people to think the two were connected and that the new scheme offered large lump sums, ie, \$25,000, but the maximum lump sum available for sexual abuse under the new scheme is \$6,459. This only applies if the person can demonstrate stabilisation, and a permanent mental injury resulting from alleged sexual abuse after a period of two years' counselling.

Wakefield's reference to 'ongoing payments' of in excess of \$150,000 appears to be referring to accumulations of payments for counselling and independence allowances backdated under previous legislation which still runs concurrently with the new legislation.

Non sequitur?

Rape Crisis has compared ACC payments for injury for sensitive claims to those for rugby. Claims to ACC for rugby injuries cost about \$48.3m for new claims and \$70.9m for ongoing ones for the period 1994 to 2000, or a total of \$119.2m. For the same period, sensitive claim payments they say were only \$86.3m. See their internet discussion page at http://www.rapecrisis.org.nz/discussion/discussion_media.asp

Why does Rape Crisis put it this way? The funding levels can't be seen as a competition. When ACC offers complainants money for sensitive claims without questioning the veracity of these allegations this encourages some spurious allegations, especially in the contexts of

- ACC guidelines which posit abuse can be the unremembered cause of a client's problems;
- the publicity around the carrot held out by Wakefield Associate fliers indicating 'lump sums in excess of \$25,000'; and
- ACC's revamping in April 2002 to reintroduce lump sums for sexual abuse (though only up to \$6459).

CRIME, JUSTICE, AND THE MEDIA: A JOURNALIST'S VIEW

Where is the balance between a fair trial and free speech - including in media coverage - in New Zealand?

Cate Brett, a journalist, and editor of Christchurch's 'The Weekend Press', recently gave her attention to this subject in a talk titled "Free speech or fair trial" to a small annual meeting of the Civil Liberties group in Christchurch (Christchurch Community Law Centre, 10/10/02). She noted that she was not there for The Press but to give her own views.

For the basis of her talk, Ms Brett drew from her work for a Masters degree at the University of Canterbury Journalism School, on the interaction between the media and the justice system, focussing on the Hope/Smart case, and for which she was funded in 1999 by a \$12,000 grant from the Law Commission (see <http://www.canterbury.ac.nz/publications/chronicle/1999/v340999.pdf>).

From COSA's point of view, Cate Brett is of interest, because of the fact that she misreported the Civic case in its early days in North and South magazine. It is also because she has been criticised recently over her stance in relation to the current sex allegations in the Catholic Church.

The media worked in a particularly proactive way in the Hope/Smart case, Ms Brett showed by her talk.

She talked about NZ's conservativeness in regard to freedom of speech, and the media, including the laws of contempt of court, compared to the US and the UK, even although the three's legal environments are similar. New Zealand's media use more restraint in crime reporting, over concern for natural justice and the accused's right for a fair trial.

For the purposes of investigating crime, there were three different branches, being the police, the media and journalists, and the judiciary.

She noted that one judge had said that justice was characterised by restraint, delay, and inscrutability. She pointed out that this contrasted, strongly, to its detriment, with the characterisation of justice by another judge, who she described as an erudite one, who said that it should be swift and open.

She added that the media's sourcing and delivery of information that contributes to justice was approaching the instantaneous, certainly swift and open.

She went on to highlight an aspect of the slow process of justice as delivered in the Hope/Smart case (also called the Scott Watson case, after the man who was eventually charged and convicted), where the trial lasted 3 months. At this trial, all the jury had to go on when they retired to consider their verdict, was their memories of the evidence they had heard from all the people in the witness box. They not only had to try to recall everything they had heard over that time, but also place it in its balanced context and weigh it all up.

This she contrasted with the effectiveness of the media, using aggression or ingenuity, in getting new information, and to the public, very quickly.

Ms Brett said juries cannot be studied directly in New Zealand to assess various influences on them, as interviews of jurors during or after the making of verdicts are not allowed. The approach that got around this was to study the source of juries, ie, the general public.

Criticisms made by the police and others, of media performance - possibly as instanced in the Hope/Smart inquiry (it began Jan 1998) - brought Ms Brett to make the following points:

- the police needed the media as a conduit and to reach the potential witness pool;
- the police needed the media to report the progress of the inquiry;
- the police benefited from spin-offs from the media's involvement, in the form of new information that journalists ferreted out.

She referred to a media-arranged live line-up of suspects being shown on TV1, pointing out that this was done in the period of time just before any arrest was made - although, she said, the media knew an arrest was imminent.

In an aside, here, Ms Brett referred to competition over news between the TV1 and TV 3 channels. The context was, she said, also intersected by gender issues. She said that women TV journalists have put news-gathering on 'a whole new footing'. Women journalists use new techniques, and ingenuity. This came about because they do not have 'drinking with the old boy network', and they have therefore created networks of women.

She called some police channels, and possibly meant the judiciary too, as old boys' networks. She seemed to imply that alternative women's networks were supplanting these, and better.

In the Hope/Smart inquiry, she indicated that police were happy that unsubstantiated rumours, including information about one of the families, percolated to the public.

Quoting the Fahey case, TV3 helped of course by secret filming. This contribution was a rare thing because NZ doesn't value media as a role, or free speech. Instead there is a noticeable cynicism towards the media, she said.

The media in the US and some other places is not necessarily authoritative and credible, she said, but here in New Zealand it might be. Otherwise, if the media are losing public

trust here, the law of the market was always there to work it out, she thought.

Ms Brett also talked of watchdogs of the media, saying that in the UK the Human Rights Convention was setting new precedents in terms of upholding rights and restrictions of free speech. In New Zealand, Section 14 of the Bill of Rights, on freedom of speech, was the equivalent guardian.

Ms Brett said The Press recognised that there is too much reporting of crime, and they are trying to reduce it. However, she asked whether that meant we should censor it.

As to reporting of issues Maori, Ms Brett told the audience that Ngai Tahu act as a constraining agent on other maori influences, and therefore also the Christchurch Press.

MIND THE MEDIA

Trial juries are now at least sometimes given written materials pertaining to evidence. This is good, but only if right and true information is in those materials.

As to whether all of Ms Brett's contentions are true, we can have our own opinions, including those remarks about Ngai Tahu, which are not explained.

The media have certainly not yet effectively tackled the problem of righting the wrongs of false sexual allegations.

Instead it has been left mainly to an independent writer, Lynley Hood, with her courageous book, and those who came to support her in its wake, to start to correct the sorry legacy of the Civic case and other false sex allegations, arguably in the Christchurch milieu especially.

Ms Brett's trumpeting of the media's alleged contribution of 'speed' in the course of the deliverance of information is not the same as justice. With false sex allegations, justice is never delivered. And in the majority if not all of these cases, the various effects - disempowerment, and on health and financial standing, etc - are extensively damaging.

UNIFORMLY LEGITIMATED.

Father's Day saw Hallensteins - HB, Hallenstein Brothers, a chain of menswear stores in New Zealand - in publicity posters instore, utilise as a model the same gummy old man that we mentioned in a previous Newsletter.

The earlier advertisement had depicted him entertaining a young girl. It was withdrawn because it was said to be close to paedophilia!

The new Hallenstein's ad had him 'grinningly' - gasp - holding a baby!

He was standing, cradling the baby in his arms, beside a nurse in uniform.

This presented a safe more secure image than the previous advertisement.

or mere carelessness" according to the written decision of Justice Eade.

That description does seem to come close to what Dr O'Neill called disinformation.

As surely everyone would agree, the media should not print unfounded unlikely allegations without checking different perceptions of these matters.

Sexual allegations are moot instances. In New Zealand at least, we do not regard the media as reliable for reports on sex allegations. Press freedom is not worth anything when it means the freedom to lie.

The Reith series is available at <http://www.bbc.co.uk/radio4/reith2002/inforeith.shtml>.

PRESS FREEDOM IN NEW ZEALAND WAS NOT EVALUATED IN A NEW INTERNATIONAL SCALING

A French press freedom group, Reporters Sans Frontières (Reporters Without Borders), in its "first worldwide press freedom index" left out New Zealand. Perhaps more importantly it was criticised for being political - such as for putting the US 17th, and the PLA at position 82 but Israel at the lower index of 92. Its objectivity was called into dispute. (National Business Review 25/10/02 'NZ fails to rate in press freedom index'; this item can be found by a search of <http://www.nbr.co.nz/>)

Malicious leaflet placed in letterboxes

"BEWARE KNOWN CHILD MOLESTER", said a pamphlet, naming a person, without any supporting information. About 100 copies were placed in people's letterboxes in some streets of a Nelson town.

This led to an item in a Nelson newspaper shortly afterwards, headed "Molester smear leaflets alarm".

If another word had been added to the heading to change it a little bit, so that instead of 'leaflet alarm' it said 'leaflets cause alarm,' this would have helped reassure the public, rather than fuel further alarm.

REITH LECTURER SAYS 'PRESS FREEDOM' IMPOSES REAL RESPONSIBILITY

This year's Reith lectures, broadcast in New Zealand during September, have been called the most controversial since its inception in 1948. In the series Dr Onora O'Neill, Cambridge philosopher and principal of Newnham College, called for action by the media so as to see a return to public trust in those media.

The media would achieve trust through limiting deception, Dr O'Neill said, referring to their promulgation of both disinformation (deliberately deceptive material) and misinformation (accidentally deceptive material).

Dr O'Neill has since been described as being on the right in her views ("she places more emphasis on responsibilities than on rights, for example", said one writer).

Dr O'Neill's views in the series were interesting, especially in the light of their timing, in New Zealand, to coincide with the promulgation of the findings in Shieldfield's Lillie/Reed case, including a finding of malice over the work of the council's Review team. That team was described as including in their report "a number of fundamental claims which they must have known to be untrue and which cannot be explained on the basis of incompetence

As to the allegations, even if the person named is currently interacting with the police on an issue, for anyone to put out this hurtful malicious material ahead of charges is prejudicial and destructive. It is scare-mongering from a community point of view, and could create unjustified community anxiety.

The police said they were trying to track down the distributor, and they had a strong lead. They were concerned about the impact on the named man's family.

"The label 'child molester' was probably one of the worst that could be placed on a person living in a close community", a constable said.

A different item said the police were still investigating who was behind the leaflet containing the allegation. (Nelson Mail 24/5/02.)

A YEAR'S CONTENTIOUS INSTITUTIONAL SEX ALLEGATIONS

Institutional allegations prominent this year in NZ and abroad have applied to Anglicans, Catholics and non-denominational children's residential institutions.

In this one year, following a prolonged phase of historical sexual allegations, not all allegations, including religious-related ones, are false (or true): they are likely to have a range from quite false to quite true.

Opinion as to where the weight of the Catholic cases falls, for example, is divided, with some asserting that most of the allegations against priests etc. in the Catholic church are true - even if only recently-highlighted - rather than false 'recovered memories', while others think that false sex allegations amongst those made are likely to be high, if not predominant.

Fr Kevin Neal, a priest in Stratford, a farming town in Taranaki (and elsewhere he quotes Dorothy Day, a founder of the Catholic Worker Movement 1933), says: "There is a tendency to say that we'll all come out of this bigger, better, brighter, stronger. That may not be what the victims want to hear right now." - (in Original sins - "The Catholic Church in New Zealand is now facing its demons of hidden

sexual abuse and cruelty. But is the church hierarchy properly sorry, and what explains this dark history of dysfunction and denial?" NZ Listener 3/8/02 16-21).

Following is a collection of a range of headlines and items to hand.

NEW ZEALAND AND AUSTRALIA SYDNEY MORNING HERALD

Easy targets picked to pay for the sins of others. By Padraic P. McGuinness. 4/6/02, News and Features p 11.

In relation to sex abuse allegations there is a targeting of the hierarchy for what they have not done, this writer says, making "one...wonder about the ulterior motives involved". The experience of most of Catholics active about 30 years ago "rarely encompass any perceptions of such abuse," although cases must have happened. This leads him to wonder how much of this is in the "perfidious imaginations of those who perceive organised religion as the enemy". He refers to the world movement stemming from the 60s hippie era, with its more liberal attitudes to sex, and how the pendulum has swung strongly the other way.

Christchurch Star

Violent crime fall continues. By Donna Birkett 4/9/02 p A7. The report said Canterbury's reported sexual attacks were "up from '211 in 2000 to 292 in 2001", but its violent crime figures were down compared to NZ's as a result of Canterbury police targeting source problem areas.

Superintendent Sandra Manderson said "a situation like the St John of God issue increased sex attack figures". Possibly this could mean allegations there accounted for the increase, but in terms of public knowledge that particular group began in early 2002, after the data period.

The Press, Christchurch

Catholic sex abuse? News to me. By Mike Crean. 3/7/02 p A13.

This was a direct statement from a former altar boy and pupil of St Bede's (Catholic boys) secondary school, now one of the paper's leading journalists. He had heard of no sexual abuse in the circles he had moved in, and if it had occurred "I would be deeply shocked to hear of it".

Catholic allegations - letters. 3/7/02 p A12.

Various letters, including these remarks:

... I am appalled and dismayed that Catholic churchmen have corrupted innocence ...

... I am equally appalled at the way The Press has almost gleefully feasted on the woes of both victims and offenders. Continual front-page headlines, two pages in last Saturday's Mainlander section, with treatment that is emotive, one-sided and speculative. After all, who are journalists to presume the role of social psychologists?

Cate Brett, Muriel Porter, and Geoff Collett all overstep their mark as factual reporters. What real basis is there for the insistence that male celibacy in the priesthood and religious life breeds sexual abuse?

Can paedophilia be "caused" by sexual abstinence? Really? Faulty logic, surely - and worse, persuasive opinionated journalism.

What about the vast majority of priests and religious who lead wholesome socially contributing lives?

New low for Australian church. 22/8/02 p A9; also Sydney Morning Herald.

Colleagues backed the Catholic Archbishop of Sydney [Dr George Pell] against a former altar boy's allegations.

Difficult time - bishop. 'Enormous cross to carry'. Australia focus, from AAP. 22/8/02 p B2.

Catholic Bishop George Pell has stepped aside from his job, pending an inquiry into al-

No. 15 NOVEMBER 2003

legations that he sexually molested a young boy in 1961. He said the allegations were false and would be vigorously defended. Brisbane's Archbishop John Bathersby said the church would take a long time to recover from the controversy.

Rape allegation. 28/8/02 p B2.

Nuns at Nazareth House in Brisbane, an orphanage, allegedly 'raped children and forced them to eat faeces, rotting food and their own vomit'. A woman in her late 50s ... came forward to tell of her experiences at Wynnum on Brisbane's eastside... Lizzie Walsh, as she was known as a child [said] she was subjected to violence for seven years. ... she was raped by a nun with a flagstick "to get the devil out" while the other nuns turned a blind eye to her being raped by two different priests ...

Pope's plea on deviants. Celibacy 'vital tradition'. By Yvonne Martin. 7/9/02 p A6.

The Pope told the Catholic Church it had to be more careful screening out prospective priests with deviant desires. New Zealand's Communications Director Lyndsey Freer said the Pope was presumably talking about homosexuals, as well as paedophiles. She said non-practising gay men are seen as morally 'neutral', and they take a vow of celibacy. The Pope said candidates had to be screened "above all from the standard point of morals and affections". Those who should never be ordained included "[the] young, immature or those with obvious signs of deviation in their affections. [They] can cause grave deviations in the consciences of the faithful". Celibacy should be seen as part of the vital tradition of the priest giving his life unconditionally to God.

Nuns on the run. By Yvonne Martin. 14/9/02 p D4.

A woman said she was tortured by the Sisters of Nazareth at a Christchurch girls' orphanage and wants them to pay. Others say she is driven by greed, not grief. The big article was with historical class photos of an

assembly of 80 well-presented girls, and of a confirmation class of 36 very-well-presented girls.

Apology praised - letter. 14/9/02, p D2.

This letter said the 'Knights of the Southern Cross of New Zealand (Inc)' recognised the Catholic Bishops of New Zealand's expression of sorrow for the sins of some clergy, but that as most priests, brothers and sisters 'do great work and make great sacrifices, current media reports and coverage are failing to be balanced'.

Abuse focus of conference. By Yvonne Martin 18/9/02 A4.

99 canon lawyers met in Christchurch for the Canon Law Society of Australia's 36th annual conference. Executive member Fr Anthony Malone of Auckland said the focus would be on each case assessed on its merits, and the process would not overlook the rights of victims and families. President Fr Robert McGuckin said this was an occasion for a renewal of the Church that 'we're all part of'.

Claimed abuse just 'discipline'. 27/9/02 p A2.

Sister Bernard Mary, responding to allegations of abusing children at the orphanage she ran in the 1940s and 1950s in Brisbane, said that following police inquiries that she had no case to answer, according to her order. The accusers' allegations included being raped by nuns and priests. Sister Bernard Mary said her actions at the time would have included maintaining discipline, where 'A child might get a slap sometimes, same as I did when I was growing up'.

Nazareth House - letter. 30/9/02, p A8.

Expressing outrage at the allegations against Nazareth house nuns, the writer, in the US, said they had cared well for everybody, and the accusations should be dropped. 17 claim abuse at Kingslea. By Kelly Andrew 8/10/02

A1. A total of 17 young people at the non-denominational Kingslea Residential Centre, Christchurch, have said they were sexually or physically abused in the last 18 months. One 16-year old girl's complaint was upheld after investigation. Residential services manager Alan Geraghty said he was only aware of the one case of prosecution, and that was of a young person, and he was not aware of any staff members being charged in a serious complaint. Most incidents involved petty rivalries or resentment, and things like swearing at each other, or pressuring others to smuggle in cigarettes. The information was in response to questions in Parliament by ACT's Muriel Newman.

Consedine sent for therapy. Yvonne Martin 19/10/02 pA3.

Fr Jim Consedine was relieved of his parish ministry at St Joseph's in Lyttelton because of allegations against him of inappropriate sexual behaviour, some going back to the 1970s, involving 4 women. He went to "Encompass" in Australia; but the city's STOP group asked to treat him.

Group action urged against church order. By Yvonne Martin 22/10/02 p A2.

"Prominent Christchurch lawyer Justin Richardson" was working with 20 alleged victims involving the St John of God Order, to seek group action rather than use the church's Bro Burke. Ken Clearwater, Male Survivors of Sexual Abuse Trust, advised them to continue with Burke.

St John of God hires retired judge to review handling of sex abuse complaints. By Yvonne Martin. 31/10/02 p A4.

Sir Rodney Gallen, who has overseen "a number of huge enquiries in New Zealand", has been hired to review and "audit the sex abuse complaint review process thus far and to advise on how we propose to resolve each case individually", in the Australasian order St John of God. About 70 men claim they were abused

as boys by brothers of the order, who ran the former Marylands residential schools in Christchurch. Sir Rodney had presided over the investigation of alleged ill-treatment and sexual abuse at former Lake Alice [mental] Hospital, by staff and other patients. \$6.5 million and a Government apology were given out for that in 2001, 'for abuse suffered in the 1970s'.

Sunday Star-Times

Accusations sadden nun. Deidre Mussen, 6/10/02 p A2.

Sister Bernard Mary, 69, says the Nazareth House complainants have convinced themselves the incidents they recite, happened, and denies abusing children. She said the allegations saddened her rather than made her angry. When she first heard them, 3 years ago, she had been the congregation's world-wide head in England. The police there recommended dropping the case, which she said was not surprising as the allegations were so outrageous, and some were impossible. As to discipline, she said that with 50 or 60 children, it had to be kept. The order has paid out nearly \$2 million, with apologies to some alleged victims, but denying any abuse occurred.

IRELAND

Gov't responds to abuse allegations. From [irishhealth.com](http://www.irishhealth.com/index.html?level=4&id=4336) at <http://www.irishhealth.com/index.html?level=4&id=4336>. By Deborah Condon

This site shows that various actions are underway. Health Minister Micheal Martin said a process under a Senior Counsel, George Bermingham, that was started last April, has led to a format for a non-statutory inquiry into 'paedophile priest Fr Sean Fortune', Diocese of Ferns. It is to be a panel of three chaired by a former Supreme court Judge, Mr Justice Frank Murphy. A decision whether to establish an inquiry into allegations of clerical sexual abuse in the Dublin Archdiocese was about to be made. An Taoiseach Bertie Ahern

['An Taoiseach' appears to be Gaelic for the 'Prime Minister' of Ireland] appealed to anyone with information on clerical sexual abuse to contact the Gardai [police]), proclaiming "the law of the land applies to all, irrespective of what status they hold".

CANADA

'Who is telling the truth?' National Post 2/3/02

A particular individual, with challenging behaviour, is pursuing a \$64m civil action against Upper Canada College Old Boys school - the principal and the person at the centre of the case, Doug Brown, a former teacher. The man and nine others have accused individuals of molesting them when they were students in the 1970s.

Judge throws out lawsuits against Anglican Church seeking redress for abuse. Globe & Mail 25/10/02 p A15.

On a technicality, a Calgary judge has thrown out lawsuits against the Anglican Church of Canada from alleged victims of physical and sexual abuse over when they attended residential schools in Alberta and Northwest Territories, but the ruling leaves the federal government on the hook.

Last year the federal government created a government department, called the Indian Residential Schools Resolution of Canada, with status to deal with the claims; the cost of this was expected to be in the region of \$1 billion. A Judge McMahon has been made 'case' manager. However, now a national class-action lawsuit has been launched, seeking compensation for 91,000 people - and their families. There have been out of court settlements and other programs involving about 1000 people from across Canada, settlements averaging \$100,000.

UNITED STATES

The Vatican Rag. By Maureen Dowd. New York Times. 24/3/ 02.

"The Holy Father released a Holy Thursday letter with brief remarks about the plague of perversity ravaging the Catholic Church.... But he did not write the letter or read it aloud, and its main topic was penance. Apparently, the Vatican thinks penance is for other people.... The few sentences about the pedophilia scandal were more sympathetic to the put-upon priests than mauled victims" - just some of her scathing words on the pope's letter.

The latest priest-scandal scapegoat. By Terry Golway <http://www.Salon.com> 29/3/02.

Indicating the level of acrimony in at least one part of the US, Golway defends Maureen Dowd, alleging that the Catholic League had smeared her over her piece in the New York Times (it is referred to above).

Golway said that blaming "activist, feminist and gay groups" who "gained power in the church since the 1960s" for the priest sex-allegations scandal, as Pennsylvania religious studies professor Philip Jenkins had, was nonsense. Jenkins had also said the scandal was related to those activists taking on the hierarchy, and that this approach was being encouraged by the media which itself profited by hyping the priest sex story, because of "American fascination with clerical scandal". Jenkins also had apparently said liberal Catholics were using the crisis to push their agenda "especially their goal of ending the tradition of an all-male, celibate priesthood."

Golway, a liberal catholic, emotionally tried to claim that conservative Catholics also wanted their leadership called to account "for its responsibility in covering up and thus worsening the priest-sex scandal".

Priest 'very thrilled to be back'. Elmhurst pastor's lawyer denies bullying. Maureen O'Donnell Chicago Sun-Times 10/6/02

A priest who forcefully defended himself against sexual misconduct allegations was

welcomed back to his Elmhurst parish 'with tears, applause and hugs', and some parishioners 'wore yellow ribbons to show their support'. A month before, when first accused and removed from the ministry, Rev John F. Barrett had held a news conference, becoming the first Chicago-area priest to wage a public campaign to defend himself. His reinstatement as pastor of Mary Queen of Heaven Church came after an investigation by the Roman Catholic Diocese of Joliet found the allegations against him unsubstantiated.

Fighting Back, Accused Priests Charge Slander. By Sam Dillon New York Times 25/8/02.

Paul Eichhoff, forced to leave his Tulsa parish in August 2002, pending an investigation of sexual abuse accusations against him, has filed a suit in the county court saying he had been slandered.

Priests in at least three other Roman Catholic dioceses - Oklahoma City, St Louis and Cleveland - had also started proceedings to use the civil courts to strike at accusers. A fifth priest, Rev Anthony Eremito, has used a church tribunal, in the Diocese of Trenton, by lodging a defamation action under canon law. This one was against a fellow priest, the Rev John Bambrick, who in April 2002 had asserted publicly allegations that he had been abused as a teenager by Father Eremito in New York.

'Hundreds of priests' have been accused this year. Some are using anti-defamation laws to defend themselves against accusers who make unwarranted allegations, but some advocates for victims were depicting this as bullying designed to frighten Catholics back to silence.

Catholic priests sue accusers in civil court over allegations of sexual abuse. By Rachel Zoll, Associated Press, Religion Writer, 30/8/02.

This item adds Orange County, California, and Trenton, N.J., to the list of dioceses where

priests have filed defamation lawsuits. While the victims allege the priests molested them as children, the priests say they are false accusations.

Rev. Robert Silva, National Federation of Priests' Councils, which claims about half of the 46,000 priests in the US as members, said "Child sexual abuse - that's an unconscionable crime and sin. The defamation of character of a good priest, that's a crime as well". Clergymen taking the defamation approach were a small share compared to the number, at least 300, who resigned or were suspended this year over sex abuse allegations.

Michelle Goldberg a journalist at "Salon" magazine (<http://www.salon.com/>, "40,000 subscribers") on 30/8/02 invited any 'falsely accused priests' to contact her for a proposed story about the subject.

She wrote: "with all the hysteria ... it seems monstrously difficult for anyone accused to salvage their reputations, no matter how baseless the charges against them."

COSA supplied our basic details to her without specifying any response on priest accusers or accused. She supplied her email - michelle@salon.com, and her number, 718-935-9816.

A search of the Salon site on 9-Nov-02 shows a tendency for the preference of the salacious 'true' story; but none of the numerous stories is authored by Michelle Goldberg.

Former nun files lawsuit alleging abuse by nuns. Associated Press, 11/10/02.

A nun, a 'district-based education expert', has sued two Roman Catholic schools in Kentucky, alleging she was sexually abused by three nuns there during the 1950s, at the Villa Madonna Academy at St. Walburg Monastery of Benedictine Sisters. The suit was not brought earlier "because it took her years of psychotherapy to recover memories of the abuse". An attorney for the defendant institutions said they have been unable to substantiate any of the allegations and will contest the lawsuit.

How existing state religious freedom restoration acts may be used to help cover up clergy child abuse, and why states considering rfras should think again. By Marci Hamilton, FindLaw's Legal Commentary 07/11/02.

'rfras' stands for Religious Freedom Restoration Acts'.

There is a push in some states in the US for a new law about religious protection or restoration. Hamilton, a legal advocate, states her opposition to this trend, because of its potential for use in 'hiding' priestly abusers, as she sees it. Canon Law needs to be subject to secular laws, so as it does not work as an escape valve over time-limitations.

Defeated at the ballot box, a Massachusetts candidate for governor catches the winner's party, dressed to fight

Independent 'outsider' Barbara C Johnson stood for the governorship of Massachusetts in the recent elections. Her platform was used to draw attention to issues or to ask for:

- equal rights of fathers in custody and visitation actions,
- protection of all parents in cases of false accusations of child abuse and domestic violence,
- shared parenting, and
- problems with adoption and unfair termination of parental rights,
- an investigation of the Department of Social Services.

Johnson and two others each scored under 5% of the vote, Johnson's share being 1%. The governorship was won by Republican Mitt Romney. Johnson, who used a fire fire-truck to get attention in her campaign, showed up at the winner's party in an oversized fireman's jacket, still at the ready to fight fires. - " For Johnson, a 2-party night". Boston Globe Online 11/6/02.

UK NEWS

'A new genre of miscarriages of justice'

After a three-month inquiry the Home Affairs Select Committee concluded that what it calls 'a new genre of miscarriages of justice' has arisen from 'the over-enthusiastic pursuit' of allegations of abuse relating to children's homes. 'I am in no doubt,' said the Chairman of the Committee, Chris Mullin, 'that a number of innocent people have been convicted and that many other innocent people, who have not been convicted, have had their lives ruined.'

The House of Commons report, released on the last day of October 2002, was an outcome of a long campaign fought by hundreds of former care workers and their supporters to expose what has been described as 'the gravest series of miscarriages of justice in British legal history'.

It robustly questions many received views and calls for

- the compulsory audio or video recording of police interviews with alleged victims,
- anonymity for the accused,
- wider powers for the Criminal Cases Review Commission to enable alleged miscarriages of justice to be reviewed, and
- the rules on 'similar fact evidence' to be tightened.

LILLIE/REED LIBEL CASE DECISION NOT APPEALED; REVIEW TEAM CAVES IN

Newcastle City has decided not to appeal against the Lillie/Reed libel judgment. This decision was a "significant development" because in effect the Council publicly accepted that judgment. It said:

The city council fully accepts Justice Eady's judgment and that Dawn Reed and Christopher Lillie are innocent of all the allegations against them. The council regrets the suffering these events have caused them.

Our sympathies remain with all the people affected by this case.

The Council also said it had commissioned its Head of Legal Services 'to prepare a report on issues to learn from the judgment', to which Richard Webster responded "The report is awaited with interest".

The review team, against whom the most damning decision was found, in a concurrent statement referred to their 'surprise that the judge made a finding of malice against us', saying that the finding was "particularly surprising given the Judge's acceptance that our belief as expressed in the report was honest, although in his view mistaken". So it was a reluctant cave-in when they indicated that they had had to accept that the matter was closed and that they would not proceed to an appeal.

~ Material for the items above was sourced from <http://www.richardwebster.net/> ~

WHISTLEBLOWER - OR OFF-LOADER?

Louise Deans writes in her book *Whistleblower* of an episode, spanning 1981-93, concerning experiences in Christchurch's Anglican Church.

As a young married woman in Darfield, with a family four, and just after 3½ years in Bahrain, she was drawn to the ministry. She applied - for the non-stipendiary stream - and was accepted.

More recently, however, she is recognised for her campaign of sexual allegations against a former male colleague.

Early in the saga, Mrs Deans was part of religious activities based from a Christchurch Anglican hostel, where the person she only refers to in the book as "R", was supervisor. He became her mentor, and what she calls her counsellor, and a sexual relationship began.

Whereas she describes some of his part in this, her own part, she does not mention. She blames him, while he has elsewhere alleged that she, and other women, were initiators of sexual activity, being 'all over him'. This seems to mean truthfulness is an issue in these cases.

In revealing some of two early incidents that he initiated, some details are so specific that they muddle issues of distaste about behaviour with the documentation of private matters.

Of the fact that Mrs Deans has felt confused spiritually out of all this, there seems little doubt. She and other women asked the hierarchy to deal with their issues about R, but were repeatedly rebuffed, and through their ensuing frustration, the complaints became more public, culminating in the publication of the book. This embarrassed the hierarchy, especially as the book's cover carried a contorted depiction of Christchurch's Anglican Cathedral.

In referring to what is left to be dealt with, Mrs Deans refers in one place to her family's hurt on hearing of these matters, and her sister's leaving New Zealand, but gives most of the space to addressing the church, as if in an altruistic vein, for herself and the other women.

Here her argument is that the performance of 'forgiveness' ought not to be left to the wronged persons.

This seems a bit rich; this reader anyway wanted to see her point of view, but found it was a very uphill battle.

The ongoing sexual activity was likely to have been mutual, because if it wasn't, Mrs Deans would have been emphatic about making it clear. By citing two examples that as mentioned are rather distasteful, she tries to arrange for readers to think that the feelings from them can be transferred to any other possible activity, which is wrong and prurient.

Putting the blame on the man seems unworthy towards women, whose contribution to the incidents that have a bearing on the present state of their spiritual condition, bears attention.

Mrs Deans virtually argues that the setting of the sexual relationship was similar to a doctor-patient one or a counsellor-client one. It could be argued that in the absence of any special rules for sexual conduct in non-celibate and ill-defined religious settings, the legal situation that applies is no more than what

is simply present in society's norms; it is not a case where for example the medical profession's sexual ethics applies. For that reason, her argument seems rather like self-serving retrospective special pleading, over something that may have seemed to her quite different at the time. Her approach - as for that of the other women, presumably - also serves to make a kind of grandiosity out of what happened, that is ill-fitting.

Whistleblower : abuse of power in the Church : a New Zealand story. By Louise Deans. Tandem Press, 2001, Auckland, N.Z.

N.B. The Canterbury Public Library website showed 19 copies of Whistleblower, 3 on loan, on a day visited (in mid-November 2002), as opposed to nearly 50 copies of A City Possessed, and 31 on loan. Each had some 'on reserve' copies and ACP had special-category copies.

INHERITING THE WHIRLWIND: OUT OF THE RELIGIO-POLITICO-SEXUAL COMPLAINTS NEXUS

In New Zealand, as for elsewhere, some of the Catholic and other religion-related allegations may be true, but there is an obvious element of opportunism and grandstanding from gender-political, including some left-political, points of view. Some affected bodies have paid out for some cases, while not admitting liability, and under ACC's regime the same may apply (in terms of funding for counselling, allowances, and, after 1 April 2004, lump sums). Providing money under these circumstances - easy money - has the potential to encourage false sex allegations. This puts a terrible load on the innocent.

JUSTICE PREVAILS

Not guilty of sex violation (CH-CH, NZ)

Judge Russell Callender discharged a man when a jury recently found him, David John Lowes, 31, not guilty of sexual violation of a boy by unlawful sexual connection. Press 12/9/02 p A3.

DNA test freed teenager (CH-CH, NZ)

Pizza-maker Makea Uriarau, 19, was cleared of rape after Det Supt Malcolm Burgess had the DNA material extracted from scrapings under the accuser's fingernails reviewed, and it was found to be from an unidentified man not Uriarau. Mr Uriarau wants compensation. He spent 4 months in custody, and was disowned by a favourite uncle and threatened by a skinhead who knew the complainant. "It was horrible," he said. "I was real depressed when I was in there." The police's arrest of him was on the strength of the complainant's word, after she spotted him several nights later when she was in the city drinking with friends. The woman's attacker was 1.7m tall when Mr Uriarau is 1.85m, and whereas the complainant alleged that she had gouged the rapist's face with her fingernails, there were no scratches on his face when he was apprehended.

The Press saw fit to subtitle the front-page item "Rapist at large", under the same main title as we use here. Press 9/9/02 p A1.

Another report picturing him with his father, said he still sought a police apology. Press 27/9/02 p A3.

More DNA work sees another man charged after Dougherty's exoneration (AK, NZ)

A man has been charged with a 10-year-old rape, more than a year after David Dougherty was paid nearly \$900,000 for being wrongfully convicted of the same offence. The 31-year-old man was to appear in Waitakere District Court on 4 charges (25/9/0; at <http://www.stuff.co.nz/stuff/>).

Regarding the DNA tests in the case, the following has been stated:

[I]nitial DNA tests were found not to be sensitive enough to pick up the definite presence or absence of Dougherty's DNA type.

Peta Stringer of the Institute of Environmental Science and Research reported the presence of Dougherty's DNA type during the first trial even though his type was not significantly stronger than the control patches on the test

and signals of another DNA type (not Dougherty's) were found on the test but were not reported.

Dr Arie Geursen, director of Genesis Research and Development Corporation in Auckland, played a key role in Dougherty's appeal case [in relation to DNA].

This report noted that the Sunday Star Times (31/3/96) had reported: "There is no irrefutable genetic evidence to link Mr Dougherty with any of the material typed in this case. There is reliable genetic evidence to implicate a second person, not Mr Dougherty in this case."

Based on http://www.vuw.ac.nz/psyc/wareham_dougherty/appeal.html. That site's author is a Kate Wareham. The material is associated with CJBweb "a collection of tutorials, literature, research and links, sponsored by the Criminal Justice & Behaviour Research Centre in the School of Psychology, Victoria University of Wellington, Wellington New Zealand", for which see <http://www.vuw.ac.nz/psyc/cjb/cjbweb.html>.

'Human tragedy'

In the wake of the arrest over the rape of the 10-year-old, Peter Williams QC, in a letter in the Sunday Star-Times under the paper's heading 'Praise for Dougherty Campaigners', praised scientist Arie Guerson, lawyer Murray Gibson and journalist Donna Chisholm, for their joint venture exposing and confirming the innocence of Mr Dougherty.

Letter-writer Peter Witehira, in the same issue, also thanked Donna Chisholm.

Witehira added "Society must take careful note and deeply ponder the lessons learnt from this human tragedy," and "the most disturbing part of this episode is the depth and breadth of misinformed opinion and deep rooted prejudice towards the down trodden and less fortunate". In his opinion, "until our justice evolves beyond a sometimes self-righteous, chauvinistic culture, we remain, in some ways, a primitive society of whimpering cowards". SST 6/10/02 p A10.

Girl says she made up rape story (AK, NZ)

Police were reportedly furious that a 13-year old girl lied, she told them, about her being pack raped at Otahuhu. She had misled police, telling them three men had dragged her over a fence and down a bank near the Otahuhu recreation centre as she walked home from college, and that they used a red four-door car. Police had said the girl was so traumatised it took them weeks to glean details of the attack, and that the 3 men had to be caught before they could attack anyone else, but minutes after they released details such as these, the girl confessed. Her injuries were 'self-inflicted' she said. Police spokeswoman Angeline Barlow said "What do you do? You have to take it at face value", adding police had spent a week talking to the girl in what amounted to a large waste of police time. They said the girl may be too young to be charged. NZ Herald 25/10/02 p A15.

NZ: One innocence project exoneration!

A TV One item on the Holmes show in Aug-Sept-Oct 2002, featured an interview with two law students, who, from outside the country, had investigated a New Zealand case where someone had been convicted of a serious offence. They found - from afar, ie, from another country - that there was evidence that totally exonerated the accused for the crime. Does anyone have further details of this case?

US: Many innocence project exonerations!

Whereas, in New Zealand, innocence initiatives are new, in the US there have been some years of such activity. One such project, on the web at <http://www.innocenceproject.org/>, showed 108 people exonerated as of 21 May 2002.

Why wrongful convictions?

According to a US study, 52% of identified wrongful convictions are due to errors of identification by eyewitnesses (Rattner, A. 1988. Convicted but innocent: Wrongful conviction

and the criminal justice system. Law and Human Behavior, 12(3), 283-293).

According to the Victoria University of Wellington web page at http://www.vuw.ac.nz/psyc/marica_ewt/wrongcon.html, while eyewitness error causes the greatest number of wrongful convictions, other things contribute to the problem:

- Unethical Police/Prosecutorial behaviour,
- Plea bargaining, " Inadequacy of counsel,
- Community pressure for convictions,
- Knowledge of criminal record,
- False accusations, and
- Other factors, e.g. judicial error, bias or neglect of duty; voluntary and deliberate false confession; and mental incompetency of the accused.

The site notes that David Dougherty was wrongfully convicted on a mixture of wrong identification and incorrect indications about DNA evidence.

N.B. The question of mis-identification has been in the news recently, with the 'Washington sniper'. At the time of writing two men had been charged over these incidents. The men charged are black and were driving a car of some description, not white, but some people purporting to be witnesses said they had glimpsed the snipers as white people driving a white van! On this, Elizabeth Loftus has been quoted in a number of US reports. She has said that in a traumatic situation the brain is likely to fail to properly encode, or encode at all, peripheral details.

Body of work links false memories to cultist 'mind control'

The experiences of Australian woman Jan Groenveld with sexual abuse allegations both real and false, and cults, led her to write a website about cults, and to run the FMsurvivors internet discussion group in recent years. Australians and New Zealanders, and some from further afield, contributed to this group with discussion and articles etc. Dr

Yolanda Lucire, who seems to have a very firm grip on the phenomenon of false memories, is one notable member to come to attention.

Jan herself had been affected particularly by the cult milieu, and by real sexual abuse, but also by false memories of sexual abuse. She tied the subjects together, leading her to write, on 2 October 2002:

“The mind control issue is why I have had RMT etc on my Cult Awareness & Information Centre website since 1995.”

A little later, on 7 Oct 2002, Jan posted to witchhunt a set of ideas titled “Recovery from mind control.” In “How do people get out of religious cults?”, she itemised the ways, as “The walk outs, the kicked outs, the burn outs, the find outs, and the counseled outs”. The latter were uncommon she said.

She listed 10 stages to deprogramming in relation to false recovered memory cases, headed “Leaving the spiritually abusive system: the withdrawal stages”. Her site <http://www.caic.org.au> explains more.

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Sadly, we received word on 22 October that Jan Groenveld had passed away, in her sleep.

Jan was and is an inspiration for people who knew her, people affected by false sex allegations, and other cases. She was widely respected, and left a great legacy of work done.

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Opinions expressed in this newsletter are not necessarily those of COSA New Zealand Inc.