

# HEALTH AND INTEGRITY IN CHURCH AND MINISTRY

An ecumenical conversation on the task of  
rebuilding and renewal after the Royal Commission  
into Institutional Responses to Child Sexual Abuse

27-29 August 2018, Melbourne, Australia

## Conference papers

Edited by Stephen Crittenden



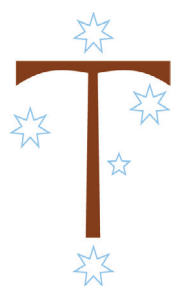
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Franciscan Friars



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## Acknowledgements

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# Foreword

Professor Peter Sherlock  
Vice-Chancellor, University of Divinity

The Royal Commission into Institutional Responses to Child Sexual Abuse was a watershed moment in the history of Christianity in Australia. Its repercussions will be felt for decades to come. Although the Royal Commission's investigations encompassed many types of institutions, religious organisations were responsible for a majority of the incidents of abuse it uncovered. Moreover, the final report contains dozens of recommendations directly addressed to the churches.

During 2016 and 2017, the University of Divinity began a conversation about what we might be called to do in response, as the Royal Commission completed its weighty responsibilities. This reflected our unique role as an Australian university dedicated to theological scholarship and to the formation of people for ministry in a wide variety of contexts, one composed of a network of partnerships with over thirty churches and religious orders.

The conversation forced us to recognise with sorrow that the University's staff, students and graduates included victims, survivors, perpetrators and bystanders. The University, founded in 1910, shared responsibility with the churches for the failure of our members to live out the theology that we teach and research.

The path we found ourselves walking, then, is the Way of the Cross. The Royal Commission made us see that the path is covered by the broken bodies of victims and survivors; lives abused, humiliated and discarded, not only by the perpetrators, but also by our institutions, by our leaders, by us. We looked the other way, refused to listen, denied the truth, protected evil with evil, and hid from those who would hold us accountable.

For those of us who are leaders and members of the churches and religious orders, newly held to account, it is not yet time to seek forgiveness and ask for absolution from our neighbours, or from each other. Our sorrow, our lament, our apologies, are only a beginning. Now we must seek to redress the wrongs we have inflicted, knowing always that, in God's mercy, Christ walks ahead and behind, calling us to the way of truth and justice in grace.

And so the University began to ask several questions: What changes might be required in training future generations of bishops, clergy and religious leaders? What implications would the Royal Commission's findings have for the application of theological wisdom to the needs of the contemporary world? How could our teaching, research and engagement contribute to the reforms needed to prevent child sexual abuse in the future? Could we find ways to grapple with the immensity of the pain and suffering of victims and survivors of abuse documented by the Royal Commission, that would not render us merely inert, incapable of taking action?

The Health and Integrity in Church and Ministry conference, initiated by a group of Catholic religious orders, emerged as the necessary first and systematic step in addressing these questions, following the release of the Royal Commission's report and recommendations in December 2017. The conference brought together survivors, support groups, church leaders, and experts from a wide range of fields to name what needed to be done and to set an immediate and a longer term agenda.

The conference participants walked gently with each other and wrestled mightily with complex issues. Topics ranged from the old and familiar to the new and innovative. Screening and checks for ministry, the training of religious and pastoral workers, the application and reform of church law were all discussed as essential tools to protect children and vulnerable people from harm, and to hold churches to account for their words and deeds. Prophetic challenges included professional supervision for clergy, the theological consequences of listening seriously to children, and the leadership of women in the churches.

The ecumenical breadth of the conference was a vital and necessary aspect, directly confronting one of the biggest issues identified by the Royal Commission: the tendency of religious groups, even within the same denomination or organisation, to work in isolation from each other, free from external control

or accountability, and thus creating unacceptable gaps in the protection of the vulnerable. Could we find better ways, together, setting aside our autonomy and self-preservation in order to create a truly comprehensive approach across, as well as within, the jurisdictional boundaries of churches and states?

The conference's explorations bore direct relevance to a wider range of contemporary problems, from the exclusion of refugees to the plague of family violence, and the casual acceptance of harassment and abuse in our workplaces and universities to the failure to attend to the voices of Indigenous Australians.

Three outcomes stood out for me. First was the necessity of a trauma-informed approach that puts victims and survivors at the centre of the agenda. Second was the surprising simplicity of some of the proposals, from governance and church law reform to cooperative initiatives to develop healthier habits in ministry. Third, conversely, was the enormity of the challenge of changing culture, especially those cultures that create an unhealthy clericalism and an absence of transparency.

My hope is that the publication of the conference proceedings will stimulate the University of Divinity, the churches and religious orders, and the Australian community to leave no stone unturned in ensuring that the recommendations of the Royal Commission are comprehensively implemented. My prayer is that in so doing, our culture may be transformed into one characterised by wisdom and compassion.



# Preface

Dr David Leary OFM, Conference Convenor

It was in March 1968 that Robert F Kennedy began a campaign for the presidency of the United States of America. On 4 April of that year, as he was travelling to a campaign rally in Indianapolis, he learned of the assassination of Dr Martin Luther King Jr. In the face of such a tragedy, so soon after the death of his own brother in 1963, Robert Kennedy had little choice but to face the tragedy of King's death. At the rally he was about to attend, where a dominantly African American crowd was gathered to hear him speak, it was his task to face the issues and make sense of this unspeakable tragedy.

Kennedy did more than simply face the occasion. He seized the moment, understood the meaning of that moment, and spoke from his own heart to the heart of the grieving and angry assembly. He encouraged his audience to rise from the ashes of death and gain strength from the tragedy. He mused with his audience about a timeless question when he said, 'In this difficult time for the United States, it's perhaps well to ask what kind of a nation we are and what direction we want to move in.'<sup>1</sup> From the depths of his understanding, imbued by history and philosophy, and all that it tells us, he recited a passage from the Greek tragedy, *Agamemnon*, by Aeschylus, who died some 450 years before the birth of Christ:

*Even in our sleep, pain which cannot forget  
Falls drop by drop upon the heart,  
Until in our own despair,  
Against our will,  
Comes wisdom  
Through the awful grace of God.*<sup>2</sup>

Brands and Edel, in their fine work entitled *The Lessons of Tragedy: Statecraft and World Order*, pick up this theme of grabbing hold of tragedy and learning for the future through facing the excoriating pain of the past and present.<sup>3</sup> They reflect on how Aristotle and the other Greek philosophers had a 'tragic sensibility', an awareness of and kinship with the stark and tragic elements of everyday life. As Brands and Edel indicate, 'tragedies not only aroused pity and fear but were intended to spur the audience into recognition that the horrifying outcomes they witnessed were eminently avoidable'.<sup>4</sup>

Like Robert Kennedy did with his African American audience, so stunned by the assassination of their leader and hero, the creators of the Greek tragedies hoped that by 'looking disaster squarely in the face, by demonstrating just how quickly things could spiral out of control, the Athenians hoped their citizenry would be charged with the sense of mutual obligation and moral courage needed to avoid such a fate.'<sup>5</sup>

The Health and Integrity in Church and Ministry conference was about looking disaster squarely in the face, and hoping that by doing so, we would galvanise the efforts of many to a resilient posture of mutual obligation and moral courage.

As you will read, there are those who discouraged and even attempted to thwart our efforts to face the reality of the church's tragic and senseless behaviour over many decades. This is not a time for timidity; nor is it a time for looking away. As some initial supporters saw their resolve weakened, citing reasons that could not survive scrutiny, 300 people gathered to gaze deeply and squarely into the disaster. By the end of day three, it was clear that victims and survivors, advocates and lawyers, academics and ministers of every hew, had discovered the essence of mutual obligation and moral courage.

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1. Kennedy, R F. (1968). Remarks on the assassination of Martin Luther King Jr., delivered 4 April, Indianapolis. <https://rfkhumanrights.org/legacy/speeches/speeches-1-1-1>

2. *ibid.*

3. Brands, H., and Edel, C. (2019). *The Lessons of Tragedy: Statecraft and World Order*, Yale University Press, New Haven.

4. *ibid.*, 3.

5. *ibid.*, 3.

Gratitude must always accompany mutual obligation and moral courage. We are grateful to the religious institutes and dioceses that came onboard, provided financial aid, and stayed the distance. We offer our humble gratitude to those who have experienced abuse, and who trusted our judgement. Our speakers and panellists gave generously of their time and energy. The University of Divinity hosted the conference and provided moral encouragement at a critical moment in the lead-up to the conference. Silently in the background were friends and colleagues who volunteered their time and were a welcoming presence at the conference. Mutual obligation and moral courage can be difficult to sustain without the presence of those who share and support the vision.

I hope that in reading these papers, you gain a sense of the spirit of the moment that was the Health and Integrity in Church and Ministry conference. The disciples on the road to Emmaus, or after Pentecost, while their lives were touched in a new way, clearly knew that this was simply a beginning. This is how it is for us now, in this new time, facing a new and yet old moment of tragedy. This present moment is an opportunity to develop our sensibility to tragedy, to look deeply and squarely into the face of disaster, and to respond as courageously as possible to the awful grace of God.

# Introduction

Stephen Crittenden

The Health and Integrity in Church and Ministry conference was an initiative of four Catholic male religious orders – the Franciscan Friars, the Passionists, the Redemptorists and the Blessed Sacrament Fathers – together with the Diocese of Parramatta and Yarra Theological Union, which is part of the University of Divinity. Featuring 50 presenters from Australia, New Zealand, Asia, Europe and the United States, the conference was attended by 300 participants, including survivors of child sexual abuse and their advocates, church leaders, clergy and religious, ministers and church workers, academics, and members of groups advocating for church reform. It was the first large-scale public conversation about the way forward for the churches following Australia’s Royal Commission into Institutional Responses to Child Sexual Abuse, and also the first time the task of church renewal in response to the child sexual abuse scandals had been the subject of an ecumenical conference.

It was originally intended to be a Catholic conference. In 2017, while the Royal Commission was still going on, the Vicar General of the Diocese of Parramatta, Father Peter Williams, and the Provincial Secretary of the Franciscan Friars, Dr David Leary OFM, began a discussion about what they recognised would be an urgent need, following publication of the final report, for a high-quality, cross-disciplinary conference looking at the implications of the Royal Commission and the road ahead – an opportunity to take stock, absorb new and unpalatable realities, and brainstorm future initiatives. In late 2017, they approached the Australian Catholic University (ACU) to host the conference. The University was enthusiastic and a briefing note was prepared for Archbishop Denis Hart, then President of the Australian Catholic Bishops Conference (ACBC). In January 2018, Archbishop Hart provided his support for the conference to take place in August 2018.

Throughout 2017, however, there had been a noticeable darkening of mood in some Catholic circles towards the Royal Commission. These Catholics felt that the inquiry had gone on too long, and that it had unfairly targeted the Catholic Church. They were especially furious at its recommendations about the seal of confession. This darkening mood left the Australian bishops deeply divided about how to respond to the Royal Commission. A consequence of this was that the ACBC was unable to reach agreement on the text of a proposed post-Royal Commission pastoral letter, and to date, no pastoral letter from the ACBC has been forthcoming. In March 2018, the bishops suddenly withdrew their support for the Health and Integrity conference, informing the organisers that they now considered August 2018 to be too early to hold such a conversation, and suggesting that it should be postponed until August the following year. At this point, the ACU withdrew from the project.

The conference organisers and their sponsors believed that postponing such a discussion until almost two years after the conclusion of the Royal Commission would be unacceptable. A decision was taken to press ahead, and the University of Divinity agreed to step in to host the conference. The actions of the ACBC and ACU ultimately proved to be a blessing for the project.

The involvement of the University of Divinity brought a new ecumenical dimension to the conference that quickly became a real strength. It helped set the tone for a conversation that, while raw and emotional at times, was overwhelmingly positive, collaborative and respectful of differing experiences and viewpoints. As keynote speaker Janiene Wilson said later, this was a conversation of ‘tempered voices’. It also opened up discussion about potential areas for collaboration between the churches (for example, in relation to pastoral supervision and the training and accreditation of pastoral supervisors). Rather than starting from scratch on a whole new conference program, a decision was taken to build on the work that had already been done. Although considerable effort went into shaping an event that was as denominationally diverse as possible, the program continued to be heavily weighted toward Catholic perspectives and concerns – as is this collection of conference papers.

If the Health and Integrity conference had a single overarching idea, it was that real cultural change will require more than a managerial response by the churches, and more than just implementing the Royal Commission’s recommendations. This is not to say that a managerial response isn’t essential. Many religious institutions and communities have been poorly served by their structures, their rules and their

governance practices. Church policy and practice cannot remain the same. Assuring against child abuse is going to mean importing and embedding more insightful and responsive governance practices, and will also require compliance with external regulation and oversight by government.

But the child sexual abuse crisis has drawn attention to areas of deeply ingrained dysfunction in the life of the churches that extend far beyond the remit of professional standards and child safety personnel or the competency of KPMG. This point has been made by others. British lawyer Richard Scorer, the author of *Betrayed: The English Catholic Church and the Sex Abuse Crisis*, argues that ‘without deeper cultural change, a proliferation of Quality Assurance Frameworks can only take the church so far’.<sup>1</sup> Similarly, theologian Gerry O’Hanlon SJ, a former Provincial of the Jesuits in Ireland who gave evidence to Australia’s Royal Commission, has written:

*The danger it seems to me is that we remain at the level of a reform of management and communications structures in each diocese, with effective child safety guidelines (all good in themselves), but do not tackle the deeper issues ... are we as a church ready to grasp nettles?*<sup>2</sup>

At least as far as the Catholic Church is concerned, the plain fact is that these deeper issues have not been tackled. The church is still only at the very beginning of coming to grips with the underlying systemic and institutional factors that contributed to the crisis, including dysfunctional aspects of its own theology, structure, governance and culture. Meanwhile, in the church internationally, there are still significant levels of ignorance, denial and avoidance.

Another reason why more is needed than a purely managerial response, is that such a response would not be an expression of the fullness of the church’s life and mission. As Anglican bishop Alison Taylor puts it in her conference paper, the Anglican and Catholic Churches have made formal apologies, established professional standards and safeguarding units, and become more professional and sympathetic in their handling of complaints and payment of redress, while professional standards training has become the norm:

*However, these kinds of responses have also been made by the non-church organisations which have been found by the Royal Commission to have allowed extensive child sexual abuse to go unchecked. What more might the churches do in response to their implication in child sexual abuse? What does a church’s discernment of its own identity and mission indicate would constitute a full response to child sexual abuse?*

The conference was held entirely in plenary and divided into ten sessions over two-and-a-half days. Most sessions consisted of a keynote paper followed by a facilitated discussion that featured a panel of interlocutors. Another three sessions were panel only. This collection of papers and invited commentary includes all of the keynote papers. Each of the invited interlocutors and panellists was also invited to submit a short paper. Thirteen have done so, including Professor Robert A Orsi of Northwestern University, who was invited to reflect on the conference as a whole. Papers were also invited from the Vice-Chancellor of the University of Divinity, Professor Peter Sherlock, and counsellor Eric Hudson. Here and there in the following summary, I will quote from my own conference notes about what speakers actually said during the conference.

## **How did we get here, and where are we?**

The introductory session sought to say something about the significance of the Royal Commission and what had been learned about child sexual abuse in church-run institutions. In his keynote paper, Desmond Cahill, Emeritus Professor of Intercultural Studies in the School of Global, Urban and Social Studies at RMIT University, describes the Royal Commission’s final report as ‘the most thorough-going and credible report on religious sexual abuse of children ever produced’, and a gift to the Australian nation and the churches. He says that because of the Royal Commission’s ‘unparalleled moral authority’, Australian governments are moving quickly to implement its recommendations.

In seeking to explain why so many people in leadership positions in the churches caused so much further harm through the way they responded to the abuse, Cahill draws on social psychologist Albert Bandura’s theory of selective moral disengagement. Bandura says that otherwise good people may commit harm in

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1. Scorer, R. (2018, 13 June). Wheels of change in tackling clerical sexual abuse still grind too slow, *The Tablet*.

2. O’Hanlon, G. (2010, February). The Murphy Report – a response, *The Furrow*, 16(2), 82–91. This essay was tendered as an exhibit in Case Study 50. See Exhibit 50-0004, IND.0539.001.0307, <https://www.childabuseroyalcommission.gov.au/sites/default/files/IND.0539.001.0307.pdf>

the name of 'righteous ideologies, religious principles and nationalistic imperatives', through processes of minimisation, diffusion and displacement of moral responsibility, use of sanitising language, and dehumanising or blaming of victims.<sup>3</sup> This suggests a somewhat disturbing resemblance to the processes of cognitive distortion engaged in by the perpetrators themselves.

Bandura suggests that monolithic and authoritarian social systems create conditions which are more conducive to moral disengagement than pluralistic systems that can more easily tolerate diverse perspectives, interests and concerns. This chimes with a comment made by former Commissioner Robert Fitzgerald, who was a panellist in the introductory session. He told the conference that the churches have governance structures which are not well equipped to deal with vulnerable people, and they often don't know in whose interests they are operating. He suggested that church leaders constantly need to be asking themselves, 'In whose interests am I making this decision?' It was in order to promote just this type of ethical reflection that the Royal Commission recommended that all people in religious or pastoral ministry, including church leaders, should receive mandatory professional/pastoral supervision (Recommendation 16.45). More on this later.

Sociologist Kathleen McPhillips was an interlocutor in the introductory session. A senior lecturer in the School of Humanities and Social Sciences at Newcastle University, she has written extensively on cultural trauma in community and public life. McPhillips says child sexual abuse is a difficult problem to address because it is a form of 'unbearable knowledge'. But she argues that a series of public inquiries in Australia has helped to overcome this blockage, beginning with the Human Rights Commission's 1997 inquiry into the removal of Aboriginal and Torres Strait Islander children from their families. This was followed by the 2001 Senate 'Lost Innocents' inquiry into child migrants, the 2004 Senate 'Forgotten Australians' inquiry into the experiences of children who grew up in out-of-home care, and culminated in the Royal Commission of 2013 to 2017. By listening to the voices of survivors and valuing their testimony, these inquiries helped to produce a profound cultural shift. A previously hidden subject became publicly discussable, and new forms of knowledge were produced.

Listening to the voices of survivors will continue to be important in any post-Royal Commission conversation about church renewal, which is why the organisers of the conference made a point of inviting survivors to participate. This was in stark contrast to the Vatican sex abuse summit in February 2019, which was essentially a gathering of bishops. Joan Isaacs was the first survivor to give evidence in a Catholic Church case study, and her presentation during the introductory session felt like a welcome to country from a wise community elder, demonstrating what a shift has taken place in our sense of who has moral authority in the churches and who the real teachers are. During her presentation, she projected a powerful visual image of Catholic clericalism onto the screen – a German Reformation painting known as *Christ and the Pope*, depicting Christ on his donkey meeting the pope on horseback in all his finery – and told how she had presented a photocopy of the picture to Bishop Vincent Long Van Nguyen of Parramatta on the day he gave evidence to the Royal Commission. Bishop Long's response on that occasion – 'Yes, Joan, it is time for us to get back on the donkey' – became a *leitmotif* of the Health and Integrity conference.<sup>4</sup>

## Theological implications

The child sexual abuse scandals have often been described as the greatest crisis for the Catholic Church since the Reformation, and also as an ecclesiological crisis,<sup>5</sup> yet they have inspired comparatively little in the way of public theological reflection. Irish theologian, Eamonn Conway, has suggested that theology has been sidelined from discussions about how and why priests and religious have sexually abused children, 'because of the fear that it might lead precisely to the posing of painful questions about the church's nature and structure which people would prefer to leave unaddressed'.<sup>6</sup> It is also worth remembering that, for the Catholic Church internationally, the sexual abuse crisis coincided with a period

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3. Bandura, A. (2002). Selective moral disengagement in the exercise of moral agency, *Journal of Moral Education*, 31(2), 101–119. See also Cahill, D., and Wilkinson, P. (2017). *Child Sexual Abuse in the Catholic Church: An Interpretive Review of the Literature and Public Inquiry Reports*, Centre for Global Research, School of Global, Urban and Social Studies, RMIT University, Melbourne, 284–288, <http://www.rmit.edu.au/content/dam/rmit/documents/news/church-abuse/child-sex-abuse-and-the-catholic-church.pdf>

4. *Christ and the Pope*, together with a translation of the rhyming German text at the bottom of the picture, is reproduced on 16.

5. O'Brien Steinfelds, M. (2003, 14 March). Continuing the Conversation, *Commonweal*, 7. See also Cozzens, D B. (2004). Standing in the fire, in Oakley, F., and Russett, B. (eds). (2004). *Governance, Accountability, and the Future of the Catholic Church*, Continuum, New York and London, 191–195.

6. Conway, E. (1999, September). The service of a different kingdom – child sexual abuse and the response of the Church, *The Furrow*, 50(9), 451–463.



when a number of prominent theologians were silenced and the broader critical theological project was largely shut down.<sup>7</sup> In this light, there is a striking note in Richard Lennan's keynote paper, of clearing a space for theology and laying the groundwork for future conversations.

Richard Lennan is Professor of Systematic Theology at Boston College and an Australian Catholic priest. The main theme of his keynote paper for the 'Theological implications' session is change, and whether the church is really capable of it. Opening with an image of the church on the brink of the abyss, waiting to die, he warns that any church which fails to learn the lessons of the Royal Commission will 'disqualify itself from a continuing place in Australian society'. On the other hand, he argues that real change – 'root and branch reform' – will require the church to go beyond the Royal Commission's recommendations and 'respond from its own resources':

*While taking up the specific recommendations of the Royal Commission will certainly help the church to become a more transparent and authentic body, the renewal of integrity in the church requires more than individual pieces of reform: it requires broad and deep cultural shifts in the church. To achieve the latter, it will be necessary for the church to embrace an overarching approach to change, one that can guide the implementation of specific changes.*

In other words, what is needed is an ecclesiological roadmap, firstly to explain what went wrong, and then to help the church move forward.

Lennan presents two opposing models of church. The first is that of the church as a 'perfect society' – an idealised church of 'immovable structures', dominated by its hierarchy, a church that has nothing to learn, a church that cannot change. The Royal Commission noted that 'perfect society' ecclesiology remained the dominant Catholic ecclesiology from the Middle Ages until the mid-20<sup>th</sup> century, and that clericalism is a by-product of it. 'Perfect society' theology is associated with the idea that the church is an unequal society comprising two categories of persons – the clergy and the laity – where the clergy are special and have a monopoly over the powers of governance. It is also associated with the idea that the Catholic Church is superior to the other churches, separate from and above the wider society, and independent of the authority of the state.<sup>8</sup>

Lennan's other ecclesiological model is that of a listening, learning, dynamic, pilgrim church – a church that has the capacity to be self-critical, a church in touch with its own traditions, but also open to learning from the wider culture and the lived experience of its members, including those on the margins. Lennan doesn't have a lot to say about what concrete structural reforms might be needed in the wake of the abuse scandals, although he does express support for 'altered practices of governance in the church, including the expansion of leadership beyond the current monopoly of the ordained and the implementation of effective instruments of accountability for all those in leadership'. I suspect he is less interested in structures than a state of mind – an 'openness to movement'. He says it would be illusory to think that the roadmap offered by contemporary ecclesiology will 'free the church from the distortions of the past', or that it is possible to 'failure proof' the church, but he hopes it will at least provide an alternative to self-deception.

Recently retired Anglican bishop Alison Taylor is undertaking doctoral research on the theological implications of the child sexual abuse crisis for Anglicanism. She told the conference that the crisis represented an extraordinary failure of witness which has implications for the idea that the church is holy and that it is God's instrument in the world. She also said that Australian church leaders have largely failed to assist their communities to make sense of the crisis, or to lead them in lamentation. As a result, church-goers have been left floundering.

According to Bishop Taylor, there have not been the same widespread calls for structural and governance reform in the Anglican and Uniting Churches as there have been in the Catholic Church, where these calls are strongly conflated with pent-up frustration about the lack of progress on reform since the Second Vatican Council. She told the conference that Catholics were fortunate in that they had recognised that the child sexual abuse crisis was a theological crisis with implications for governance, 'whereas in the Anglican Church this has not been understood. We are starting from further behind'.

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7. In relation to the church's failure to mount an effective response against child sexual abuse, Irish theologian Gerry O'Hanlon SJ gave evidence to the Royal Commission that restrictions on freedom of speech during this period had resulted in 'a lack of a vigorous immune system in the church'. See transcript O'Hanlon, G. (2017, 8 February). Royal Commission into Institutional Responses to Child Sexual Abuse, Case Study 50 at 24986:14–24987:21.

8. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 2*, Commonwealth of Australia, 621–23, 635–7, 641.

Taylor agrees with Richard Lennan that what is needed in response to the crisis is a new kind of ‘open, questioning and constructive’ theologising about the sexual abuse crisis and its implications. She says that she would like to see this theologising being done by people at all levels of the church. Taylor introduces the concept of ‘lived ecclesiology’ in her paper, noting that there is ‘little point in focussing solely on idealised versions of our churches: rather, we must start speaking about what they are really like in practice’. This leads to the difficult question of the extent to which the whole church, and not just its leaders, has been complicit in the child sexual abuse crisis, through denial and indifference – not really *wanting* to know – scapegoating and turning away from victims, clinging to comfortable fantasies of a perfect church or a church ringed by enemies, or simply switching off.

This is an area where post-Holocaust theology may have something important to offer. Several of the theology session panellists discussed the difficulty of the church coming to terms with its own institutional wrongdoing. Alison Taylor spoke about the ‘extraordinary accommodation’ of the Christian churches in Germany with Nazism after 1933, and the fact that after 1945 the ability of the churches to focus on their own complicity ‘only came very, very slowly – in fact it took decades’. In the meantime, plenty of ‘ordinary’ German church-goers got on with life and failed to see that there was a theological crisis.

It is not an exaggeration to say that the child sexual abuse crisis represents a similar loss of compass and moral authority and a similar theological crisis. In his paper, Richard Lennan quotes German theologian Johann Baptist Metz on the task of theology after Auschwitz, ‘... these catastrophes must be remembered with practical and political intent’.

### **Collateral damage to the ecclesial community**

One of the most difficult and sensitive issues arising out of the child sexual abuse crisis is the damage caused to the rest of the ecclesial community by the perpetrators, and by those in leadership roles who failed to act with integrity and justice. While priority must always be given to the harm caused to the victims, there is pain and grief everywhere in the churches, including in local congregations, schools, dioceses and religious institutes. As they contemplate the many lives that have been destroyed by their colleagues, whom they lived and worked alongside, the loss of public trust, the sense of a mission blown apart, people who have given their lives to the church are experiencing feelings of betrayal, shame and anger. Some are traumatised. At this time, some church personnel may also be thinking about their own experiences of institutional dysfunction and abuse. Beginning to name and grapple with all this grief and pain is an essential part of moving forward and rebuilding healthy, nurturing communities. The Health and Integrity conference confirmed that there is a significant amount of work to be done in this area.

Megan Brock is Congregational Leader of the Sisters of St Joseph of Lochinvar and a clinical psychologist. Her keynote paper broadens the conversation beyond the sexual abuse of children, to include the sexual abuse of vulnerable adults in the church, and especially women religious throughout the world. The sexual assault of Catholic religious sisters by clergy is an issue the Vatican has known about for years, but increasing media attention in recent months has prompted Pope Francis to publicly acknowledge the problem.<sup>9</sup> This parallel scandal provides further confirmation that the sexual abuse of both children and adults in the church is not intrinsically about paedophilia or homosexuality in the priesthood. Rather, it is essentially a problem of male power and privilege, and the misuse of that power by men who target anyone who is vulnerable or not from within the privileged caste.

But what exactly do we mean by the term ‘vulnerable adult’, or ‘adult at risk of harm’, in a church abuse context? Do we only mean adults with a specific range of disabilities, or do we also mean adults who are vulnerable because of their circumstances: the homeless, patients in hospitals or nursing homes, single parents, refugees, those dealing with addiction or unresolved grief or isolation. Is anyone who comes to the church seeking help vulnerable? Is any adult in a pastoral relationship with someone in ministry, a vulnerable adult by definition? The recent scandal involving Cardinal Theodore McCarrick has again highlighted the sexual abuse of seminarians, and that there is a significant risk that a cleric who abuses novices or seminarians may also be someone who will abuse a child. In my view, because of the power

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9. See Horowitz, J., and Dias, E. (2019, 5 February). Pope acknowledges nuns were sexually abused by priests and bishops, *The New York Times*, <https://www.nytimes.com/2019/02/05/world/europe/pope-nuns-sexual-abuse.html>; DeGeorge, G. (2019, 2 February). Women religious openly discuss harassment, abuse, rape of nuns by clergy, *Crux*, <https://cruxnow.com/vatican/2019/02/02/women-religious-openly-discuss-harassment-abuse-rape-of-nuns-by-clergy>; McPhillips, K. (2019, 15 February). The Catholic Church is headed for another sex abuse scandal as #NunsToo speak up, *The Conversation*, <http://theconversation.com/the-catholic-church-is-headed-for-another-sex-abuse-scandal-as-nunstoospeak-up-111539>

imbalances and frequently unresolved issues of sexuality and sexual identity that are often involved, there is no question that novices and seminarians are vulnerable adults. This was repeatedly borne out in material that came across my desk at the Royal Commission.<sup>10</sup>

The aspect of collateral damage that journalist, historian and prominent lay Anglican, Muriel Porter, focuses on in her paper is damage to reputation. She argues that the same motivation to protect the image of the church that caused the child sexual abuse crisis in the first place, is still driving the church's response to the crisis, at least in the Anglican Church. The author of *The New Scapegoats: The clergy victims of the Anglican sexual abuse crisis*<sup>11</sup>, Porter questions what she says is the heavy-handed policing of the private lives of Anglican clergy following the Royal Commission. She also suggests that some people in religious and pastoral ministry are suffering from compliance fatigue, and that increased regulation is proving to be a particular burden on church communities that rely heavily on volunteers.

Using The Salvation Army as a case study, veteran religion journalist, broadcaster and Salvation Army historian, John Cleary, takes a big picture view of collateral damage, looking at the damage to the churches in terms of lost public trust and esteem, and the effect this is having on their mission. He sees the child sexual abuse crisis and the Royal Commission as having a catalytic effect on processes that have been underway for a long time, including ageing and declining church membership, and galloping secularisation. He speculates that the churches may never fully recover. 'Faith-based movements must finally adjust to a civil society where the default position is one of complete cultural disestablishment', he says. 'No more trust-based concessions'. Cleary says the morale of The Salvation Army's uniform-wearing membership has been deeply affected by the scandal of abuse in the Army's residential institutions. The fact that all of these homes have been closed for more than 30 years demonstrates that the abuse crisis really is a tsunami that just keeps on coming. Could further downward pressure on membership eventually force the Army's leadership to make the difficult decision to leave its dwindling congregational base behind while it concentrates on a fully professionalised social service delivery?

To the extent that the child sexual abuse crisis contributes to the decline of organised religion, Cleary believes it will contribute to 'a further hollowing out of civil society'. But he also holds out hope that decline may carry with it the seeds of possible regeneration, as smaller, more fragile church communities are forced to make bold decisions and innovate. Cleary told the Health and Integrity conference that he believes the most important debate for all of the churches in the next 20 years will be about subsidiarity – by which he means a debate about the appropriate level or levels in the church at which power should reside.<sup>12</sup> In his paper, Cleary suggests that what he calls 'radical subsidiarity' may drive renewal: 'As clergy numbers decline, both the sacramental and managerial role of the clergy will require redefinition. Forms of lay ministry will, out of necessity, need to develop a sacramental character'.

## **Healing and support for survivors, their families, and affected communities**

In his *Letter to the People of God*, published a week before the conference, Pope Francis called for commitment to a culture of care for the victims of child sexual abuse: 'If, in the past, the response was one of omission, today we want solidarity.'<sup>13</sup> However, the churches have generally not been good at providing ongoing care and support for those they have harmed. One of the reasons for this is that they mostly lack any proper framework for doing so. In his paper, Des Cahill criticises the Royal Commission for failing to recommend that each religious organisation in Australia should develop its own healing strategy. Arguably, if the churches had recognised a decade or more ago that they had a responsibility to develop comprehensive healing and support services for victims and survivors of child sexual abuse, they may not have been required to participate in the National Redress Scheme recommended by the Royal Commission.

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10. Although the abuse of vulnerable adults was outside its terms of reference, the Royal Commission did undertake an investigation into the Society of St Gerard Majella, a small local Catholic religious institute based in the Diocese of Parramatta. It was dissolved in 1996, following allegations that three senior members, including the founder, had sexually abused postulants and novices, some of whom were adults, but several of whom were under the age of 18 at the time. The Society ran a parish and a school where there were further child victims. The findings of the investigation are summarised in the Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 3*, Appendix D, Commonwealth of Australia, 785–794.

11. Porter, M. (2017). *The New Scapegoats: The Clergy Victims of the Anglican Church Sexual Abuse Crisis*, Morning Star Publishing.

12. For Catholics, the principle of subsidiarity has a specific meaning, which comes out of Catholic social teaching – namely, that all people have the right to participate in decisions that affect their lives and that decisions should be made at the lowest organisational level possible.

13. Pope Francis, *Letter to the People of God*, 20 August 2018, [http://w2.vatican.va/content/francesco/en/letters/2018/documents/papa-francesco\\_20180820\\_lettera-popolo-didio.html](http://w2.vatican.va/content/francesco/en/letters/2018/documents/papa-francesco_20180820_lettera-popolo-didio.html)



Before and since the Health and Integrity conference, there has been significant discussion about the adequacy of the National Redress Scheme and the extent to which it fulfils the recommendations of the Royal Commission. Among the concerns detailed in a recent report by a joint select committee of the Australian Parliament chaired by Senator Derryn Hinch, are the cap on payments of \$150,000, compared with \$200,000 recommended by the Royal Commission; the method of calculation of payments based on distinctions between types of abuse (penetrative, non-penetrative, etc.), despite the Royal Commission having demonstrated that the type of abuse doesn't necessarily have any bearing on the severity of impact; and the very limited provision for counselling (amounts of \$1,200, \$2,500 or \$5,000).<sup>14</sup>

Meanwhile, support services around the nation continue to be *ad hoc*, and survivors and their families continue to be the losers. Do the churches have a responsibility to do more? Do they have the financial capacity to do more?

Some church authorities are doing a better job of providing healing and support services than others. One of these is the Catholic Diocese of Maitland-Newcastle, which has made a long-term commitment to fund a professionalised healing and support service through its diocesan child protection agency, Zimmerman Services. The coordinator of healing and support for the diocese, social worker Maureen O'Hearn, told the conference that Zimmerman Services followed the principles of trauma-informed care. 'In essence, it is about self-determination and letting the client take the lead in terms of saying what they need, and also the timing of their own care and recovery', she said. Where the kind of support provided by the National Redress Scheme is largely financial, O'Hearn said that healing and support services of the kind provided by Zimmerman Services are more about walking with people, and need to be tailored to suit each survivor's particular needs. This level of ongoing commitment by a single church authority is rare, and it leaves open the question of whether a more coordinated response along similar lines is needed from the church at the national level.

As a result of this ecclesial and secular policy vacuum at the national level, a number of grassroots support groups have sprung up in an attempt to fill gaps. One of these, Lifeboat Geelong Foundation, was represented on the Health and Integrity conference's Pastoral Care panel by its founder and chairman, Fr Kevin Dillon, survivor Brian Kenneally, and Mary Monagle, who is the mother of a survivor and the wife of a survivor. Established in 2013, Lifeboat offers support and practical help to survivors through its volunteers, makes referrals to appropriate professionals, and advocates on behalf of survivors of church related sexual abuse.

Kevin Dillon says that the churches haven't yet come to grips with the notion of pastoral care for victims and survivors of child sexual abuse. 'The tragedy,' he told the conference, 'has been handed over to lawyers and insurers to look after'. Rather than setting up agencies of their own, he said that he would prefer the churches to provide funding for grassroots organisations such as Lifeboat, which are already doing the work. 'We struggle to pay our own light bills, and there's nothing coming from the institutional church,' he said.

The Truth, Justice and Healing Council (TJHC) has also called on Catholic leaders to provide more support for grassroots organisations. In its post-Royal Commission report to the ACBC and Catholic Religious Australia (CRA), the TJHC said it had received an 'extraordinary number' of telephone calls from distressed survivors struggling to find a point of entry into 'the church system'. The TJHC report called for:

*... a concerted examination of how the Church pastorally responds to victims. Part of this response needs to be a greatly improved relationship with survivor support groups, such as the In Good Faith Foundation, Lifeboat, For the Innocents and other parish-based support and advocacy bodies. All of these groups have struggled over many years to have any realistic relationship with Church authorities. Some clergy have reached out to the groups but at other times they have been shunned by Church leaders. All groups survive on donations with little or no formal Church support.*<sup>15</sup>

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14. Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, *Getting the National Redress Scheme right: An overdue step towards justice*, Commonwealth of Australia, April 2019, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Royal\\_Commission\\_into\\_Institutional\\_Responses\\_to\\_Child\\_Sexual\\_Abuse/RoyalCommissionChildAbuse/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Royal_Commission_into_Institutional_Responses_to_Child_Sexual_Abuse/RoyalCommissionChildAbuse/Report)

15. Truth, Justice and Healing Council. (2018, April). *Final Reports, Vol 1, Where from and where to: The Truth Justice and Healing Council, the Royal Commission and the Catholic Church in Australia*, 37–8.

Two panellists from the Pastoral Care session have provided papers for this collection. Mary Monagle's paper draws attention to the needs of family members of people who were sexually abused as children, including ageing parents who are struggling to support their injured adult children. She has also been advocating on behalf of yet another model of survivor care, in the form of a dedicated church-run chaplaincy service, so far, without success.

At the more spiritual end of the pastoral care spectrum, Joe Johns, a deacon of the Anglican Diocese of Willochra in South Australia, describes a project he is working on with the support of his bishop – to turn a disused Anglican Church property at Mintaro in the Clare Valley into a place of spiritual healing for people who have been sexually abused and a sacred space for those who feel unable to step inside a church. The project draws on Johns's long experience as a military chaplain, which very often involved engaging with people who weren't churchgoers. He says successful chaplaincy depends on building trust, and that the reason why the churches haven't been good at providing pastoral care to abuse survivors, is because they haven't yet figured out how to repair the huge breach of trust which is at the centre of the child sexual abuse crisis.<sup>16</sup>

### **Implications for governance and leadership**

Failures of governance were a feature of virtually every one of the Royal Commission's case studies, in relation to faith-based and secular institutions. But for the churches, these failures are likely to be particularly difficult to address, due to the fact that church governance structures are often underpinned by theology and the sedimented accretions of history. Each denomination faces its own specific issues. Some churches appear to lack the capacity within their own governance structures to achieve uniform change at the national level. Others find change difficult because they are governed from overseas. Some smaller or more culturally isolated faith-groups only have very rudimentary corporate structures.

In her keynote paper for the 'Governance and leadership' session, Susan Pascoe, who was Australia's inaugural Charities and Not-for-Profits Commissioner from 2012 to 2017, argues that it is reasonable to expect religious institutions to operate with the same governance standards as other government, corporate and not-for-profit entities. She proposes abolishing the exemption for so-called Basic Religious Charities under the Australian Charities and Not-for-Profits legislation as a way of forcing the churches to lift their game. Basic Religious Charities are charities whose purpose is 'advancing religion'. Unlike other charities, they are not required to lodge annual financial reports or comply with ACNC governance standards. Former Royal Commissioner, Robert Fitzgerald AM, has also called for the Special Religious Charity category to be scrapped. He says it sends a 'poor signal' to the wider community that some charities deserve special treatment simply because of their religious status.<sup>17</sup>

For Catholics, governance and leadership issues have a particular urgency because in 2020 the Australian church is due to hold a national plenary council – the first since 1937. Many Australian dioceses have not held a local diocesan synod for many decades, and some have never done so. Four out of five metropolitan archbishops on the witness stand on the last day of the Royal Commission's final Catholic hearing were unable to say whether a synod had ever been held in their archdiocese.<sup>18</sup> In his paper for the Church Law session, Ian Waters, Professor of Canon Law at Catholic Theological College, Melbourne, argues that throughout the 20<sup>th</sup> century Australia's Catholic bishops have ruled by decree, and have been unwilling or unable to collaborate with the rest of the church or to make use of consultative structures such as synods and parish and diocesan councils.

According to Peter Johnstone, Deputy President of the Catholic reform group Catholics for Renewal and convenor of the Australian Catholic Coalition for Church Reform (ACCC), the Royal Commission has exposed the dysfunctional and autocratic nature of governance in the Catholic Church. In his paper, Johnstone argues that there is still considerable resistance within the church to the relevance of the principles of good governance, but 'God has not exempted the church and its hierarchy from the responsibility of governing well and in accordance with the best human practice; indeed, it is simply good theology that God expects us to be accountable for our behaviour and to use our human gifts fully in doing God's work.'

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16. See Radford, L. (2019, 21 April). Clare Valley's Sacred Space garden helps to health the wounds of abuse, *ABC News*, <https://www.abc.net.au/news/2019-04-21/healing-spiritual-wounds-in-a-sacred-space/11034256?pfmredir=sm>

17. Millar, R., and Schneiders, B. (2018, 9 October). It's time for churches to account for their cash says sex abuse royal commissioner, *The Sydney Morning Herald*, <https://www.smh.com.au/national/sex-abuse-royal-commissioner-says-it-s-time-for-churches-to-account-for-their-cash-20181009-p508oj.html>

18. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017, 24 February). *Transcript of Coleridge/Hart/Fisher/Wilson/Costelloe, Case Study 50*, 26048:13–26050:28. See also Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 29–32.

At the centre of Johnstone's concerns is the Royal Commission's recommendation that the Catholic Church should conduct a national review of its dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women (Recommendation 16.7). In its post-Royal Commission report to the ACBC and CRA, the TJHC recommended that this review should be held in 2019, as a 'matter of urgency', so the results could be made public in time for the 2020 Plenary Council. On 1 May 2019, the ACBC announced that a panel of experts had been convened to conduct the review. They are required to produce an interim report by the end of October 2019 and a final report in the first half of 2020. It is perhaps an indication that the Health and Integrity conference is already having a practical impact on the life of the church, that four of the seven panellists were presenters at the conference: Susan Pascoe; New Zealand canon law lecturer Rev Dr Brendan Daly; Sr Professor Isabell Naumann ISSM, President of the Catholic Institute of Sydney; and John Warhurst, Emeritus Professor of political science at the Australian National University.

As previously mentioned, increased regulation of church life (both internal regulation and regulation by the state) will be an inevitable outcome of the Royal Commission. One very specific recommendation by the Royal Commission related to the governance of Catholic parish schools in Victoria, where the parish priest has been the official employer of the school principal and other school staff. The Royal Commission recommended that this practice should cease (Recommendation 16.6). In the Diocese of Sale, change was already underway. Maria Kirkwood is the Director of Catholic Education and CEO of Sale Catholic Education Limited, a new corporate entity which has taken over control of Catholic systemic schools in the diocese. Referring to the 'relaxed and relational nature' of many church governance structures and practices, her paper provides an insight into the friction that may arise in the face of increased regulation, as the mindset of 'this is the way we have always done things' runs up against new realities.

## Church law

The Royal Commission did a significant amount of work on the Catholic Church's system of canon law. Nine of its 21 recommendations addressed to the Catholic Church concerned inadequacies of the church's canon law disciplinary procedures for dealing with clergy and religious who sexually abuse children, and with the secrecy of those procedures. The Royal Commission found that canon law had 'reinforced cultural attitudes that facilitated abuse', including 'the mistaken view on the part of some bishops and religious superiors that child sexual abuse was a forgivable moral failing, rather than a crime that should be reported to the police'.<sup>19</sup> It also found that the overriding motivation behind the so-called 'pontifical secret', which applies in clergy abuse cases, was to protect the reputation of the church.

It is clear that any attempt to significantly reform the governance and culture of the Catholic Church must inevitably run up against canon law. As the Royal Commission noted, a number of canonists have suggested that the church's outdated 'perfect society' theology continues to be reflected in the *1983 Code of Canon Law*, and that this is helping to keep clericalism alive in the church.<sup>20</sup> One of these is Rik Torfs, Professor of Canon Law at the Catholic University of Leuven, Belgium, who told the Health and Integrity conference that 'The nice thing about the "perfect society" is that no-one believes in it anymore.'

Torfs' keynote paper for the 'Church law' session begins with an extended critique of the Royal Commission's canon law recommendations. He agrees that the pontifical secret should not apply to any aspect of allegations or canonical processes in child sexual abuse cases (Recommendation 16.10), but he opposes the recommendation that there should be no time limit (prescription) on commencing canon law proceedings in child sexual abuse cases (Recommendation 16.12), on human rights grounds.

He then moves on to identify a range of key problem areas where reform of canon law is needed in order to overcome the residual influence of *societas perfecta* theology. He told the Health and Integrity conference that attempts to make significant changes to canon law are often unsuccessful, because they almost inevitably run into theological objections. These key problem areas for reform include the monopoly of the clergy over the power of governance in the church (Canon 129), which Torfs says is incompatible with an open legal and administrative framework: 'We need to come to a system where some functions of governance are open to all.' There is also the lack of separation of the legislative, executive and judicial functions of Catholic Church government. Torfs strongly supports the idea of an independent judiciary, and told the conference that the church needs 'independent tribunals, hopefully

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19. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report, Vol 16, Book 2*, 713

20. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report, Vol 16, Book 2*, 623.

with laypeople on them, to balance the almost limitless power of the bishops.’ He also argues that canon law needed to overcome its torpor in relation to collaborating with the civil law. He said that the churches ‘cannot any longer argue that they possess the right to act in their own parallel world without being affected by state legislation’.

In his paper, New Zealand canonist Brendan Daly argues that many of the problems associated with the sexual abuse crisis have been caused by a lack of synodality, a principle which he says is characterised by shared discernment, consultation and collaboration at all levels of the church. Arguing that canon law ‘requires some urgent changes’, he proposes a few solutions of his own, including that the *1983 Code of Canon Law* should explicitly state that civil laws concerning the reporting of sexual abuse must always be followed.

Daly also proposes an elegant solution to dealing with clergy found to have sexually abuse children that the Royal Commission failed to consider. The *1983 Code of Canon Law* contains a list of offences and physical or psychological ‘irregularities’ or ‘impediments’ that automatically prevent a person from being admitted to Holy Orders (Canon 1041), or from exercising orders already received (Canon 1044). Daly suggests that child sexual abuse might simply be added to this list, which would arguably strengthen the hand of bishops. However, his suggestion that laypeople in the church who sexually abuse children should be excommunicated, while clerics committing the same canonical crimes would only face laicisation, is more problematical, in part because it reinforces a two-tiered model of church.<sup>21</sup>

### Implications for ministry

The disaster of child sexual abuse reveals the need for fundamental rethinking about the nature and purpose of ministry in the church, and what effective ministry looks like in the 21<sup>st</sup> century. The story of the ministry of Jesus in the Gospels is full of encounters that speak of understanding and compassion for people in their life struggles. Yet, if the Royal Commission has taught us anything, it is that people in religious institutions have often lived in silos, disconnected from the people around them and their everyday experiences. Ministry has often been seen as an end in itself, rather than as a service to others. People in ministry have often thought in theological or hierarchical terms, but forgotten about the human and relational aspects of what they were doing. People in ministry need multi-disciplinary skills – to be able to think theologically, but also psychologically – and that if they lack appropriate skills and insight, they risk doing harm.

For the Catholic Church, there is also the question of the harm that is still being done to many of those it trains for the priesthood. Clinical psychologist Janiene Wilson lectures on human development and pastoral counselling at the Catholic Institute of Sydney. She has worked with clergy and religious for many years, including as a psychologist at the Good Shepherd Seminary in Sydney. In her paper, Wilson describes two models of Catholic priesthood – one an ‘ascending’ model of priest as sacred person, the other a ‘descending’ model of priest as servant. These correspond with the two ecclesiological poles in Richard Lennan’s paper. One of the central themes of Wilson’s keynote paper is that seminary formation for the Catholic priesthood continues to be based on a faulty human anthropology – that is, it is based on ‘a purely theological understanding of the human person drawn entirely from scripture and tradition, without reference to science’. The implication is that seminarians are still being ‘formed’ to become something they really cannot be.<sup>22</sup> Wilson argues that ‘a system that sees sex as problematic at best and sinful at worst, has been dehumanising and deforming of the humanity of individual men ... I also believe that, in some instances, there is such stark sexual immaturity and underdeveloped personal awareness that some sort of sexual acting out is almost inevitable’.

Reform of the Catholic seminary system is a highly sensitive matter for the Australian Catholic bishops. Prior to the Second Vatican Council, the Tridentine seminary was typically monastic, regimented and conformist, with seminarians spending years studying theology and philosophy in isolation from the communities they were being trained to serve. In the decades following the Council, the seminaries

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21. The Royal Commission recommended that all canon law delicts relating to child sexual abuse should apply to ‘any person holding a “dignity, office or responsibility in the Church” regardless of whether they are ordained or not ordained’ (Recommendation 16.9).

22. In its final report, the Royal Commission quoted Eamonn Conway, Professor of Theology at the University of Limerick: ‘Much of our current pain has been caused by a model of priesthood in which individuals are presented as sacred personages with sacred powers. The priest was understood to represent in his person the perfect body of Christ. This meant he had to be totally flawless, all weaknesses and failure banished and kept from sight. The faithful wanted this, and we priests for the most part bought into it ... This understanding of priesthood is now clearly bankrupt.’ (See Conway, E. [2002]. Touching our wounds, *The Furrow*, 53[5], 268–9 and *Final Report, Vol 16, Book 2*, 617).



in Australia and elsewhere became a key battleground in an internal church culture war. The Royal Commission heard that while many improvements had been made to the quality of seminary formation in the 1970s, 1980s and 1990s, since the 90s there has been a revival in clericalism in some seminaries. It recommended that the Catholic Church should conduct a national review of current models of training for ministry (Recommendation 16.24).

This was a request for something more than a review of the seminary curriculum. It arose from a discussion during the final Catholic hearing (Case Study 50), during which Commissioners heard that current seminary formation continues to be influenced by the old Tridentine model and that new models are needed. Several church witnesses gave evidence in support of a much shorter period of initial formation, the adoption of an apprenticeship model, and a much stronger emphasis on pastoral and experiential aspects of training for ministry. For example, Archbishop Mark Coleridge of Brisbane gave evidence that: 'we are, I think, at a point where the Tridentine seminary, the model that came to us from the Council of Trent, is now an anachronism ... I am in favour of certainly questioning the seminary model and moving more towards an apprenticeship model, as long as we can guarantee that there will be a solid and effective formation.'<sup>23</sup>

In a recommendation directed to all religious institutions in Australia, the Royal Commission recommended that all persons in religious or pastoral ministry, including religious leaders, should be required to undertake regular professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry (Recommendation 16.45). This was not intended as a form of punishment inflicted on all people in ministry for the crimes committed by a few. Rather, it was intended as a positive and practical measure to assist and support people in ministry in their work. Members of other professions undertake professional supervision routinely – especially those with 'clinical' aspects. Furthermore, it is often mandated as a condition of working in a particular field, including chaplaincy in hospitals, prisons, and the like. The recommendation arose from the realisation that many people in religious ministry have not been adequately supported, and that all people in ministry need help in order for their ministry to be effective. The driving principles are that formation for ministry needs to be life long, and that the pastoral relationship must be a professional relationship marked at all times by the maintenance of professional boundaries and being accountable.

Alan Niven is a Churches of Christ minister and Director of Research at Stirling College, Melbourne, which is part of the University of Divinity. His keynote paper offers a crash course on pastoral supervision for those in religious or pastoral ministry who may be inclined to view supervision as something essentially alien to religious life, imported from the world of psychology and social work, or as a form of punishment or a sign of mistrust. He demonstrates that the churches themselves have been talking about pastoral supervision for 40 or 50 years.

Niven is concerned that the recommendation about professional supervision has been received in a context of 'crisis and threat', and that the end result may be that supervision may only be taken up grudgingly and that it will end up not being fully understood, or funded properly, or fully integrated into ministerial practice. Describing professional/pastoral supervision as 'primarily a practice of care', he argues that professional/pastoral supervision needs to be reframed if it is going to make sense to the people it is meant to help. Quoting Alan Pohly, he says part of the problem is that supervision has tended to be seen 'as something external to ministry, occurring outside of ministry and in control of it'. He says that supervision needs to be understood as an intrinsic part of ministry, as a theological discipline, and as a form of ministry in its own right.

Sydney priest, Peter Maher, is a pastoral supervisor and a trainer of pastoral supervisors. He says the Royal Commission's recommendation that professional/pastoral supervision should be mandatory for all people in religious or pastoral ministry, 'has been met with caution, even panic' in the Catholic Church. He suggests that it is unrealistic to expect supervision to become embedded practice overnight. Better to concentrate on introducing it gradually, beginning with those who are training for ministry. 'Do it badly and supervision will get such a bad name that it will go into the grave rather than becoming a sign of hope.'

If supervision is going to work (and it should be anticipated that some people who are currently in active ministry may not have the capacity for the kind of deep self-analysis and reflection that will be expected of them), it will need to be supported by an appropriate level of infrastructure. If it is to be taken up by

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23. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report, Vol 16, Book 2*, 804–807.

people in religious and pastoral ministry from all faith traditions, as the Royal Commission intended, there is going to be high demand. There needs to be a shared understanding of what pastoral/professional supervision is, and supervisors also need to be appropriately remunerated. The Royal Commission recommended that supervisors should be selected from outside the supervisee's own institution. These are all arguments in favour of taking an ecumenical approach.

Peter Maher argues that supervision needs to be undertaken by properly trained supervisors who belong to an accrediting professional body. I wonder whether a much more difficult further step is warranted. The Royal Commission recommended that all people in religious and pastoral ministry should engage in continuing education, professional/pastoral supervision, and receive regular performance appraisals. Unfortunately it stopped short of recommending that continuing accreditation should be tied to compliance. Some churches are already taking this approach. And if pastoral supervisors should be accredited and belong to an accrediting professional body, as Peter Maher suggests, I wonder whether it also makes sense that all people in religious or pastoral ministry in Australia should also be required to be registered with such a body – just as all Australian nurses and midwives, doctors, dentists, paramedics, podiatrists, optometrists, osteopaths, psychologists, pharmacists and occupational therapists have to be registered with the Australian Health Practitioner Regulation Agency (APHRA).

### **Day three and a post-conference reflection**

Two conference sessions are unrepresented in this collection: one concerning multicultural issues related to the church abuse scandals, and the other about supervision of perpetrators. These are complex topics that require significant further discussion and research. They were included in the conference program because a number of church leaders indicated that they were looking for input in these areas.

Day three of the conference was in the form of an open conversation led by facilitator Ellen Fanning and our two conference rapporteurs, Professor Maria Harries and Emeritus Professor John Warhurst. The object of that conversation was the production of the final conference communiqué, which appears in Appendix 1. Counsellor Eric Hudson and the Vice-Chancellor of the University of Divinity, Professor Peter Sherlock, have each provided a short paper summarising their contribution to the conversation on day three. Eric Hudson's paper is a brief statement on behalf of survivors and their supporters who were present at the conference. Peter Sherlock's paper is in the form of a post-conference reflection and brings us back to one of the key themes of the conference – that 'the fundamental, distinctive challenge for the churches is theological'.

Finally, a post-conference reflection was invited from one of our conference participants from overseas, Professor Robert A Orsi, Grace Craddock Nagle Chair of Catholic Studies at Northwestern University in the United States. He writes generously, but also shrewdly, about issues the conference gave little or no attention to, and about the importance of being prepared to push beyond the agenda for reform set by the Royal Commission.

Taken together, the papers and invited commentary in this collection reflect the positive, constructive, respectful, collaborative and strangely optimistic spirit that was the greatest achievement of the Health and Integrity conference. I wish to thank all those who contributed to this volume for their generosity, and indeed all those who participated in the conference and who will have taken their concerns and reflections away with them as they continue in their professional and personal lives.

# How did we get here, and where are we?

*We have learned, in response terms, that leaders of religious institutions, whether they were Catholic bishops, Anglican archbishops, Salvation Army officers or Jehovah's Witness elders, responded poorly but remarkably uniformly. The motive was to protect the reputation of their institution as pristine and all-holy. The secretiveness was profound and systematic, incubated in a caste-clericalist or similar closed cultural environment. Often their responses were overly legalistic or lacked transparency, and later there came the generic apologies, which have now become almost meaningless unless there is to be real structural change.*

Desmond Cahill OAM, Emeritus Professor of Intercultural Studies, RMIT University

# “... and what would God think?” Rebuilding pastoral health and integrity after the Royal Commission into Institutional Responses to Child Sexual Abuse

Desmond Cahill

## Welcome

Thank you very much for the welcome. I feel humbled that I have been asked to present the first keynote address. I often wonder why God has given me this gig. In 2012, I read Chrissie Foster's book<sup>1</sup> and then the defining study by Marie Keenan,<sup>2</sup> the Irish psychotherapist whom I would meet in 2014 at a special research conference in northern Spain that brought together the world's leading researchers on Catholic clerical abuse. I am not a victim, nor was I aware of it during my six years in the priesthood in the 1970s. But it later transpired that in my first parish I was surrounded by priest abusers in most neighbouring parishes, and my last parish priest turned out to be an abuser. My successor after my resignation from the priesthood was also an abuser and he is highly suspected of murdering the mother of one of his victims as well as abusing intellectually disabled adults. Previously, in 1967 in Rome, I had visited a home for disabled children run by religious brothers, and I was mystified by their behaviour. I now understand that they had been sexualised.

## Introduction

Late in April this year, a theological symposium on The Abused Christ was held in Auckland. At an evening presentation attended by New Zealand's 20 diocesan seminarians as well as many priests and laypeople, a New Testament scholar with the best of intentions was proposing that Jesus was a victim of sexual abuse because of his nakedness on the cross. Yes, the crucified Jesus was naked on the cross, causing sexual shaming and humiliation. Suddenly, a woman sitting directly behind me jumped to her feet, obviously distraught. 'You guys just don't get it. Jesus was not abused like I was. And Jesus was an adult, not a child.' Later on, a seminarian asked about the interrelationship between the mystical body of Christ and the abused body of Jesus. Again, she jumped to her feet. 'There is nothing mystical about being raped.' It was a *kairos* moment of the Spirit.

The woman was Annie Hill, abused over many years by a Dominican priest who died in October 1997. His abusing behaviour, whilst well known to the Dominicans, was not publicly revealed until a series of recent articles in *The New Zealand Herald*, this year. Annie has now formed a support organisation, as New Zealand is in the early throes of its own Royal Commission, 118 years after an earlier New Zealand Royal Commission in 1900 examined a Marist Brothers residential school outside Nelson. At the time, New Zealand's *Catholic Tablet* dismissed it as an Orange plot. Annie is with us this morning.

## The lack of a theology of the child in church thinking

'... and what would God think?' were the words spoken by a priest perpetrator who did not begin offending until his fifties.<sup>3</sup> Children – assaulted, sodomised and raped – were the central focus during the Royal Commission and must be the central focus in this ecumenical conversation. Each child, made in God's loving image, comes to us as mystery and as gift. Children come to us with their potentialities and capacities for love and loveableness with their sense of awe and surprise, and their playfulness and spontaneity.<sup>4</sup>

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1. Foster, C., and Kennedy, P W. (2010). *Hell on the Way to Heaven*, Random House Australia.

2. Keenan, M. (2012). *Child Sexual Abuse and the Catholic Church: Gender, Power and Organizational Culture*, Oxford University Press, Oxford and New York.

3. Winship, J R. (2012). *Cursed: constructing the experience of the Catholic clergy child molester*, PhD thesis, Department of Psychiatry, University of Sydney, 134.

4. Marty, M. (2007). *The Mystery of the Child*, William Eerdmans, Michigan.



As we well know, Jesus revolutionised attitudes to children: 'Amen, I say to you, unless you change and become like little children, you will never enter the kingdom of heaven' (Mt. 18, 2). However, Volume 16 of the Royal Commission's final report, on religious institutions, regularly comes back to the point that the leaders of religious institutions, especially Roman Catholic leaders, as well as the clerical and religious perpetrators, had no care for children and little psychosexual or emotional understanding of the child. Catholic canon law (Canon 1083 of the *1983 Code of Canon Law*) still allows girls of 14 and boys of 16 to marry if their parents and the State permit. In the Royal Commission's final report, Recommendation 16.43 stipulates in part that preparation of candidates for religious ministry should include minimum training not just on children's safety and how to work with children, but also on child development. Despite the pastoral centrality of children, the churches have lacked a fully developed theology of the child.<sup>5</sup>

Parenting has not become any easier in a complex and cyber world. For parents to have their patient, time-consuming handiwork of rearing a child, damaged or even destroyed by abusing clergy and religious is at the very core of this Christian tragedy. In educating our children about their own self-protection, the message could well be built around a very useful axiom which highlights bodily ownership: *NO Trespassing – This is MY Body*.<sup>6</sup> And it is further tragic that during all the cultural, theological and pastoral wars in the Christian churches since the Second World War, thousands of children worldwide were being physically and sexually abused.

There is a deep and worrying conundrum in all of this. Pope Francis has conjured up the wonderful image of the church as a field hospital binding up the sick, the wounded and the vulnerable, and yet it was the vulnerable who were the most likely to be abused. The church talks about reaching out to the poor, yet it has reached out quite poorly to those who had been hurt by its own predator members.

### **Childhood and child abuse in global perspective**

The unveiling and revelation of sexual abuse of children and vulnerable adults in religious institutions did not occur in a global or Australian religious vacuum. Beginning in the 19<sup>th</sup> century, with the emergence of the nation state and the first age of globalisation from the 1850s, together with the massification of schooling, in a remarkable historical development, especially after the Second World War, we saw the emergence of the individual and the discourse of human rights. As part of this development, children were transformed from legal nonentities, as the legal property of their fathers, and enshrined by the international community as the subject of human rights.<sup>7</sup> As a consequence, other allied concerns emerged about child labour, child soldiering, child trafficking, child marriage and child abuse, and protection of children was extended even to child criminals with the abolition of the death penalty for them in almost all countries.<sup>8</sup>

This focus on the global child has generated anxiety, even moral panic, about the safety of children. It fed into both the growing empowerment of victims to begin speaking up and making complaints and the formation of advocacy and support groups such as Broken Rights, In Good Faith and For the Innocents in Australia, SNAP and BishopAccountability.org in the United States, and Sylvia's Site in Canada. It also fed into the determination of journalists such as Barney Zwartz, Joanne McCarthy, Andrew West, Stephen Crittenden and Lucie Morris-Marr here in Australia, and others around the world, to dig deep for the truth and break the deep-seated code of ecclesiastical silence and secrecy in all churches.

Australia's Royal Commission into Institutional Responses to Child Sexual Abuse was preceded by government and church-sponsored inquiries in Belgium, Canada, Ireland, the Netherlands, the United Kingdom and the United States, and here in Australia by the Queensland Forde inquiry and two Senate inquiries into child migration and residential care, among other inquiries.<sup>9</sup> Here we must pay a special

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5. Cadwallader, A. *Towards a theology of the child*. In Regan, H D. (ed.) (2013). *Child Sexual Abuse, Society and the Future of the Child, Interface Theology*, 16(1), ATF Press, Adelaide, 15–28; Rahner, K. (1971). Ideas for a theology of childhood, *Theological Investigations Volume VIII: Further Theology of the Spiritual Life 2*, trans. David Bourke, Herder and Herder, New York, 33–50; Newey, E. (2012). *Children of God: The Child as Source of Theological Anthropology*, Ashgate, UK.

6. This is the title of a primer written by Pattie Fitzgerald for parents and teachers in the US on educating children about their self-protection and 'thumbs-up' and 'thumbs-down' touching. See Fitzgerald, P. (2011). *NO Trespassing – This is MY Body!*, Safely Ever After Media, US.

7. Linde, R. (2014). The globalization of childhood: the international diffusion of norms and laws against the child death penalty, *European Journal of International Relations*, 20(2), 544–568.

8. Linde, R. (2018). *The Globalization of Childhood: The International Diffusion of Norms and Law against the Child Death Penalty*, Oxford University Press, Oxford.

9. For a list of previous inquiries in Australia and overseas, see Cahill, D. and Wilkinson, P. (2017). *Child Sexual Abuse in the Catholic Church: An Interpretive Review of the Literature and Public Inquiry Reports*, School of Global, Urban and Social Studies, RMIT University, Melbourne, 21–2, <https://www.rmit.edu.au/content/dam/rmit/documents/news/church-abuse/child-sex-abuse-and-the-catholic-church.pdf>

tribute to one of the six Commissioners, former Australian Democrats senator Andrew Murray, himself a child migrant from the UK via Southern Rhodesia (now Zimbabwe), who played a special and unique role in the two Senate inquiries.

With the global eye upon Australia, there is a further consideration. Some Australian dioceses of different denominations and many religious agencies, including the Catholic religious orders sponsoring this conference, have extensive outreach into Asia, and to a lesser extent into Africa, where the veil of secrecy has not yet been lifted. As one very scary example, the Catholic Church has over 9,500 residential institutions or orphanages across the world, 28 percent of them in India. It is sobering to think that on this very day, it is likely that children will be abused in Catholic and other Christian child residential centres around the world.

Australian religious leaders have a heavy responsibility to ensure that the Asian and African churches face their responsibility to protect children and bring those who harm them to justice. There is extreme danger that the issue will be dealt with in the quiet, typical Asian way. In 2015, for example, Cardinal Luis Tagle of Manila remarked ‘... exposing persons, both victims and abusers, to the public, either through media or legal action ... that adds to the pain’.<sup>10</sup> And may I quickly add that the veil is yet to be lifted on child sexual abuse in church institutions in Italy and Poland. Then there are the issues in Asian and African minor and major seminaries of sexual abuse and psychosexual immaturity and maldevelopment.

### **The credibility and thoroughness of the Royal Commission’s final report**

The Royal Commission’s 2017 final report, with its 17 volumes, 7,434 pages and 189 recommendations, together with 218 further recommendations from earlier Royal Commission reports, is the most thorough and most credible report on religious institutional sexual abuse of children ever produced, more than surpassing the excellent 2011 Dutch Deetman report, the very long 2009 Irish Ryan report, and the 2011 report into the Irish Diocese of Cloyne in which the Catholic Archdiocese of Brisbane unfortunately featured. As the CEO of the Truth, Justice and Healing Council, Francis Sullivan, once said, the Royal Commission may have been twenty years too late and two years too long, but it is a gift – God’s gift – to Australia and the world.

The report also has an unparalleled moral authority, which is why Australia’s Commonwealth, state and territory governments are almost unhesitatingly accepting those recommendations which pertain to them. It is notable that several state governments are moving quickly to implement the Royal Commission’s recommendations relating to mandatory reporting of child sexual abuse and the confessional seal, although there has been some hesitation in some states, especially in Australia’s most Catholic states – New South Wales and Victoria. It is also notable how little public resistance there has been over the issue. As one very senior Catholic politician remarked to me recently in Canberra, ‘There is no way a politician can argue in public that the seal should take precedence over the sexual safety of children’, especially after the Anglican Church has made the necessary accommodation in its confessional practice.

The image of religion has been severely damaged. As the Royal Commission has shown, many religious institutions are not in good shape, and certainly not the Catholic Church, which inevitably must be the principal focus of this ecumenical conversation. A certain cardinal once memorably remarked that the Catholic Church objected to being described as ‘the only cab on the rank’. But he should have added that the Catholic Church has been by far the largest cab, as attested by the figures both of the Royal Commission (61.4 percent of those abused in religious settings were in Catholic institutions), and earlier Victoria Police data provided during the Victorian Parliamentary Inquiry, according to which, in the period from 1956 to 2012, Victoria Police had identified 519 ‘distinct victims’ of child abuse in religious organisations, of whom 370 (71%) had been abused in Catholic settings.<sup>11</sup> In the Royal Commission’s final report, the Catholic Church receives 965 pages of attention, the Anglicans receive 241 pages, The Salvation Army 65 pages, while 40 to 50 pages each are devoted to the Jehovah’s Witnesses, Australian Christian churches and affiliated Pentecostal churches, and the Yeshiva Jewish communities.

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10. Cardinal Luis Antonio Tagle meets the press, *UCANews*, 13 December 2012, <https://www.youtube.com/watch?reload=9&v=iDHzK8Rtwfw>. See also Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 91.

11. Transcript of Deputy Commissioner G Ashton, *Inquiry into the handling of child abuse by religious and other organisations*, Family and Community Development Committee, Parliament of Victoria, 19 October 2012, [https://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child\\_Abuse\\_Inquiry/Transcripts/Victoria\\_Police\\_19-Oct-12.pdf](https://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child_Abuse_Inquiry/Transcripts/Victoria_Police_19-Oct-12.pdf) (accessed 18 October 2018).

This ecumenical conversation over the next three days is an opportunity to review the position of the churches more than eight months after the Royal Commission and where we should be heading in constructing healthy and ethically professional religious institutions. Recently, lawyer Richard Scorer, who is the sharpest observer of the British Catholic scene in relation to clerical sex abuse, has stressed the importance of deep cultural change, observing that ‘without deeper cultural change, a proliferation of Quality Assurance Frameworks can only take the Church so far. The bureaucracy and language of safeguarding can easily become a kind of managerial voodoo, remote from the realities it is trying to describe’.<sup>12</sup> This must be the focus of our discussions: a focus not so much on professional standards and child protection mechanisms, as on the underlying cultural and associated issues within church organisations.

### **Broadening the conversation**

At the same time, we need to broaden our focus beyond the imposed limitations of the terms of reference of the Royal Commission. As we look forward, we need to include vulnerable adults in our discussions, which, to their credit, the bishops of England and Wales did in commissioning the excellent 2001 report of Lord Nolan, *A Programme for Action*.<sup>13</sup> This includes the sexual abuse of seminarians and novices in male and female religious orders, and also the sexual assault of young nuns by priests and others because they are presumed not to have HIV/AIDS.<sup>14</sup> It also includes the sexual abuse in religious institutions of adults more generally. This issue has been brought into the open in a New Zealand Methodist context by the recent book by Rev Anne Stephenson.<sup>15</sup>

This brings us to the issue of sexually corrupt and unholy founders of Catholic religious institutes, most notoriously the ultra-extraordinary case of Fr Marcial Maciel Degollado, the Mexican founder of the Legion of Christ, who led a completely double life. The phenomenon of sexually corrupt founders is not unknown in Australia, with the saga of the Society of St Gerard Majella in Sydney’s south-west. I am told that there are at least 12 other cases of unholy founders in recent decades known to the Vatican’s Congregation for Consecrated Life and Societies of Apostolic Life.<sup>16</sup> Connected to this issue, is the proliferation and spawning of Catholic religious orders, sometimes without appropriate levels of spiritual discernment and scrutiny, which Dr Peter Wilkinson and I raised in our RMIT report for the Royal Commission.<sup>17</sup> This was a problem eight centuries ago. Canon 13 of the Fourth Lateran Council of 1215 states: ‘Lest too great a diversity of religious orders lead to grave confusion in the Church of God, we strictly forbid anyone in the future to found a new order.’ Another associated issue is the children of priests and bishops, including the personal, legal, financial and moral responsibilities of such fathers and the right of their children to know the identity of their fathers. This is an issue that canon law has never addressed, but it was raised in 2014 by the United Nations Committee on the Rights of the Child.<sup>18</sup>

In all these instances, we are dealing not just with sex, but with power – the use and abuse of power, and spiritual power, at its worst. Also, let us always keep in mind during our deliberations that physical, emotional and sexual abuse of children occurs more in family than institutional settings, and that child-to-child abuse, sexting and cyber sexual abuse are emerging as key issues – issues that were dealt with at some length by the Royal Commission in its final report.

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12. Scorer, R. (2018, 13 June). Wheels of change in tackling clerical sexual abuse still grind too slow, *The Tablet*, 4.

13. Nolan, M P. (2001). *A Programme for Action: Final Report of the Independent Review on Child Protection in the Catholic Church in England and Wales*, Catholic Bishops’ Conference of England and Wales, London.

14. The latter issue was the subject of a 1994 report produced by the Irish missionary doctor, Sister Maura O’Donohue, a Medical Missionary of Mary, which seems not to have had much effect.

15. Stephenson, A. (2016). *Adult Sexual Abuse in Religious Institutions*, Phillip Garside Publishing, Wellington.

16. This information comes from Dr Rocio Figueroa, a Peruvian theologian teaching at the Good Shepherd Theological College in Auckland. For twenty years she was a nun in the female part of the *Sodalitium Christianae Vitae* founded in 1971 by Luis Figari (see Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 150). Dr Figueroa became a whistleblower when she discovered that Figaro was sexually abusing his young seminarians. She worked for a time in Rome in the Congregation for Institutes of Consecrate Life and Societies of Apostolic Life. She now lives in Auckland with her New Zealand husband.

17. Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 141–3, 168, 303–4.

18. In May 2017, the Irish Bishops Conference approved a protocol entitled ‘Principles of responsibility regarding priests father children while in ministry.’ See <https://www.catholicbishops.ie/2017/08/31/principles-of-responsibility-regarding-priests-who-father-children-while-in-ministry>

## Our learnings

What have we learned from the Royal Commission's final report? We have learned that there never was a time when child sexual abuse was not condemned by the church. It was an issue of concern in New Testament times with the abusing of his slave children by the *paterfamilias* in Roman families. Church historical studies give us glimpses that clerical sexual abuse of children has been a recurring issue for the past 2,000 years. The clearest evidence comes from the files of the Spanish Inquisition. Right throughout the 20<sup>th</sup> century, the Vatican was well aware of the situation, as seen in the secret publication of the Holy Office instruction *Crimen sollicitationis* in 1922, with the approval of Pope Pius XI, and its revision and secret re-publication in 1962, approved by Pope John XXIII – although the issue of child sexual abuse is mixed together in *Crimen sollicitationis* with other priestly misbehaviour issues, such as soliciting in the confessional and homosexual relationships.<sup>19</sup>

We have learned, in victim terms, that more than 4,000 survivors disclosed to the Royal Commission that they had been sexually abused in 1,691 religious institutions. Of these survivors, more than 200 had been abused since 1990. Almost two-thirds (61.4%) were abused in Catholic settings, six times more than the Anglican figure and eight times more than The Salvation Army figure. On a per capita basis, the Jehovah's Witnesses had the highest level of offending, but much of this was familial abuse poorly dealt with internally by the elders. There was some abuse in the Uniting Church, but not generally by its religious ministers. There was very little abuse in the Presbyterian, Lutheran, Eastern Orthodox and Eastern Catholic churches. Very few of those survivors who came forward belonged to non-Christian faith traditions, although we know that there are very significant problems of child sexual abuse in the source Buddhist, Hindu and Muslim countries, such as India and Thailand.

Of those abused in religious settings, over 70 percent were boys. Just over half the abusers were people in religious ministry (52.9%), followed by teachers (23.2%), and residential care workers (13.0%) and, since 1990, other older children. Almost all of the abusers (95.3%) were male. The average time for the abuse to be disclosed was 30 years for those abused in Catholic institutions, and 29 years for those abused in Anglican institutions.

We have learned, in offending terms, that for the Catholics, using figures weighted for length of service, 7.9 percent of diocesan priests, 5.6 percent of religious order priests, and an estimated 22 percent of religious brothers who were involved in public ministry in Australia between 1950 and 2010, are the subject of child sexual abuse claims. For the St John of God Brothers, who ran a number of institutions for boys with intellectual disabilities, 40.4 percent of brothers who were active in the same period are the subject of claims, highlighting the plight of children with intellectual disabilities, utterly vulnerable and defenceless. The Catholic diocese with the highest overall proportion of priests who were alleged perpetrators was Sale (15.1%), while the diocese with the lowest proportion was Adelaide (2.4%). For the Anglicans, their problems were much more to do with schools, particularly boarding schools, rather than Anglican parishes, which do not have attached primary schools, and with the Church of England Boys' Society. There are no published psychopathological studies of Anglican priest perpetrators.

We have learned, in psychopathological terms, that religious offenders have quite different profiles from the average child sex offender. The cognitive distortions of Catholic priest and religious perpetrators emanated from a range of factors, always including psychosexual immaturity or maldevelopment, usually with a failure to satisfactorily resolve their sexual identity, particularly if they were gay and operating in a deeply homophobic environment. A key factor was their sexual deprivation and fear of intimacy. Other factors included narcissism, dependency and cognitive rigidity, all leading to a mutation towards children in their sexual thinking and behaviour. The Royal Commission's final report notes that research suggests that child sexual abuse is not related to sexual orientation, and pointedly adds: 'Vatican documents that link homosexuality to child sexual abuse (by clerics) are not in keeping with current understandings about healthy human sexuality'.<sup>20</sup> Often there were contextual and triggering factors, such as stress and life transitions, mental health issues, substance issues and exposure to violently sexually explicit material.

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19. *Crimen Sollicitationis* (revised 1962), [http://www.vatican.va/resources/resources\\_crimen-sollicitationis-1962\\_en.html](http://www.vatican.va/resources/resources_crimen-sollicitationis-1962_en.html)

20. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Executive Summary*, Commonwealth of Australia, 68.



We have learned, in neutralising terms, how perpetrators endeavoured to silence and blame their victims. One victim related how 'Father told me it wasn't a sin as I was one of God's chosen children and that God made boys to be special so those who did God's work were not led into temptation of sinning with women. I was told by him that I was to say nothing to anyone because God would be very angry with me for revealing His secret ways.'<sup>21</sup> Additionally, with most perpetrators there was a complex denial process as they lied to their bishops and religious superiors.

We have learned, in response terms, that leaders of religious institutions, whether they were Catholic bishops, Anglican archbishops, Salvation Army officers or Jehovah's Witness elders, responded poorly but remarkably uniformly. The motive was to protect the reputation of their institution as pristine and all-holy. The secretiveness was profound and systematic, incubated in a caste-clericalist or similar closed cultural environment. Often their responses were overly legalistic or lacked transparency, and later there came the generic apologies, which have now become almost meaningless unless there is to be real structural change. The leaders were never child-focussed. They moved offenders from parish to parish, diocese to diocese, country to country.

And we once again have to ask the question: Why, over the centuries, has much destructive behaviour been perpetrated by otherwise good, decent people in the name of righteous ideologies, religious principles and nationalist ideologies? In response, the renowned US psychologist, Albert Bandura, has suggested in his theory of selective moral disengagement that rationalistic, moral-based reasoning, such as that based on natural law theory, may be elaborated to the neglect of actual moral conduct. The regulation of moral agency is built on much more than moral reasoning, and the bishops were able to re-frame harmful conduct as even honourable through very questionable moral justification, exonerating social comparisons and sanitising language. The triumph of evil requires a lot of people doing a bit of it, in a morally disengaged way, with indifference to the human suffering they have collectively caused.<sup>22</sup>

We have learned, in institutional terms, about cultural risk factors such as the lack of understanding or awareness of child sexual abuse, the failure to listen to children, the failure to educate children about healthy and appropriate sexual development, the cultivation of secrecy and isolation, and the failure to see child protection as a shared responsibility. Australia, like Ireland, was slower by quite a few decades than New Zealand, the United Kingdom and the United States in moving away from orphanages to foster family care arrangements, although these are also not without their problems.

### **Appraisal of the Royal Commission's final report**

To offer an appraisal of the work of the Royal Commission and its final report, it showed exemplary care for the survivors and their families, as the Commissioners listened respectfully to their voices. Its case studies covered a myriad of issues and settings, and its research was detailed and finely grained. It has outlined the risk factors associated with adult child sex offenders, and the cultural and structural risk factors within religious institutions.

In relation to the Anglican Church, these included: (1) weaknesses in structure and governance preventing a consistent response; (2) the role of the bishops and the failures of leadership; (3) conflicts of interest for bishops and other office-holders; (4) cultural issues, including forms of clericalism; (5) the practice of forgiveness and confession; and (6) inadequate screening, selection, training and supervision of people in ministry.

For the Catholic Church, the contributing factors were identified as: (1) the individual pathology of the perpetrators; (2) clericalism in all its facets; (3) the monarchical and feudal aspects of governance, including lack of transparency and accountability of those in leadership and the lack of meaningful participation of the laity and especially of women in governance; (4) poor leadership, including poor education for leadership and lack of leadership at the level of the Vatican; (5) the failure of canon law and its secrecy provisions; (6) compulsory celibacy with its associated sexual dysfunction as the linchpin of the clericalist system; (7) poor selection, screening and initial formation of priests and religious; (8) lack of oversight, support and ongoing training of priests and religious; and (9) the practice of the sacrament of confession and its cheap forgiveness, which allowed perpetrators to minimise the impacts of their sexual abusing.

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21. Forde, L. (1999). *Report of the Commission of Inquiry into the Abuse of Children in Queensland Institutions*, Queensland Government, 285, <http://www.qld.gov.au/community/documents/getting-support-health-social-issues/fprde-comminquiry.pdf>

22. Bandura, A. (2002). Selective moral disengagement in the exercise of moral agency, *Journal of Moral Education*, 31(2), 101–119, [https://web.stanford.edu/~kcarmel/CC\\_BehavChange\\_Course/readings/Additional%20Resources/Bandura/bandura\\_moraldisengagement.pdf](https://web.stanford.edu/~kcarmel/CC_BehavChange_Course/readings/Additional%20Resources/Bandura/bandura_moraldisengagement.pdf). See also Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 284–288.

The Salvation Army was criticised for the questionable environment of its residential institutions, with poor resourcing, inadequate chain of command, devaluing of children, and the Army's type of 'muscular Christianity'. The Jehovah's Witnesses were criticised for the absence of women in their decision-making processes, their separateness from the world, and their two-witness rule based on Deuteronomy 19, 15, which raises an interesting religious freedom issue.

Having said that, I think the final report should have given much more emphasis to the fact that 59 percent of Catholic priest offenders had only one claim made against them. This brings up the issue of serial priest predators with dozens of victims, who made up about 3 to 5% of all Catholic priest offenders (in number terms, there were about 15 to 25 here in Australia). It also brings up another issue the Royal Commission might have told us more about, desistance – that is, why religious offenders stopped offending.<sup>23</sup> Also, while false and unproven allegations are a smallish part of the overall picture, the Report should have said something about them, and perhaps a reference to the Australian bishop exonerated by a Perth court in a classic case of mistaken identity. Among the Catholic case studies, there was an over-focus on the Archdiocese of Melbourne and the Diocese of Ballarat, whereas case studies on the Archdiocese of Brisbane and the Benedictine Monastery of New Norcia in Western Australia might have been instructive.

The final report should have given more attention to the whistleblowing role of support and advocacy organisations. The Catholic Church in particular needs to develop conversations with them. Another failure of the Royal Commission was an apparent lack of interest in restorative justice and a failure to advocate for a healing strategy to be developed by each religious organisation. In July 2018, the support group, For the Innocents ([www.forthetheinnocents.org.au](http://www.forthetheinnocents.org.au)), released a proposed restorative healing strategy for a co-ordinated response built around the theme of *Restoring the Face of Jesus* (Mt. 18, 10–11). The 22 strategies envisage the appointment of chaplains for survivors, gardens of healing particularly in hotspot parishes where much abuse took place, and contritional eucharists. The strategy document has been sent to every Australian Catholic bishop.

## Reception of the Royal Commission's final report

Eight months later, where are we at? What is the current state of play?

The Commonwealth Government has accepted all the recommendations relevant to it, except that it did not accept the recommendation that the new National Office of Child Safety should be located within the Department of Prime Minister and Cabinet, instead installing it in the Department of Social Services. In a major achievement, the Commonwealth and state governments, together with religious and other institutions, have agreed on the details of a national redress scheme recommended by the Royal Commission, although the \$200,000 cap recommended by the Royal Commission has been lowered to \$150,000. There is some criticism of the scheme from support organisations.

The Turnbull Government commented favourably on the Royal Commission's recommendation in relation to mandatory reporting of information about child sexual abuse disclosed in confession, and the Anglican Church changed its position on the confessional seal and child sexual abuse several years ago. The Catholic bishops have showed a distinct lack of imagination on the issue: they could make child sexual abuse a reserved sin, as with desecration of the host and heresy, whereby only the bishop can give absolution, or they could make it mandatory that the confessor will absolve only on condition that the penitent goes to the criminal justice authorities, recognising that child sexual abuse is a crime, or they could revert to the third rite of communal reconciliation.<sup>24</sup>

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23. See Cahill and Wilkinson, *Child Sexual Abuse in the Catholic Church*, 194–6.

24. On balance, this writer, whilst accepting that the Catholic Church ought to be allowed to maintain the seal of confession on religious freedom grounds, would accept that the church needs, in the spirit of negotiated accommodation, to publicly and formally address the following issues: (1) Most important is the central question that dominated theological debate up until the 20<sup>th</sup> century: how can the obligation of the seal be reconciled with the precept of charity, which mandates that we should shield our neighbour against physical and spiritual injury to the best of our ability? This in turn raised the question of whether the confessor was permitted to make use of knowledge gained in the confessional to the detriment of the penitent. The negative response given to this question by theologians was based on the claim that the information was beyond human knowledge. (2) Should the Catholic Church, in the spirit of receptive ecumenism, examine and accept the recently-adopted position of the Anglican Church of Australia regarding the confessional seal and the confessing or disclosing of child sexual abuse? (3) The church needs to address the issue of restitution or penance and so-called cheap forgiveness in its confessional practice. (4) The church needs to address the view that first confession should be delayed from seven years of age until 12–13 years of age, as some German and American bishops were requesting the Holy See to allow in the early 1970s. (5) Finally, church leaders and theologians need to take on board that the church has allowed the seal to be broken on at least two occasions in history, once in 1477 to protect the life of the French king.

Turning to the Catholics, the Australian barque of Peter has become a shipwreck. An implementation committee has been appointed to advise the Australian Catholic bishops, headed by Jack de Groot, CEO of the NSW branch of the St Vincent de Paul Society. Catholic Professional Standards Limited has been established, based on an auditing-model adopted in Ireland, and is finding its feet, but it has no power if a bishop refuses to cooperate or be audited, as happened with one diocese and most eparchies in the United States for many years. On the positive side of the ledger, it must be stated that Australian Catholic schools are now very, very safe places, and that much has been done in Catholic schools and in many dioceses to safeguard children. In this respect, the initiatives of the South Australian Catholic Education Office have led the way, and these have been followed by the Melbourne Catholic Education Office, with its document on *Identity and Growth*, together with the *Connect and Protect* draft curriculum project sponsored by the Victorian Department of Education and Training in association with the Youth Research Centre of the University of Melbourne. In all of this work, there is a significant dilemma and tension between the explicitness of safeguarding education and protecting the sacred innocence of young children.

However, it must be said that, with the honourable exception of the work of Neil Ormerod and Georja Power's excellent 2003 thesis, the Australian Catholic University (ACU) has not served the church well in this crisis. In 2005, it established its Institute of Child Protection Studies, which has done some very good research, but nothing on church abuse. The ACU's other religion and policy institutes have avoided the issue, making no submissions to the Royal Commission. Other questions need asking: Will CathNews report the proceedings of this conference? When will the National Catholic Education Commission include the safeguarding of children in its terms of reference? Is there a Catholic bishop attending this conference?

In Rome, finally, we are seeing some limited movement. The Pontifical Commission for the Protection of Minors has been well briefed on the Australian report, and Archbishop Mark Coleridge has been doing the rounds in Rome, including participating in a conference on safeguarding and child protection. Pope Francis has begun seriously addressing the issue, after the Chilean bishops pulled the wool over his eyes and deliberately deceived him in order to protect their traditionalist priest mate, Fernando Karadima. We have a convicted archbishop and a cardinal on trial in Australia. But there have been at least four other cardinals who have been in trouble: Groer of Vienna and O'Brien of St Andrews and Edinburgh are both dead. Barbarin of Lyon will eventually go on trial over his failure to report child sexual abuse, and McCarrick of Washington has resigned, as have many bishops, including at least 27 bishops in the United States. But there are other dominoes yet to fall. The Pennsylvania grand jury report has generated much reaction across the world but, whilst it is admirable in its coverage of the terrible details, its analysis is not based on proper research and is accordingly rather poor; and its recommendations are limited. We can expect further such investigations in other American states.

### **The post-Royal Commission responses of the Catholic and Anglican bishops**

The performance of the Australian Catholic bishops, in taking almost nine months to formally respond to the Royal Commission's final report, can only be described as appalling and abysmal. They still seem not to fully get it. Their decision to back out from supporting this conference, along with the ACU, is a case in point. As its final act, the Truth, Justice and Healing Council submitted a thousand-page response to the findings and recommendations of the Royal Commission, but the Council was clearly divided. If the bishops think they can pursue a policy of delay and containment, they simply do not understand the anger of the more informed and educated section of the Australian Catholic community, nor have they understood the frustration of many of Australia's Catholic politicians. Most older Catholics want action; younger Catholics do not care any longer.

Much more than the widespread rejection by the Catholic faithful of Pope Paul VI's 1968 birth control encyclical, *Humanae Vitae*, the clerical sex abuse catastrophe will finally help break the clericalist hold on the Catholic Church, as the church is being forced to rethink the theology and praxis of priesthood for the 21<sup>st</sup> century in terms of inclusivity, multiplicity, flexibility and the realisation that all Christians have a divine calling, not just priests. My co-researcher, Dr Peter Wilkinson, has recently analysed the data in the 2018–2019 *Catholic Directory* and found that 52 percent of diocesan priests in Australia were born overseas.

Not only will the Catholic Church have to completely rethink the sacrament of penance and reconciliation in light of the Royal Commission's findings, as already suggested, the church needs to re-vision its theology of gender and sexuality around relationality, mutuality and reciprocity, not gender complementarity. Most Catholic thinking on sexuality took place in monasteries and universities, resulting in the focus on procreation, sexual acts rather than sexual relationships, and the exaltation of virginity over marriage. The traditional Catholic approach was understood within a framework of cultural, ritual and sexual purity, which gave emotional power to the rationalistic Thomist approach. To be 'pure' was code for 'don't masturbate' and 'don't have sex until the marriage night'. The 20<sup>th</sup> century Italian saint, Maria Goretti, was promoted as a powerful symbol of this holy purity approach to sexuality, whereas her murder in 1903 at the hands of a would-be rapist ought to have been framed in terms of power and powerlessness, male sexual violence and machismo, rather than purity and virginity.

### **The religious perpetrators of child sexual abuse**

And in this holy and unholy mess, let us not forget the clerical and religious perpetrators, many now languishing in Ararat Gaol and other gaols around Australia. Jacqueline Winship, after interviewing several perpetrators for her Sydney University thesis, calls them cursed, for they are cursed and they feel cursed. Many should not have been ordained. They were products of a flawed and unhealthy formation system where their moral theological training did not prepare them to be ethically professional, nor did they receive any input on psychosexual maturity. They need to be supported within the context of individual risk management plans.

### **Conclusion**

In conclusion, what do we need at the end of this ecumenical conversation? I would like to see:

1. A more nuanced articulation of the underlying theological, pastoral, structural and governance issues – one that addresses the underlying cultural issues in practical ways and moves us beyond vague generalities and motherhood statements.
2. A call on the churches to each make a firm commitment, not only to implement all of the Royal Commission's 57 recommendations as applicable, but to develop strategies to bring this about, even in the face of hard-line opposition and apathy.
3. From each church, the outlines of a healing, reconciliation and support strategy for survivors and their families, support and advocacy organisations, people in the pews, and the perpetrators.
4. An ecumenical statement of commitment to the safety, safeguarding and development of Australian children and children worldwide.

In 1870, Australia's first Catholic saint, Mary MacKillop, was excommunicated by the Franciscan Bishop of Adelaide after her sisters reported the Franciscan parish priest of Kapunda for child sexual abuse, a secret kept hidden from the Australian Catholic community for approximately 140 years. So began the Australian Catholic Church's less than glorious history of dealing with the clerical sexual abuse of children. Mary MacKillop and her sisters are a reminder that it will be women who will save the Catholic Church, just as they have led the campaigns to make the male-dominated church face up to its responsibilities. The church will finally have no choice but to grasp the nettle and include women in its decision-making processes and in priestly ministry. As has been seen in the Anglican Church, the emergence of women priests, bishops, and now archbishops has greatly diminished Anglican clericalism.

The Catholic catastrophe has made life difficult for all religious institutions. What the church in all its denominations needs now is not a resurrected traditionalism, but flair, innovation and imagination to plan and implement transformational tasks. Imagination is the key to globalisation and to a global church. That is why, my Christian sisters and brothers, we need the Gospel Jesus and the Holy Spirit. And then ... what will God think?



## Postscript

On 31 August 2018, two days after the conclusion of this conference, the Australian Catholic Bishops Conference released its overly-delayed and much anticipated response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. It is ultimately a major disappointment, despite its many positive aspects. It should have been a *kairos* moment of God's grace.

The covering letter from Archbishop Mark Coleridge, President of the Australian Catholic Bishops Conference (ACBC), and Sister Monica Cavanagh, President of Catholic Religious Australia (CRA), the umbrella body for Australia's male and female religious congregations, thanks the Royal Commission for its work and makes the usual apologies to the victims and their families. The letter would have been strengthened if references had been made to the survivor support and advocacy groups and to the work of the media. Also, it should have been much more solicitous of those many good priests, brothers and nuns who have laboured in the Lord's vineyard, irreparably damaged by the criminal actions of their religious colleagues and whose every public or semi-public act is now under scrutiny, if not suspicion.

This response document should have been a healing document, incorporating national and local elements of an overall healing strategy. It should have been a pastoral document that moved beyond the constraints of the Royal Commission's final report, which was heavily influenced by legal parameters. It should have been a truly prophetic document, in order to show how God the Holy Spirit can draw good out of evil, and to have made a commitment to the well-being of every child in Australia and beyond. The response acknowledges that much work is yet to be done. But it loads far too much in the way of individual response actions onto the Implementation Advisory Group. That committee is composed of very competent people, but a number of them have full-time job commitments.

The document contains little commentary on the findings of the Royal Commission, although it does draw on the observations of the final report of the Truth, Justice and Healing Council. The document's focus is more on the 80 relevant recommendations, and it makes the claim that the bishops and religious leaders 'accepted or accepted in principle or supported 98 percent of the Royal Commission's recommendations'.

This is a half-truth, as 12 recommendations (15%) have been marked: 'noted; ACBC has informed the Holy See'. As a result, we have no idea what attitudes, whether positive or negative or neutral, the Australian bishops and Catholic Religious Australia have adopted towards the recommendations that have been referred to Rome.<sup>25</sup> The one recommendation rejected by the Australian bishops is mandatory reporting and breaking the seal of confession.

As a consequence, the response document has not been an exercise in transparency. This may reflect scepticism about the Royal Commission, perhaps even the feeling amongst some of the bishops and senior Catholic lay leaders of an anti-Catholic vendetta.

Another significant failure of the response document was not to extend it to comment on some of the relevant suggestions in the TJHC report, including:

- the commissioning of an educational resource based on a theology of the child
- the establishment in each state of a survivor advisory group and the development in each diocese of an apostolate to survivors
- the establishment of a church Ombudsman role to oversight church governance and administration
- the development of a whistleblower policy
- the obtaining by Catholic Professional Standards Ltd of the status of a juridic personality within the framework of canon law
- the development of mechanisms to allow the participation of women in decision-making bodies.

The official Catholic response to the Royal Commission represents a missed opportunity, especially in the context of a Catholic Church engaging with the issue of clerical sexual abuse in a global context. The Royal Commission's final report is playing a global role in showing the way forward. It is now incumbent on the Australian Catholic bishops to act with independent spirit and place intense pressure on Rome to address the many theological, pastoral and cultural issues laid bare by the Catholic catastrophe of clerical sexual abuse.

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25. This form of response has been adopted in relation to the Royal Commission's recommendations 16.8, 16.9, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 16.18 and 16.26. See Appendix 3 for a list of the Royal Commission's recommendations directed to religious institutions.

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# Time to get back on the donkey

Joan Isaacs

Ten years ago, I could not have spoken to you. In good faith, I participated in the Catholic Church's Towards Healing program and ended up silenced forever from talking about my abuse or anything to do with the Catholic Church. Through the intervention of the Royal Commission, I was released from my silence to give evidence. It was Case Study 4, the first case study which began the revelations into the secrets of the Catholic Church. Case Study 4 revealed how my experience of Towards Healing was anything but what it was supposed to be.<sup>1</sup> There was no compassion, there was no healing. I was bullied and tortured. The Royal Commission set me free, and I was free to write my book, *To Prey and to Silence*. The Catholic Church thought they had silenced me forever. For those of you who may have read my book, it is obvious why they wanted me silenced.

I acknowledge Professor Cahill's research, which I have studied closely. His work provides significant insights into the historical thinking and teachings of the church.<sup>2</sup> Being a woman and mother, I shudder at the way women and children are portrayed. Women should never be second class and subservient, and children are ignored all together. They do not count and they have no rights. I can only describe this thinking as sick and maladjusted. I would add the word 'evil' to describe the two priests in the Sandgate Parish in Brisbane, where I did my schooling. My abuser, Father Frank Derriman, and the abuser of boys at the nearby St Patrick's College, Shorncliffe, Father Ron McKeirnan, were both serial abusers.

I recall the culture there as sick and toxic. McKeirnan was a known predator and had been since the 1960s and 70s. However, the Archdiocese of Brisbane went on to promote him to the position of Assistant Director of Catholic Education. He was also Director of Faith Education and in charge of the implementation of the sex education programs for schools.

In 1997, while in his position in the Catholic Education Office, he was arrested and charged with the sexual abuse of nine boys. He pleaded guilty and was sentenced to twelve months in prison. A year later, Derriman was convicted on counts of 'indecent dealing' with me and was also sentenced to twelve months gaol. It took fifty years to have Derriman laicised, and I believe that Father McKeirnan is not laicised.

When I was asked by the Royal Commission to give evidence as the first witness in a Catholic Church case study, I was terrified, but I felt compelled. So many people depended on me, the Commissioners to reveal what I knew, other survivors and those who had not survived ... the many, many people that we will never know.

After Case Study 4, my husband and I set about to attend as many of the public hearings of the Royal Commission as we could, particularly those dealing with the Catholic Church. This journey has changed our lives. We listened, we learned, we cried, we held other survivors. For the first time in our lives, we met people on the same journey as ourselves: the journey to be believed, to be supported, and for the truth to prevail. We were no longer isolated voices in the wilderness; we were as one. The crowds grew bigger. The voices grew louder. We loved and cared for each other. We were loved and cared for by the Royal Commission staff. For so long, we had wanted this love and understanding from our churches, but it never came.

As well as other survivors, we met heroes – heroes like Chrissie and Anthony Foster, who through their own grief had become a voice for the rest of us; Detective Chief Inspector Peter Fox and his wife Penny; Manny Waks, a survivor of clergy abuse from the Jewish community; journalist Joanne McCarthy, and others. Peter Fox spoke in plain language. When I asked him why he had appeared on ABC TV's *Lateline* to detail what he knew of the abuse cover-ups in the Hunter Valley, when it could cost him his job, his response was: 'Joan, I had no choice. You just have to do what's right!'

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1. Royal Commission into Institutional Responses to Child Sexual Abuse. (2015, January). *Report of Case Study No 4, The Experiences of four survivors with the Towards Healing process*, Commonwealth of Australia.  
2. See Cahill, D., and Wilkinson, P. (2017). *Child Sexual Abuse in the Catholic Church: An Interpretive Review of the Literature and Public Inquiry Reports*, School of Global, Urban and Social Studies, RMIT University, Melbourne.

I witnessed at close quarters, many times over, Anthony and Chrissie Foster hugging and caring for victims with such great compassion and warmth. On one day, at the end of Case Study 50, after the bishops and archbishops had finished their evidence, Ian and I stood back and watched Anthony outside the building ministering to all those around him. My husband said, 'I can see Jesus over there.'

What has been uncovered by our Royal Commission is not isolated. The culture of sexual abuse of children and cover-ups, particularly in the Catholic Church, has been replicated in other parts of the world – in Ireland, the United States, the United Kingdom, Chile, and more. There is a toxic culture of secrecy and an attitude that says 'Children don't matter. They are just collateral damage.' The Catholic Church and some other churches have changed significantly since twelve fishermen joined with Jesus to teach people a new way. There have been thousands of books written, and many decrees of canon law, and yet as I sat through Case Study 50, I heard more than once from Church officials, word such as: 'We are hoping the Commission can show us the way forward.'

I thought of Peter Fox: 'Sometimes you have no choice. You just have to do what is right!'

In my book, I detail a chance event that happened, just after I was silenced by the Church. I was visiting family in Scotland, and while there I visited an art gallery just outside Glasgow. Although there were many and varied works of art, I was drawn to one piece and I kept returning to it to absorb what it was telling me. It was called *Christ and the Pope*. This painting had been painted by an unknown artist in the Reformation period. It was unsigned, as it was a protest about the Church and the fact that it had lost its way. At the Royal Commission's final Catholic Church hearing, I had the pleasure of meeting Bishop Vincent Long of Parramatta. He resonated with me and other survivors. I had copies of the painting with me and asked him if he wanted one. He gratefully accepted, looked at the picture and spontaneously replied: 'Yes Joan, it is time for us to get back on the donkey.'

The Royal Commission has changed the face of Australia. We now know the truth. We would never have known the truth without it. It is not lost on me that it took the courage of a *female* Prime Minister to make it happen. It has changed Australia forever. Will it change the Churches? I don't know. Where do they go from here? Quite simply, as Bishop Long stated, 'they need to get back on the donkey.'

Can they do it? It remains to be seen. Do they even want to do it?

It is not lost on me either that there are no Catholic bishops or archbishops taking part in this conference. They probably have more important things to attend to.

The future is in the hands of people like you. Those whose hearts and minds are open to keeping children safe, not keeping dreadful secrets safe. The many good laypeople in parishes, good priests and religious, everyday Australians, academics, police, lawyers, doctors, judges, politicians, and the list goes on.

My wish for this conference is that we reflect on where we have been. The past should never be forgotten, because if we forget, we become complacent. We need to move towards a better, safer future.

Christian faith is based on the teachings of Jesus. He provides the direction required by men and women of all faiths. Show love! Be just!

As Peter Fox said: 'Sometimes there is no choice. You just have to do what's right!'

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**Joan Isaacs** is a wife, mother and doting grandmother. At the age of fourteen her normal, happy life changed irreparably when the chaplain at her school, Father Frank Derriman, groomed her for his own sexual gratification. Despite her abuse, Joan went on to be a teacher. Joan was silenced by her abuser and later by the Catholic Church. In 2013, Joan gave evidence to the Royal Commission into Institutional Responses to Child Abuse. She was the first survivor of child sexual abuse in a Catholic institution to give evidence to the Royal Commission, in the first of 15 Catholic Church case studies. The Royal Commission found that the deed of release she was required to sign at the conclusion of the Towards Healing process, 'effectively imposed on Mrs Isaacs an obligation of silence about the circumstances that led to her complaint. This was inconsistent with Part 2, Clause 41.4, of *Towards Healing* (2002)'. Joan released her book, *To Prey and To Silence* (Short Stop Press, 2016), to tell her own story and to encourage others who have experienced similar challenges.





*Christ and the Pope*. German School, 1550–1600. Pollock House, Glasgow (Photo: Glasgow Museums) CC BY-NC-ND 4.0.<sup>3</sup>

<sup>3</sup> The German text at the bottom of the painting is translated as follows:

See on this picture, above and right  
 The Lord on a poor animal  
 The Lord wears a crown of thorns  
 The Lord was poor in this world  
 The Lord had nothing on which to rest his head  
 The Lord washed the feet of his apostles  
 The Lord suffered much hurt and mockery  
 The Lord gives us honour regardless  
 Thus take good note of this example  
 And be free to draw this strong conclusion

Here the Lord and also the vassal [or servant] are riding  
 he vassal in the grandest garments  
 The vassal wears a threefold golden crown  
 The vassal has enormous power and money  
 The vassal is carried on people's shoulders  
 The vassal has people kiss his feet  
 The vassal allows himself to be honoured as God  
 The vassal sells indulgences for gold  
 How one can compare the teaching and the life  
 That the vassal is opposed to the Lord.

# A social science perspective

Kathleen McPhillips

My research investigates the Catholic Church at the Royal Commission, utilising sociological theory and methods. My paper summarises some of the broader socio-historical factors that led to the Royal Commission, and the causes of child sexual abuse in religious institutions, with particular attention to the Catholic Church, which was the worst offender of the institutions investigated by the Royal Commission.

## Socio-historical perspectives on institutional child sexual abuse

There is a long history of institutions caring for children. From the 17<sup>th</sup> century, Christian churches became exemplary forms of institutional governance, building hospitals, schools, monasteries, orphanages and asylums – thus ensuring that these institutions held a central role in the management and care of children.

Accounts of institutional child sexual abuse date back hundreds of years. In modern times, child sexual abuse is socially constituted as ‘unbearable knowledge’, making it difficult for societies to address. Research indicates that it has been subject to periods of collective amnesia over the last 150 years, whereby it is discovered, then forgotten, then rediscovered again (Herman, 1992; McPhillips, 2017).

Historians note a long history of institutional child sexual abuse and related public inquiries in Australia. Swain (2014) reviewed 83 public inquiries into child welfare between 1852 and 2013 in Australia. Beginning with orphan asylums and working houses, residential institutions were a key mechanism in caring for children in modern colonial Australia. This was often tied to state intervention to ‘save’ children and make them into productive, more compliant citizens (Swain, 2018). Children in residential institutions were not understood as having human rights. They were often considered to be morally depraved and in need of moral education and training (Swain, 2018). Up to 2013, the evidence of children in public inquiries was often dismissed and considered to be untrustworthy and their narratives to be questionable and under suspicion.

From the late 1990s, there were three public inquiries that examined systemic historic child abuse and focused on the validation of survivor testimony: an Australian Human Rights Commission inquiry into the separation of Aboriginal and Torres Strait Islander children from their families (*Bringing Them Home*, 1997); a Senate inquiry into the institutionalisation of British migrant children in the 1950s and 60s (*Lost Innocents: Righting the Record*, 2001); and a Senate inquiry into children placed in institutional care (*Forgotten Australians*, 2004; Wright, 2017). These inquiries marked a significant shift from the purview of previous inquiries, in taking seriously the testimony of survivors and with the community being shocked (again) at the level of brutality children suffered. The state began to treat inquiries as a way of addressing trauma and delivering justice (Wright, 2018). The main factor in this shift was the politicisation of survivors as a group. In developing a voice challenging their marginalised and stigmatised status, they began to confront governments with their failure to care (Wright, 2018). Public inquiries have thus become an important mechanism for the state to address and investigate the accountability of institutions and for producing knowledge and truth about child sexual abuse and responding to the unresolved issues about child sexual abuse, especially in religious institutions.

## The Royal Commission – a landmark inquiry

The Royal Commission into Institutional Responses to Child Sexual Abuse was a landmark public inquiry that exposed a catastrophic miscarriage of justice and betrayal of trust. It was highly successful in managing a public inquiry into institutional child sexual abuse and investigating institutional responses. It is unparalleled globally in scope, research and policy outcomes, and data collection (Wright, Swain and McPhillips, 2017). The Royal Commission marks a change in terms of the way victims and survivors are understood as subjects in their own right with voices and agency (Wright, 2018). The Royal Commission has managed survivor testimony at a more sophisticated level than any other inquiry. This reflects the methodology of the Royal Commission, which was to position the narrative of survivors at the forefront of each investigation, followed by the response of institutions. This turned the tables on previous inquiries, where institutional narratives had been given more weight. The Royal Commission method drew on

innovative approaches, including the introduction of the private session, where a survivor could give information in confidence to a Commissioner within a trauma informed model of practice (Wright, Swain and McPhillips, 2017).

The huge amount of information collected by the Royal Commission across private and public hearings, roundtables and research reports means there is now an important bank of data which is readily accessible to organisations and researchers for analysis and evidence-based research for policy development. The importance of this data base cannot be underestimated, and we can probably never again say 'We didn't know'.

## **Religious institutions at the Royal Commission**

Why were religious institutions so prone to child sexual abuse?

First, it was facilitated by the secular state, which accords religious institutions a special status whereby they enjoy specific exemptions from human rights law, and religious laws and courts have specific jurisdiction – all of which has encouraged their sense of difference and specialness (McPhillips, 2015). This distinctiveness is commonly framed under the guise of 'religious freedoms,' but in fact it protects the patriarchal, hierarchical practices of religious institutions by allowing them to discriminate across a range of institutional practices, against women, LGBTQI people, and other vulnerable groups that contest the conservative morality of sections of religious leadership.

Second, child sexual abuse was facilitated by church culture that encouraged the concentration of power in the hands of a small group of celibate men, poor psychosexual education of clergy and laity, the tenet of total obedience to church law and the encouragement of religious devoutness where spiritual compliance was valued, and the elevated status of the priesthood as the highest rank in spiritual knowledge and leadership which could not be challenged (Doyle, 2017; McPhillips, 2016).

Third, religious organisations such as orphanages, monasteries, seminaries and boarding schools were commonly closed institutions – organised in terms of efficiency, sequestered from outside influence, premised on routine and the devaluation of inhabitants (McPhillips, 2016). Swain (2014, 2018) has argued that children growing up in these institutions were particularly vulnerable to systemic abuse, and that closed environments were sexualised, with children forced to shower without clothes and supervised by priests or brothers. The sexual abuse that occurred in these institutions was opportunism at its worse. There is also emerging evidence that seminarians and religious who trained in comparably closed institutions suffered a similar fate.

Fourth, perpetrators were assisted by prominent leaders in the institutions who hid their behaviour and adapted organisational systems to protect perpetrators, ensuring silence and secrecy, which allowed children to be available for exploitation on a regular basis with little interference (Doyle, 2017). This is what Swain (2018) and Salter (2018) refer to as *the necessity of institutional abuse*: meaning it was built into the organisational systems and was necessary to the functioning of the institution. This was augmented by the use of canon law, which played a major role in maintaining the secrecy around child abuse.

Fifth, church leadership worked to protect the reputation of the institution, which equated to protecting the power base of the clerical class (Doyle, 2017). Whistle-blowers and survivors who reported abuse were often ignored, disbelieved and/or punished. When disclosures mounted and exposure was threatened, perpetrators were moved to avoid discovery. Tactics of secrecy, minimisation and neutralisation were common. This was a general institutional characteristic, but in religious organisations it was further facilitated by the above factors. Church governance is deeply entwined in a culture of clericalism that positions clerics as powerful, both as individuals and as a group possessing spiritual, legal and organisational power.

Finally, although child sexual abuse in religious institutions is a problem of governance and power, it is also a problem of gender and sexuality. Most religious organisations are patriarchal in culture and structure, and although there was a small percentage of female perpetrators, most perpetrators were and are male, most victims are male, and it was largely clerical men who protected the perpetrators. The social construction of masculinity and femininity in church cultures is premised on an inflated idea of the male and a devaluation of women (McPhillips, 2016).



Sociologically speaking, the church as an organisation will have significant difficulty in managing cultural change, largely because the clerical class that enabled the abuse of children and the protected clerical perpetrators is still in power. There seems to be an expectation that these ruling bodies are best placed to manage the organisational and cultural reforms that are required. This is deeply problematic.

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# Theological implications

*It remains, however, for Catholics, as well as the Christian Church as a whole, to do more than simply satisfy the principal findings of the Royal Commission. If there is to be a revitalised integrity to the church's life and ministry, one whose goal exceeds a reduction of the scrutiny to which the church is now subject, the stimulus and tools for that renewal must come from within the church, must find its rationale within the church's self-understanding and convictions.*

Richard Lennan, Professor of Systematic Theology, Boston College

## Keynote paper

# Moving the church: a theology of possibility

Richard Lennan

*God addresses to the Church the question whether it has the courage to undertake an apostolic offensive into the future ... in such a form that no one can have the impression that the Church only exists as a mere survival from earlier times because it has not yet had time to die.*

Karl Rahner<sup>1</sup>

The image in this quote, the image of a moribund church lingering on the edge of oblivion but avoiding the abyss simply because it 'has not yet had time to die', has much to say to the church in Australia as it receives the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse. The Christian community as a whole faces a crisis of legitimacy, a crisis that is the direct result of criminal actions that the church's clergy perpetrated. The suffering that sexual abuse by clergy inflicted on so many innocent survivors, suffering that the Royal Commission has illuminated in the starkest terms, and the collusive behaviour of authorities in the church, witness not only to systemic and sustained contradictions between the words and actions of people in the church, but also to a preference for institutional security above a commitment to the dignity and wellbeing of those created in the image of God. A church whose leaders and ministers are unwilling or unable to learn the lessons of the Royal Commission will disqualify itself from a continuing place in Australian society, even as 'a mere survival from earlier times'.

If the Christian community is neither to wither away as a result of the ignominy that its own leaders and ministers have generated nor to require civic oversight in order to ensure its officials act responsibly, it is surely indisputable that attitudes and practices within the church must change. The Royal Commission itself has been direct about some necessary changes, such as its recommendation that the Catholic Church, the ecclesial tradition of which I am a part, seek 'ways in which structures and practices of governance may be made more accountable, more transparent, more meaningfully consultative, and more participatory'.<sup>2</sup>

It remains, however, for Catholics, as well as the Christian Church as a whole, to do more than simply satisfy the principal findings of the Royal Commission. If there is to be a revitalised integrity to the church's life and ministry, one whose goal exceeds a reduction of the scrutiny to which the church is now subject, the stimulus and tools for that renewal must come from within the church, must find its rationale within the church's self-understanding and convictions. Although the second half of this paper will make a case for this claim, it is important to state immediately that such a proposal is not a ruse to provide the church with the path of least resistance, nor does it suggest that the church has nothing to learn from the rest of society. It is, however, a recognition that thoroughgoing reform can arise and be organic only if it expresses what is integral to the church's identity. If there is to be a rigorously honest confrontation with all the issues that 'the sexual abuse crisis' encompasses, if there is to be an unequivocal commitment to the protection of children and other vulnerable individuals, as well as actions to ensure the efficacy of this commitment, the church must respond from its own resources. If this does not occur, changed attitudes and actions may amount to little more than a costume that is ultimately disposable.

Clearly, many in the wider Australian community, as well as many former members for whom the church seems now to be beyond redemption, will doubt that real change is possible, and certainly reject the notion that something particular to the church could ever be the catalyst for such change. Even those who continue within the Christian community, perhaps clinging only by their fingertips to the hope for greater authenticity in all aspects of the church's life, may wonder whether the church's resources are sufficient to accomplish all that genuine change requires. Such wondering becomes louder and more insistent as

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1. Rahner, K. (1965). *The Changing Church*, in *The Christian of the Future*. (1967). Trans. O'Hara, W J. Herder & Herder, New York, 36.

2. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 1, Recommendation 16.70*, 44, Commonwealth of Australia, <https://www.childabuseroyalcommission.gov.au/religious-institutions>

each new wave of revelations about sexual abuse and its cover-up batters hope, mine included. If there is to be even an inkling that such hope is not in vain, its only possible foundation is the bedrock of the Christian community's faith; the boundless mercy of the God of Jesus Christ.

Reference to faith and to the church's resources brings me to what I understand to be my brief for our conversation; to address what theology and particularly ecclesiology, the branch of theology that concentrates on the mission and identity of the church, might contribute to the renewal of integrity in the church's life and ministry. In the first half of the paper, I would like to make three points about the goal and methods of theology. The second part of the paper will address aspects of ecclesiology. I will conclude the paper with some reflections on the relevance of 'hope' to the issues at the heart of our conference.

## The contribution of theology

The English theologian Nicholas Lash depicts the task of theology as 'the stripping away of the veils of self-assurance by which we seek to protect our faces from exposure to the mystery of God.'<sup>3</sup> Theology, then, begins with the recognition that God is always other than us; not simply bigger and better than us, but indescribably different from us. As a result, every encounter with God exposes our limits, even our capacity for self-deception. What saves such encounters from being unbearable for us, is the conviction that God is loving – not naively indulgent, but limitlessly generous, desiring only to give life. In the words of the Second Vatican Council's description of God's self-revelation in Jesus Christ and the Holy Spirit, God 'addresses humankind as friends and moves among them, in order to invite and receive them into [God's] own company'.<sup>4</sup> If faith is our response to God's offer, theology is the systematic exploration of the dynamics and implication of faith in God.

To capture what the difference between God and humanity and God's desire for relationship with humanity mean for theology, Rowan Williams argues that a key element of theology is its obligation to probe 'those aspects of religious practice which pull in the direction of ideological distortion, those things which presuppose that there is a perspective that leaves nothing out, [to] challenge the notion that these are the terms in which *God* is to be imagined'.<sup>5</sup> Williams makes clear that God is never reducible to our ideas on how God ought to be. Theologians, therefore, must be attentive to the danger of idolatry, to the danger of making God less than God, and substituting for God our convictions about God.

The temptation to idolatry is as old as the first appearance of human beings in the book of Genesis. Sadly, Genesis does not mark the end of the tendency. In fact, when the Royal Commission refers to 'clericalism' as 'the idealisation of the priesthood, and by extension, the idealisation of the Catholic Church,' when it highlights the long-prevailing culture of 'differential obedience' that allowed, as the final report notes, 'poor responses' to sexual abuse to go unchallenged, it is describing a form of idolatry.<sup>6</sup> Idols cannot ever give life, they can only be a distortion of what God enables.

In seeking to ensure that idolatry does not become standard practice for the life of the church, theologians employ a hermeneutic of suspicion, an approach that can alert us to our capacity for self-deception. To nurture the creativity that can empower reform in the church, however, there is a need for something beyond suspicion. This brings me to the second point about theology, a point that is a corollary of the warning against idolatry: theology recognises that not only is there more to God than we have grasped to this point, but that our embrace of that 'more' will enable, indeed require, that we are willing to move.

Theological reflection promotes openness to what we have not yet experienced; it fosters the acknowledgement that we have not exhausted all that God makes possible. This acknowledgement, set within our relationship with God, has specific consequences, all of which come under the umbrella of 'conversion,' a term that implies a change of heart that produces changes in our way of living. It is, I hope, not a misrepresentation of the Royal Commission's intent to transpose its recommendations into a theological key by describing them as instruments to give concrete form to the need for individual and communal conversion in the church.

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3. Lash, N. (1982, April). Criticism or Construction?: The Task of the Theologian, *New Blackfriars*, 63, 153.

4. Second Vatican Council. (1965). *Dei Verbum*, The Dogmatic Constitution on Divine Revelation, Article 2. All quotations from the Council's texts come from Flannery, A. (ed.), (2014). *Vatican Council II: Constitutions Decrees Declaration*, rev. trans, The Liturgical Press, Collegeville, MN.

5. Williams, R. (1995). Theological Integrity, *CrossCurrents*, 45, 323; original emphasis.

6. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 1*. The reference to 'clericalism' can be found at 43, and the reference to 'differential obedience' can be found at 44.

Conversion involves a change of heart, an insight that resounds through the psalms and features continually in God's evaluations of the covenants with Israel, and in the gospel's assessment of the response to Jesus among his contemporaries.<sup>7</sup> Hearts, however, exist in embodied persons. As a result, authentic conversion produces new ways of acting – as the *Catechism of the Catholic Church* frames the relationship between the two movements: 'interior conversion urges expression in visible signs, gestures and works of penance'.<sup>8</sup> Thus, conversion, interpreted as a response to what Pope Francis names 'the eternal newness' of God, has real-world and real-time effects.<sup>9</sup> It involves not only the expansion of our understanding, but the adoption of actions consistent with this expanded understanding.

The Christian tradition has always interpreted such changes as a response to the prompting of God's Holy Spirit, whose role is to form disciples, to build the Body of Christ in the world (Gal 5:13–26). Conversion to the Spirit must shape our structures and communal activities, no less than our personal lives. Without that conversion, our capacity to do evil, to choose darkness over light, can continue to obscure the presence of the Spirit in the church, even if our structures change. Nor is conversion a one-off process: it remains essential to a healthy relationship with the God who is always other than us. Conversion also manifests our trust that the God who seeks only the good of God's creation, ourselves included, transcends even the structures that seek to serve our relationship with God. This means that the adoption of altered practices of governance in the church, including the expansion of leadership beyond the current monopoly of the ordained and the implementation of effective instruments of accountability for all those in positions of leadership, the need for which the Royal Commission has identified, can represent more than merely corporate reform: such changes can be a response to the movement of the Holy Spirit.

In accompanying and nurturing openness to conversion, theology emphasises that our faith in God moves us forwards, towards what defies the limits of our imagination, not backwards towards some mythological 'golden age' that no longer exists. Along the way – and this is a point I will develop further in relation to the church – there are manifold opportunities, even imperatives, for changes that respond to what God enables. These opportunities and imperatives challenge us, as Elizabeth Johnson observes, not to blame God for the poverty of our vision and action: 'if the Rock you lean on is too miniscule to support the range of your life's desires, faith will collapse as you grow into maturity. For a community like the church, if the God they lean on together is inadequate, they will lead a cramped religious life.'<sup>10</sup> When the constructions of our faith damage others, the fault does not lie with God. Rather, our efforts to conscript God to buttress our own desires, desires often reflective of the 'cramped religious life' to which Johnson alludes, are responsible for the damage we inflict. Theology's focus on the expansiveness of God offers an alternative to this distortion.

The third point that I would like to make about theology is one that has become especially important in recent decades, reflecting the impact of liberation and feminist thought: the acknowledgment that all thinking about God is contextual; it's done by people who live in specific times and circumstances. This is not a new fact, but a new realisation. An appreciation of context frees thinking about God from the illusion that faith floats above history, unaffected by what is specific to each unique time and place.

Contextual thinking does not mean either that each generation and setting will construct its own God or that neither the past nor those beyond our borders in the present have anything to teach us. In other words, an appreciation of the particularity of our context does not require the wholesale abandonment of the Bible, the church's teaching, or any of the various elements within the panoply of Christian life. What it does require is the willingness to grapple with how we might appropriate those sources in our particular here-and-now. By engaging with the theological task of reception, by asking how the resources of our tradition might enable us to express our faith in ways that speak of the living God to the Australia of 2018, especially the Australia aware of all that the Royal Commission has shown to be the failures of the church, we open ourselves to conversion, while also avoiding idolatry.

The willingness to allow space for all the questions that rise up in our present is an act of faith, one that affirms the union between faith and creativity. In seeking answers to these questions, we must be attentive to sources beyond the often narrow confines of the Christian community. To do so expresses

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7. For the link between openness or hardness of 'the heart' and conversion see Ps 14:1, 44:21, 139:23; Ex 9:12; Jer 29:13; and Mt 15:19.

8. *Catechism of the Catholic Church*, Article 1430.

9. Pope Francis. (2018). Apostolic exhortation *Gaudete et Exsultate*, On the Call to Holiness in Today's World, Article 135, United States Conference of Catholic Bishops, Washington, DC. See also [http://w2.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20180319\\_gaudete-et-exsultate.html](http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20180319_gaudete-et-exsultate.html)

10. Johnson, E. A. (2015). *Abounding in Kindness: Writings for the People of God*, Orbis Books, Maryknoll, NY, 31.

not a lack of confidence in the resources of our own traditions, but trust that God's Spirit can reach us through manifold sources, including sources beyond the church that can remind us, paradoxically, of neglected aspects of our own traditions. This has certainly been true in recent decades when the wider culture awoke the Christian community to the necessity of care for the earth and the defence and promotion of the rights of women, indigenous people, the disabled, the LGBTIQ community, as well as the needs of other formerly marginalised groups. These practices can claim a firm foundation in God's creative love and in the desire of Jesus that all people 'may have life, and have it abundantly' (Jn 10:10), but it was 'the world' that taught the church of their importance, a lesson that the Christian community must continue to learn and translate into action.

The Royal Commission has confronted the church, especially its leaders and ministers, with its radical failure to place protection of children above the self-interest of the institution.<sup>11</sup> In so doing, the Commission has provided the stimulus for the Christian community to bring to the forefront of its awareness that the protection of children, God's children, is inseparable from faith in the God who took flesh in human history. That it has taken a Royal Commission to renew this awareness in the church will remain a matter of deep shame for the Christian community. Not to learn now from all that the Royal Commission has highlighted, not to recognise in its work the presence of the Spirit who forms the church to be a site of liberation, would compound the original failures, suggesting a wilful resistance to conversion.

Taken together, the three aspects of theology that I have outlined promote openness to questions and participation in conversation, both of which represent the embrace of God's otherness. Such openness is no small task at a time when our social, political, and ecclesial cultures are dominated by invective delivered in one-hundred-and-forty characters. Engagement with the God who transcends our ideas about God ought to sensitise us constantly to the fact that talking about God can never be a zero-sum game, such that 'the winner' takes all. Only God can legitimately claim the last word, a word that will be more generous than the one we might speak or deserve. Trust in God's generosity frees us to face our own limits and failures. Good theology reminds us what God is like; in doing so, it reminds us that we are not God.

Given my emphasis on the role that context plays in theological thinking, I hope it is appropriate to conclude this section of my paper by identifying briefly three aspects of my situation, since that situation shapes the content of this presentation. First, I am an Australian but have lived in the United States for nearly a dozen years; consequently, I come to this conversation as both an insider and an outsider, with the advantages and deficits intrinsic to this hybrid identity. Secondly, as already noted, I am a Roman Catholic, and an ordained priest; those characteristics inevitably produce certain blinkers, but also fuel my longing for a church – and for a self – that represents the gospel transparently, rather than being an obstacle to it. Thirdly, I am a systematic theologian who works in a university. While members of this guild are often suspect for obscurity, even obfuscation, in their ideas and expression, the endeavour to bring the wisdom of the tradition into dialogue with an array of contemporary insights, the endeavour particular to academic theology, can be a fruitful way to explore our graced humanity and align heart, soul, and head at the service of faithful discipleship. I hope that the richness of those three features is more evident in this presentation than is their constraints.

### **The role of ecclesiology**

Let me turn now to considering what ecclesiology, which considers the church in the light of the three components of theology that I have just outlined, might offer the Christian community as it receives the Royal Commission. As a first step, I'd like to return to the quote that I used to open this presentation. That quote, with its challenge to the Roman Catholic church to show that it has the potential to change and grow, seems especially relevant to all that brings us together today. It is noteworthy, then, that the quote originates not from a time of soul-searching in response to another scandal in the life of the ecclesial community, but from circumstances of great hope for the church and its mission in society. In fact, the quote, which comes from Karl Rahner, a major figure in twentieth century Catholic thought, expresses a view of what lay ahead of the church at the conclusion of the Second Vatican Council in 1965. That such a sentiment could be applicable to both that shining moment and the mire of disgrace and shame that clerical sexual abuse has produced, brings into relief a truth central to the church in its best of times no less than in its worst: the church is always a project to be realised, not an object to be preserved.

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11. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 1*, 28.



The church is a living reality, one that reflects the complexity emblematic of all living things. As the work not only of the grace of God, whose initiative and presence bring about and sustain the community of faith, but of the people who compose that community and seek to respond to grace, the church defies all efforts to capture it within the perspective of a single lens. In addition, the fact that the church exists, inescapably, in the flux of history, underscores that no single period of the church's history can provide a definitive portrait of the church.

Existing in time, the church can claim no immunity from the vicissitudes of history. Similarly, the church, as a human community, can claim no exemptions from the ravages of human mediocrity, pettiness, and sinfulness, all of which can permeate institutions rather than being contained solely within the ambit of individuals. This analysis of the church by no means excludes all that grace can accomplish in and through the Christian community, but highlights that grace works for our conversion, to align our choices on God's life-giving Holy Spirit, rather than bypassing our humanity.

While taking up the specific recommendations of the Royal Commission will certainly help the church to become a more transparent and authentic body, the renewal of integrity in the church requires more than individual pieces of reform: it requires broad and deep cultural shifts in the church. To achieve the latter, it will be necessary for the church to embrace an overarching approach to change, one that can guide the integration of specific changes. Here, the key question is what might provide such an approach. As mentioned in the introduction to this paper, my answer is that the church's own resources can and must be the source.

To make an argument for this claim, I'll build on the second half of Rahner's description of the task facing the church at the end of Vatican II. After challenging the church to change in response to the council, Rahner continues: 'But even if [the church] has the courage to change, time is needed and time must be taken [for] the church cannot change into something or other at will, arbitrarily, but only into a new presence of its old reality, into the present and future of its past, of the Gospel, of the grace and truth of God.'<sup>12</sup> I accept that Rahner's contention may be unsatisfactory at first hearing. Its reference to 'taking time' could imply the type of bureaucratic stonewalling that frustrates necessary reforms, while its invocation of 'a new presence' of the church's 'old reality' may seem to enable the continuation of the pathologies that facilitated clerical sexual abuse.

Viewed more positively, Rahner captures the paradoxical elements central to the life of the church. On the one hand, he affirms that the church is a product of God's grace revealed in history; a fact that binds the community of faith in every age to what has been passed on through that history – we do not get to devise or name God, but depend, inescapably, on those who were the immediate recipients of God's revelation, including paradigmatically God's revelation in Christ. On the other hand, he makes plain that God's grace not only directs us to all that is yet to come, but requires us to live our faith in the unique circumstances of our present. To respond to this grace, our task is not to build and curate immovable structures, but communities able to respond to the call of the Spirit in service of God's reign. None of this obviates the need for structures, but does challenge the sense that they can be an end in themselves.

From a background markedly different from Rahner's, Serene Jones, a contemporary Protestant feminist theologian, nonetheless converges with him when she identifies 'bounded openness' as a principal feature of the church: the church is 'bounded' because of its inescapable dependence on God's revelation in history, but 'open' because that revelation will have its fulfilment only when Christ is 'all and in all' (Col 3:11).<sup>13</sup> Jones and Rahner share the conviction that God is at work in the church, the ugliness of much of its history notwithstanding. As a result of that conviction, they would also concur that our task today, the task of the Christian community in every age, is not the formation of a 'new' church, a church without roots in the past, but the appropriation of the past in light of the present, and with an eye to the future.

For the church to become in this way what it has always been does not require that the past be either jettisoned or treated as if beyond critique, any more than the present can be beyond critique. It does require, however, that the Christian community be the site where ongoing discernment of God's desires for God's people is the norm. Broadly speaking, then, the sole non-negotiable in the life of the Christian community is the obligation to be responsive to God's Holy Spirit at the heart of the church. The Spirit, who will always exceed whatever categories we seek to impose on the Spirit, promotes only what is

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12. Rahner, K. (1965). *The Changing Church*, in *The Christian of the Future*. (1967). Trans. O'Hara, W J. Herder & Herder, New York, 36.

13. Jones, S. (2000). *Feminist Theory and Christian Theology: Cartographies of Grace*, Fortress Press, Minneapolis, MN, 170.

conducive to God's reign and the good of God's people. Every aspect of the church's life, from how we interpret the Scriptures and sacramental worship to the goals we set for our structures and ministries at every level of the Christian community, must continually find its rationale in relation to discernment of the Spirit. Discernment is the polar opposite of idolatry. As Pope Francis describes it, discernment 'is not a solipsistic self-analysis or a form of egotistical introspection, but an authentic process of leaving ourselves behind in order to approach the mystery of God' for the sake of our mission in the world.<sup>14</sup>

Looking back over last hundred years of ecclesiology, it is unquestionable that discernment of the Spirit and the consequent openness to movement, no less than the primacy of mission, were not always to the fore. Hence, the church's distorted culture that the Royal Commission has brought into relief.

Much of what the Royal Commission has identified reflects what Yves Congar, another central figure at Vatican II, categorised as 'hierarchology': equating 'the church' with its structures and institutionalised forms of leadership.<sup>15</sup> Hierarchology privileged the unity necessary for the church's wellbeing, but cast the bishops as the only possible bulwark of unity. That emphasis was at the cost of the church as a community of all the baptised. Similarly, the exclusive concentration on order frustrated the realisation of the church as a body able to change and develop, a body whose defining characteristic was responsiveness to the movement of God's Holy Spirit in the world.

Ironically, the prominence accorded to the church's hierarchical structures and conformity to the norms of a central authority was itself an innovation, being largely a reaction to the Reformation and especially the emergence of modernity. The advent of 'nationalism, capitalism, rationalism, and the rise of modern science,' all of which engendered a deep suspicion towards modernity's revolutionary spirit, reinforced for Catholics the importance of structures around which they could rally to maintain a clear sense of their identity and of their independence from worldly powers.<sup>16</sup>

Official Catholic teaching buttressed that posture by drawing a direct line between God's favour and the organisation of the church as a social body. Gradually, the church as 'the perfect society,' the model that early-modern Catholic thinkers developed to defend the ecclesial community against incursions by civic rulers seeking to control the church, came to be understood as implying not only rightful independence from external forces, but the superiority, even flawlessness, of the church's social structure.<sup>17</sup> Clearly, such an approach left little room for mechanisms of accountability for those in authority.

Were hierarchology to be all that Catholic reflection on the church could offer, there would be ample grounds for suspicion about the church's capacity to move towards the reforms that the Royal Commission has advocated as necessary for the protection of children. Vatican II's 'Constitution on the Church,' however, provides the basis for an ecclesiology more conducive to significant reform in the church. Two aspects of the council's ecclesiology are especially important for the present moment of the church's life: the identification of the church as the 'people of God' and the description of the church as a 'pilgrim' community.<sup>18</sup>

'People of God' reinforces the primacy of baptism within the life of the church. It does so not to devalue ordination, but to make clear that the church is always one people. Consequently, the exercise of particular roles and offices in the church cannot be at the expense of that fundamental unity. Pope Francis's emphasis on the need for the Catholic Church to develop effective practices of 'synodality,' as well as the plans for a Plenary Council in Australia in 2020, represent present-day enactments of Vatican II's teaching.<sup>19</sup>

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14. Pope Francis, *Gaudete et Exultate*, Article 175.

15. Congar, Y. (1965). *Lay People in the Church*, trans. D Attwater, Newman Press, Westminster, MD, 45. For an illustration of 'hierarchology,' see the analysis of the church by Tanquerey, A. (1959). In *A Manual of Dogmatic Theology*, 1. Trans. Byrnes, J., Desclee, New York, 95–140; the original publication of the book, in Latin, was in 1914.

16. Plumer, E. (2000). The Development of Ecclesiology: Early Church to the Reformation, in Phan, P., (ed.), *The Gift of the Church: A Textbook on Ecclesiology*, The Liturgical Press, Collegeville, MN, 43–4.

17. See Pope Leo XIII. (1896). *Satis Cognitum*, On the Unity of the Church, Article 10. The text can be found in Carlen, C., (ed.), *The Papal Encyclicals 1878–1903*, (1981). McGrath Publishing, Wilmington, NC, 387–404. See also [http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_29061896\\_satis-cognitum.html](http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_29061896_satis-cognitum.html)

18. *Lumen Gentium*, 'The Dogmatic Constitution on the Church', which the Second Vatican Council issued in 1964, uses 'The People of God' as the title for its second chapter and 'The Pilgrim Church' as the title for its seventh chapter. See [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19641121\\_lumen-gentium\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html)

19. For a detailed discussion of the role that synodality plays in the papacy of Pope Francis and its implications for the life of the church, see Rush, O. (2017). Inverting the Pyramid: The *Sensus Fidelium* in a Synodal Church, *Theological Studies*, 78, 299–325.

'Pilgrim' makes plain that the church is not yet complete, that it is inseparable from God's grace in history. 'Pilgrim' also expresses the church's vocation to movement, to movement into an unknown future trusting God's faithfulness. All of this requires the church to beware of the tendency to regard any period of its past as an unsurpassable 'golden age.' Such a designation would suggest, falsely, that a certain era in the life of the church had fully mastered grace, thereby ending the ecclesial community's pilgrimage. As a pilgrim, the church can be a community of imagination and creativity, not simply of preservation.

The dynamism proper to 'pilgrim' serves as a reminder that the identity of the church is not independent of times and places. A church that locates its identity in what is beyond history, on the other hand, is less likely to be self-critical, to assess areas for growth and greater authenticity. Not only is 'pilgrim' reconcilable with a self-critical spirit, it can accommodate diversity in the church rather than mandating a 'one-size-fits-all' approach to the manifold expressions of the church's life. In that vein, Vatican II acknowledges that while Christians 'are to seek and value the things that are above,' they are also to demonstrate 'not less, but greater commitment to working with everyone for the establishment of a more human world.'<sup>20</sup>

A pilgrim church does not know in advance its response to every exigency, nor even what exigencies may arise, but must discern in the circumstances of each time and place how the Spirit is promoting 'a more human world.' In urging the members of the church to cultivate practices of discernment, Pope Francis stresses that discernment 'is not a matter of applying rules or repeating what was done in the past, since the same solutions are not valid in all circumstances and what was useful in one context may not prove so in another. The discernment of spirits liberates us from rigidity, which has no place before the perennial "today" of the risen Lord. The Spirit alone can penetrate what is obscure and hidden in every situation, and grasp its every nuance, so that the newness of the Gospel can emerge in another light.'<sup>21</sup>

Pope Francis's stress on the connection between discernment of the Spirit and confrontation with those aspects of ecclesial life that stifle the Spirit's promotion of change in the church, has an echo in the work of the contemporary American Baptist theologian Eboni Marshall Turman. Reflecting on the 'Black Lives Matter' movement, Turman writes: 'when ecclesial practices silence, invisibilize, and demonize some, namely by racism, sexism, classism, and heterosexism they smother the reality of the Holy Spirit that "blows where it chooses" (John 3:8) as Advocate for the outcast.'<sup>22</sup> In illuminating how the church 'invisibilized' sexual abuse and its impact, the Royal Commission has underscored that the smothering of the Spirit is a potent temptation. In urging attention to formerly marginal groups, ecclesiology is underscoring that the Holy Spirit's activity extends not only beyond the church's hierarchy, but also beyond the 'middle-class, middle-aged, relatively educated, articulate, skilled, if not professional, and, in general, given to a fairly responsible level of participation in the world of business, work and social life.'<sup>23</sup>

Contemporary ecclesiologies, reflecting the contextual emphasis to which I referred earlier, are alert not simply to the church's need for conversion, but to the fact that the church, in its quest for authentic responses to the Spirit, can learn from the insights of 'social psychology, organizational and network theories, phenomenology, leadership and educational theories.'<sup>24</sup> These disciplines can inform and expand the church's self-understanding, including in relation to practices of effective, creative, and accountable leadership.

## Hope and the church's future

It would be wonderful to conclude this paper by asserting that the insights of contemporary ecclesiology offer mechanisms that will free the church from the distortions of the past, while ensuring there will be no failures in the future; wonderful, but illusory. Indeed, a critic could suggest – harshly perhaps, but nonetheless accurately – that not only did 'people of God' and 'pilgrim' fail to facilitate a root-and-branch renewal of the church during the fifty years since the end of Vatican II, but that 'hierarchy,' far from being an artefact of a former era, has been resurgent in recent decades; a conclusion that the Royal Commission's findings would support.

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20. Second Vatican Council. (1965). *Gaudium et Spes*, The Pastoral Constitution on the Church in the Modern World, Article 57. See [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html)

21. Pope Francis, *Gaudete et Exsultate*, Article 173.

22. E Marshall Turman, E. (2016). The Holy Spirit and the Black Church Tradition: Womanist Considerations, in Hughson, T. (ed.), (2016). *The Holy Spirit and the Church: Ecumenical Reflections with a Pastoral Perspective*, Routledge, New York, 107.

23. O'Brien, J. (2017). The Authority of the Poor, in Hoose, B. (ed.), *Authority in the Roman Catholic Church: Theory and Practice*, Ashgate, Burlington, VT, 218.

24. Healy, N M. (2010). Ecclesiology and Practical Theology, in Sweeney, J., et al. (eds.). (2010). *Keeping Faith in Practice: Aspects of Catholic Pastoral Theology*, SCM Press, London, 117.

Those of us who believe that God's grace is inextricably linked to the church, that it does sustain the church's mission in history, long for the community of faith to be a transparent witness to that grace, to be a community that reflects thoroughly and consistently the boundless compassion, justice, and reconciliation expressive of the God of Jesus Christ. Even more, we long for that to be true of all of us, every day, and in our every action. The reality of the church is, of course, otherwise. Nor are the failures of the church a new story, detailed for the first time in the report of the Royal Commission. Indeed, from the moment that St Paul realised that he'd need to write a second letter to the Christian community in Corinth, the church has known dissension, division, and numerous other ways of acting that contradict the gospel. Nor have the church's sins remained only within its own community, but have, indisputably, brought about the sufferings of others. That truth is one that we must never seek to escape or deny.

Remembering, however, is insufficient on its own. As we recognise that the revelations in Boston in 2002 were only the beginning of disclosures about clerical sexual abuse and its cover-up, that the catalogue of shame has continued in Ireland, Chile, and in Australia, and continues still with the recent reports into the abusive actions of Cardinal Theodore McCarrick, the former Archbishop of Washington DC, and the still more recent, and still more distressing, history of abuse across multiple dioceses in Pennsylvania, we must remember with intent. Johann Baptist Metz, in the context of discussing the task of theology after Auschwitz, explains what 'remembering with intent' implies: 'Christian theology must be able to perceive history in its negativity, in its catastrophic essence ... If this perception is not to turn tragic – that is, develop into a farewell to history – then these catastrophes must be remembered with practical and political intent.'<sup>25</sup> Our remembering, then, must drive a commitment to change, must not dissipate itself in either despair or a casual retreat into 'business as usual.' This conference can be an instance of remembering with intent.

The need for change to realign the church, not just once but in an ongoing way, is certainly clear in relation to the Christian community in Australia at this moment. This need underscores not only that the church is a project, a point made earlier in the paper, but that it is not possible to 'failure-proof' the church. The latter is true because of the human beings who compose the Christian community. Consequently, ecclesiology, the necessary work of thinking about the church, will never be able to resolve fully and finally the disjunction that exists between what Clare Watkins names the 'espoused' and 'operant' voices characteristic of all ecclesial activities; that is, the lack of alignment between what members of the church think is motivating them and what their actions reveal about their actual motivations.<sup>26</sup> That disjunction is evident, for example, when leaders in the church proclaim themselves to be fellow pilgrims with the rest of God's people but act as if hierarchology is their guiding principle.

Here, we confront the ultimate source of all that so often makes the church unpalatable: that the church is composed of people who are no better than ourselves or than anybody else in the wider world.<sup>27</sup> That members of the church have acted at times as if this is not so, as if it is a truth that could be denied or overcome, and that bishops and priests have been especially prone to such a temptation while riding on the back of clericalism, are all factors that have contributed to the church's current plight.

A future for the church, a future that offers an alternative to self-deception, and a future in which the Christian community might become not perfect, but less equivocal in its witness to all that God enables, will not be the product simply of our willpower, or even our best desires. Rather, it can come only from recovering the hope we have in the crucified and risen Christ, the hope 'that does not disappoint us, because God's love has been poured into our hearts through the Holy Spirit that has been given to us' (Rom 5:5). This hope is not a soft option, but rather involves what Paul Crowley names 'obedience to what horrifies,' including the horror that arises when we stand before the devastation caused by clerical sexual abuse by priests.<sup>28</sup>

As a church we must not turn away from that devastation; we must remember it with the intent to reform our community and its ministry. We must also, all of us without exception, open our own hearts and actions to the transformation that God's Spirit seeks and empowers. What difference all of this will make, whether it will aid the healing of survivors of abuse, and whether it will enable some reconciliation with

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25. Metz, J B. (1998). *A Passion for God: The Mystical-Political Dimension of Christianity*, Ashley, J M. (ed.), Paulist Press, Mahwah, NJ, 40.

26. Watkins, C., et al. (2012). Practical Ecclesiology: What Counts as Theology in Studying the Church?, in Ward, P. (ed.), *Perspectives on Ecclesiology and Ethnography*, Eerdmans, Grand Rapids, MI, 178–79.

27. Chauvet, L-M. (1995). *Symbol and Sacrament: A Sacramental Reinterpretation of Christian Existence*. Trans. Madigan, P., and Beaumont, M. Pueblo Books, Liturgical Press, Collegeville, MN, 187.

28. Crowley, P. (2005). *Unwanted Wisdom: Suffering, the Cross, and Hope*, Continuum, New York, 58.

the church for the many people who have walked away in understandable anger and sorrow, we cannot determine or control. Here, we see the radical nature of hope, indeed its poverty, in the face of all that it cannot control. Here too we understand why it is that 'the mood of the discourse of Christian hope is less that of assertion than request: its form is prayer.'<sup>29</sup> This is not prayer as escape, but the prayer that cries out for others and ourselves to the God who alone can heal what human beings have broken.

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29. Lash, N. (1996). *The Beginning and End of 'Religion'*, Cambridge University Press, Cambridge, 229.



# The ecclesiology of the whole community must be called into account

Alison M Taylor

## Introduction

The Commonwealth of Australia's Royal Commission into Institutional Responses to Child Sexual Abuse operated from 2012 to 2017. It found, as had been predicted by the media and by survivors groups, that there had been extensive sexual abuse of Australian children over many decades in a range of institutions – including government and voluntary institutions such as schools, orphanages and daycare centres, and in churches and other community organisations.

A sizeable proportion of this abuse had occurred in various denominational church settings, notably perpetrated by members of the clergy, and it was confirmed that church leaders including bishops had been complicit in covering up the abuse. In a total of 8,013 private sessions for survivors conducted by the Royal Commission, 58.6% reported that their abuse had occurred in a religious institution: 61.8% of these named Catholic institutions, 14.7% Anglican institutions, 7.3% The Salvation Army, and the rest named various other religious denominations.<sup>1</sup> The Royal Commission also undertook detailed investigations of allegations of child sexual abuse which had been received between 1980 and 2015 by the Roman Catholic and the Anglican churches respectively. It was found that 4,444 complainants had alleged incidents of child sexual abuse to Roman Catholic Church authorities, and 1,085 complainants to the dioceses of the Anglican Church of Australia.<sup>2</sup>

It can be said that the extent of the abuse and the cover-up in religious institutions, particularly the Roman Catholic and Anglican Churches, shocked many Australians. My own impression is that the Australian public has regarded the implication of the churches in child sexual abuse as particularly serious, because it strikes at the heart of what they know the Christian faith claims to stand for – that is, it claims to stand for and to offer love, especially for the weak and vulnerable, as a reflection of the love of Jesus Christ for the world. The scandal of child sexual abuse has truly precipitated a crisis of reputational, spiritual and organisational dimensions for the churches.

## Purpose of this paper

To date, the response by both the Roman Catholic and Anglican churches in Australia to the revelations regarding child sexual abuse has been largely managerial and regulatory and has included measures such as the establishment of professional standards or safeguarding units, a more sympathetic and professional treatment of complainants, and the payment of redress. Professional standards training has become the norm for clergy and lay ministers, as well as for a number of people associated with parishes or schools who could be regarded as volunteers. Both churches have also made formal apologies to survivors.<sup>3</sup> However, these kinds of responses have also been made by the non-church organisations which have been found by the Royal Commission to have allowed extensive child sexual abuse to go unchecked. What more might the churches do in response to their implication in child sexual abuse? What does a church's discernment of its own identity and mission indicate would constitute a full response to child sexual abuse? Fundamentally, it is these two questions that Richard Lennan seeks to answer, particularly in relation to the Roman Catholic Church, in his keynote paper entitled *Moving the church: a theology of possibility*. As Lennan writes:

*It remains, however, for Catholics as well as the Christian Church as a whole, to do more than simply satisfy the principal findings of the Royal Commission. If there is to be a revitalised integrity to the church's life and ministry, one whose goal exceeds a reduction of the scrutiny to which the church is now subject, the stimulus and tools for that renewal must come from within the church, must find its rationale within the church's self-understanding and convictions.*

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1. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Preface and Executive Summary*, Commonwealth of Australia, 12.

2. *ibid*, 278.

3. The General Synod of the Anglican Church of Australia made a national apology in 2004, and Pope Benedict XVI made an historic full apology to survivors in Australia in 2008. These apologies have since been repeated on several occasions.

This paper considers Richard Lennan's paper, which is in two parts. In the first part, he argues for the imperative of an open and questioning theology in the aftermath of the child sexual abuse scandal. I give a hearty personal affirmation for Lennan's argument and offer a few additional thoughts. In the second part of his paper, Lennan calls for the application of ecclesiology to the reforms needed in the wake of the child sexual abuse scandal. For this part, I will give my partial endorsement but raise a concern.

### **Lennan's first argument: for an open theology**

First to Lennan's eloquent argument for the role that an open, questioning and constructive theologising can play in this project. This he characterises (quoting Rowan Williams) as a theology that does not shrink from 'its obligation to probe "those aspects of religious practice which pull in the direction of ideological distortion"', and that persists always in recognising that 'there is more to God than we have grasped to this point'. This is a theology that is much more than the unreflective parroting of the tradition with its inevitable accompaniment of defensiveness and closure to new ways. It is a theologising that recognises that thinking about God is contextual and must in some sense be undertaken anew for specific times and circumstances. It is a theology which recognises that the voice and actions of God are not always mediated directly through the church, but may well come from the wider culture. In the case of child sexual abuse, the church is being invited no less than to recognise in the work of the Royal Commission, '... the presence of the Spirit who forms the church to be a site of liberation'. By this and only by this kind of open theologising does Lennan see the possibility for conversion for the church, for a true change of heart and new ways of faithfully being the people of God. It is change to which the church is being invited by the Holy Spirit. We see here the influence of the grace-filled pneumatological theology of Karl Rahner, of whom Richard Lennan is a scholar of international repute.<sup>4</sup>

As I reflected on all this and inwardly agreed, I became aware that the real challenge in this project of a new theologising, as outlined by Lennan, is precisely *how* will the church allow and encourage this project? What changes would need to occur in the nature of the church's academic scholarship? What promptings and what encouragements are needed and by whom? And *who* will be encouraged to do this theologising? Readers of Lennan's paper need to ponder this for their own academic or church context. It is my view that the approach of the church should be to encourage the theologising of as wide a range of topics related to child sexual abuse as possible, and by a wide a range of people as possible – by academic staff and students, but also by parish groups, clergy gatherings, etc.

The silence from our pulpits which has accompanied the child sexual abuse revelations of the Royal Commission, means that many questions of church-goers which are broadly theological in nature have gone unanswered. Their theologising, and that of parish clergy, needs to be encouraged as much as that of academic theologians. Ordinary non-academic Christians need to hear how they can place the tragedy of institutional child sexual abuse in churches into the story of God and his people and their ways in the world.

How are Christians to understand what has happened here? How are they to understand the suffering of children, the sins of both perpetrators and church leaders, the role of the Royal Commission, and of the media and the survivors' groups? How does the Bible speak to all that has occurred? How may a parish or a group of Christians lament what has occurred, and how may we revive and adapt the rich tradition of Christian lament for these times? Lament is often the natural and necessary precursor to theologising.

An open theologising such as Lennan commends must be a theologising by the whole church, including in academic and pastoral contexts, and in diverse ways.

### **Areas for future research in the theology of child sexual abuse**

It may also be useful to name at this point some of the areas of academic theology which do need development as part of the larger project foreshadowed by Lennan. A 'theology of the child' is often mentioned in this regard, but in my view, this is now a well-developed field, with classics such as those by Janet Pais and Joyce Ann Mercer,<sup>5</sup> and now the *Key Topics in Child Theology* series of books and booklets.<sup>6</sup> There is also an Australasian network affiliated with the Child Theology Movement.<sup>7</sup> The priority is rather to integrate this childist perspective in theology and biblical studies into the life of the church.

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4. See, for example, his *Ecclesiology of Karl Rahner*. (1998). Clarendon Press, Oxford, UK.

5. Pais, J. (1991). *Suffer the Children: Theology of Liberation by a Victim of Child Abuse*, Paulist Press International, US; Mercer, J. A. (2005). *Welcoming Children: A Practical Theology of Childhood*, Chalice Press, Atlanta, Georgia.

6. Bunge, M. J. (ed.) *Key Topics in Child Theology* series, The Child Theology Movement Ltd, London, UK.

7. Contact the network at [www.childtheology.org](http://www.childtheology.org)

Harmatology, or the theology of sin, is a field long-neglected because a more optimistic view of what it is to be human has prevailed in much recent theology. Alistair McFadyan's *Bound to Sin*<sup>8</sup> signalled the importance of harmatology for child sexual abuse theology, and an integration of harmatology with existing Trinitarian perspectives on child sexual abuse could prove fruitful.

The enthrallment of a number of bishops and other church leaders to advice from their senior administrative staff was noted by the Royal Commission. Any assumption that such advice is necessarily 'value-free' or 'impartial' because it comes from technical experts or bureaucrats, was challenged by the classical social theorist Max Weber a century ago,<sup>9</sup> and touched on tangentially by the liberation theologian Leonardo Boff in 1985,<sup>10</sup> but to the present day has still yet to develop as anything more than a fledgling interest in theology.<sup>11</sup> Our theology of episcopal leadership urgently needs to be conceptualised in relation to managerialism and bureaucracy, because nearly every bishop is now also a senior manager in one way or another and relies, day to day, on the advice of his or her bureaucracy.

### **Lennan's second argument: against an ecclesiology of 'hierarchology'**

I now turn to the second part of Lennan's argument, which concerns ecclesiology. Ecclesiology is the study of the church. Both Lennan and I share a belief in the great value of the newer, integrated type of ecclesiology – sometimes referred to as 'lived ecclesiology' – that is, ecclesiology that concerns itself not only with the formal doctrines and structures of a church community, but also with its liturgy, actual religious practices, exercise of power, popular beliefs and culture. There is little point in focussing solely on idealised versions of our churches: rather, we must start speaking about what they are really like in practice. Nor can we expect the church to be unchanging in its institutional structures, its life and culture. Lennan reminds us of the ecclesiological insights of Karl Rahner who said that in the church we are called to respond to the grace of God which is given to us in order that we may live our faith in the unique circumstances of our present. 'To respond to this grace, our task is not to build and curate immovable structures, but communities able to respond to the call of the Spirit in service of God's reign'. If we are to be faithful, we need to expect that change will be necessary.

For Lennan, ecclesiology holds the key to understanding what has happened in our churches regarding child sexual abuse and gives us the necessary insights into how we may begin to remedy it. Lennan argues that the current ecclesiology of the Roman Catholic Church – the actual life and culture of the church – is characterised by what the Vatican II theologian Yves Congar termed 'hierarchology'. This may be understood as an undue focus on the institutional church as all important, and particularly on its institutionalised forms of leadership.<sup>12</sup> Lennan argues that:

*Hierarchology privileged the unity necessary for the church's wellbeing but cast the bishops as the only bulwark of unity. That emphasis was at the cost of the church as a community of all the baptised. Similarly, the exclusive concentration on order frustrated the realisation of the church as a body able to change and develop, a body whose defining characteristic was responsiveness to the movement of God's Holy Spirit in the world.*

We may note that the Royal Commission identified clericalism as a contributing cause for child sexual abuse in both the Roman Catholic and Anglican Churches,<sup>13</sup> and clericalism is a term similar though not identical in meaning to that of hierarchology. While clericalism essentially describes a culture dominated by the power and influence of clergy, hierarchology is a broader concept that includes the theological rationale for such a culture and encompasses also a focus on the institutional structures of the Church at the expense of the life of its faithful members.

Lennan argues for alternative ways of thinking and speaking about the essential nature of the church, such as the metaphors, 'people of God' and 'a pilgrim community', both of which were popularised by Vatican II. These are a corrective to hierarchology and are now especially apposite when reform is deeply needed.

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8. McFadyen, A. (2000). *Bound to Sin: Abuse, Holocaust and the Christian Doctrine of Sin*, Cambridge University Press, New York.

9. Weber, M. (2015). Bureaucracy (1992). In Waters, T., and Waters, D. (Eds and Trans.), *Weber's Rationalism and Modern Society*, Palgrave MacMillan, New York, 73–127.

10. Boff, L. (1985). *Church Charism and Power*. Trans John W Diercksmeier, Crossroad, New York.

11. Edwards, A. (2018), The Violence of Bureaucracy and the Gospel of Peace, *International Journal of Public Theology*, 12(2), 195–217.

12. Congar, Y. (1965). *Lay People in the Church*, trans. D Attwater, Newman Press, Westminster, MD, 45.

13. For the Anglican Church, see Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report*, Volume 16, Book 1, 735ff; for the Catholic Church, see Volume 16, Book 2, 612ff.

Lennan is identifying the need for a very thoroughgoing reform of the church, and in particular its 'hierarchologically-dominated' ecclesiology, in the wake of the child sexual abuse scandal:

*Were hierarchology to be all that Catholic reflection on the church could offer, there would be ample grounds for suspicion about the church's capacity to move towards the reforms that the Commission has advocated as necessary for the protection of children.*

### **My reservation about Lennan's second argument**

I do question Lennan's formulation of the problem of ecclesiology as being solely or principally that of hierarchology. I believe that other aspects of the churches' ecclesiologies are of concern in relation to child sexual abuse.

The academic study of ecclesiology calls us to consider the life of the church as a whole, not only the way in which power is exercised by its leadership. For example, we need to ask ourselves the tough question of what function clericalism or hierarchology might be seen to serve for the laity as part of church culture. Does clericalism allow lay members of the church to abrogate their own responsibilities for their faith-life and the decisions in this regard that they make?

Even if we concede that the meaning of clericalism or hierarchology may be stretched to include many aspects of lay culture in the church, these are not completely elastic concepts. What of the culture of silence which the Royal Commission also commented on in several of its case studies? That silence has been a feature of both clerical and lay culture: it can only partly be explained by clericalism. Further, what of the scapegoating of victims, the minimisation and the disengagement and denial of child sexual abuse which has also been a part of the response within our churches? What of the idealisation of the church as sinless, as promising respectability and as 'one big happy family'? This may well have led to what the British sociologist Stanley Cohen called 'States of Denial'<sup>14</sup> in our churches, which in turn led unconsciously to the culture of ignoring and covering up. Not all of this can easily be labelled as symptoms of clericalism or hierarchology.

In the Anglican Church at least, a kind of 'ecclesiological idealism' has been observable that has been partially punctured by the child sexual abuse scandal. Ecclesiological idealism is an over-valourising of the church and its institutional forms, and a concomitant undervaluing of its relationship with the life of God. An over-estimation of the social status of being a church member is often involved, which I suspect is associated with the lingering (now nearly gone) social establishment of the Anglican Church in Australia. This may be the reason why many church-goers who themselves have not been abused or had a family member abused, nevertheless regard themselves as victims. They have a sense that clergy have betrayed them and that their church is not what they had believed it was. It is the problem of 'the other'. They most certainly do not regard themselves as responsible for, or as implicated in any way, in the child sexual abuse crisis: some 'other' person was, and they have been made to feel uncomfortable as a result.

In two quite different contexts, the theological writers Jeffrey Driver and Gerard Mannion, respectively,<sup>15</sup> have identified ecclesiological idealism within Anglicanism as associated with the adoption of an unreflective Trinitarian model of church.

My point is that we have evidence that suggests that hierarchology may not entirely account for the ecclesiology which allowed child sexual abuse to go unchecked in the Roman Catholic and Anglican churches. In short, it is the ecclesiology of the whole community that must be called into account. We must also acknowledge that other Christian denominations, where clericalism does not appear to be a part of the ecclesial culture, were also found to have had extensive abuse. Our sad conclusion must be that there is no ecclesiology which proved itself immune to child sexual abuse.

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14. Cohen, S. (2011). *States of Denial: Knowing about Atrocities and Suffering*, Polity Press, Oxford, UK.

15. Driver, J. (2014). *A Polity of Persuasion: Gift and Grief of Anglicanism*, Lutterworth, London, 10; Mannion, G. (2018). Time for an Anglican ecclesiological revolution: Martyn Percy's ecclesiological realism, in Markham, I S., and Daniels, J. (eds). (2018). *Reasonable Radical: Reading the Writings of Martyn Percy*, Pickwick Publishers, Eugene, Oregon, 84.

## Conclusion

Richard Lennan's paper has been a real gift to us all. Many people in the church have sensed that our responses to date to the Royal Commission's disclosures have been curiously incomplete, but they have been uncertain as to what precisely it is that is lacking. Lennan has named for us a project that involves a vulnerable seeking after God as he reveals himself in our time and our place – that is, as we find ourselves in a post-Royal Commission era of some dislocation and uncertainty. Lennan calls us to discern what is of value in our ecclesiology and what it is time to let go of. We are to remain open to the promptings of the Spirit and go forward in hope.

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# Collateral damage

*Many have sustained their life-long faith through commitment to bodies professing ideals that now seem shredded. Such pain is deeply felt. For some, it may mean complete loss of religious faith. For others, faith may be sustained but only by stepping away from institutional allegiance.*

John Cleary, religion journalist and Salvation Army historian

# **Cultural change and renewal: challenges for religious life and the church**

Megan Brock

If an inventory were to be drawn up of the damage and pain caused by child sexual abuse within religious institutions – the damage to individuals, the damage to institutions, the different categories of damage – it would be a very long list.

There is the damage to the victims themselves, many of whom have suffered a range of sometimes devastating and life-long impacts. Some have taken their own lives. While those of us working professionally in this area are aware of these impacts, the Royal Commission drew the attention of the entire community to them. The victims and survivors, and the healing and pastoral care offered by the churches, will be the focus of a later session of this conference.

Then there is the pain which has been caused to those who live and work inside the church, and the damage which has been caused to the church itself. I am aware that many individuals who work in religious and pastoral ministry, including priests, brothers, nuns, pastors, teachers, and social workers, feel betrayed by their colleagues who perpetrated the abuse, and their colleagues who failed to respond with integrity and justice. For some, there is the pain of having to continue to live in community alongside perpetrators who have been released from prison, or former leaders who failed in their duty. In these post-Royal Commission times, others will also question the dysfunctional and sometimes abusive church structures within which they have had to live and work.

There is the strain felt by all of those – and they are many – whose task it has been to try and clean up the mess that is left: those who have to deal, day in and day out, with victims, perpetrators, lawyers, police, parents, parishes, insurance companies, policies, and budgets.

There are the post-Royal Commission feelings of exhaustion and numbness experienced by many of us, including those survivors who may have felt re-traumatised by the material that came out of the Royal Commission. There is the pain of those whose stories were not told to the Royal Commission, who feel they could never tell anything so bad to anybody other than in a professional context.

There is the dawning recognition of the internal breach of trust within our church communities – the feelings of parents, students, the people left in the pews, the volunteers and the donors whose trust has been betrayed. What was going on while most of us were getting on with what we thought was a trustworthy institution? Some have already walked away from the church; others, including nuns, brothers and priests, have expressed a desire to do so if only they could.

There is the breach of trust with the wider community in that the scandals have affected the reputation – or standing in the community – of clergy and religious as a class of people. Damage has been done to the entire prophetic project, to the legacy of many Catholic religious orders, to missionary organisations like The Salvation Army, to the schools.

Religion itself has been damaged, as well; a sense of trust in institutions, particularly church institutions, has been eroded.

In this paper, I want to set the scene for some commentary on nurturing health and integrity in church and ministry by raising firstly an awareness of the issue of adults as vulnerable in the area of abuse. I will explore how adults can be and have been vulnerable, how that vulnerability plays out in religious life (i.e. in the lives of nuns, brothers and religious priests), and how that vulnerability can impact on the capacity of some religious to function with health and integrity in church and ministry.

Finally, I will offer some comments on how we in religious life, particularly those of us who are women, can and must make a contribution towards building a healthy, gospel-focused ecclesial community.

In my professional life as a psychologist, I have worked extensively with religious who have been abused. In this paper, I will at times refer to brief, non-identifiable story summaries I have heard from religious sisters who have been abused.

Religious life is a sub-culture of the church, in that it has its own language, customs, practices, formation, dress, rules and controls by which individuals live within it. This sub-culture is a construction of the church, which regulates the lives of religious through language and particular practices related to the way religious live. The religious learns about the sub-culture through the formation process, which itself is governed by canon law and the particular law of the order. As in societal cultures, the individual in religious life also picks up what is acceptable and what is not, through lived experience of the life.

Power differentials exist not only between adults and children, but also between adults and other adults. Adults can be vulnerable to other adults. For example, there is a power differential between a bishop and a priest, a priest and his parishioners, a religious superior and members of their order. I worked with a young sister once who only ever referred to her religious superior as 'my lover'. There was a sexual as well as a superior-to-sister relationship. Power in religious life can also function via age and/or seniority in terms of years of profession. Disability, intellectual as well as physical, can render an adult powerless, as can personal circumstances such as deep grief, anxiety, fear and sickness.

And then there is gender. It is generally accepted now that in western countries the figures for abuse among women are one in three. Religious sisters are women. There is no reason to believe that the figures are any different among these women. By virtue of their gender alone, in many cultures, in every part of the world, women are culturally disempowered. In some cultures, sexual 'favours' are demanded of women for advancement. Sadly, it is no different in the church culture, where males hold all positions of ultimate power, particularly power over women's lives.

In religious orders, there are women as well as men who have been abused themselves, either as children or as adults. Some religious women and men have been sexually abused in religious life itself. When I was in Rome in 2002, I was told of a superior of a women's order in Africa who wept openly at the major superiors' meeting that year as she told of her sisters who were being abused by priests. She could not confide in the bishop, because he too was involved. When in Rome in June of this year, I heard of, and have been in contact with, an African sister who next year will submit her PhD thesis on the abuse of nuns in her country by priests. In terms of abuse against women – so-called 'domestic' violence – Australia is a violent country. And it doesn't just happen in the home.

*A story: A sister had an appointment with a health professional, to be measured and fitted for a therapeutic aid. In spite of her fear and protests, the man sexually abused her in the process. She was told variously by her superiors to 'forget it', to think of Jesus and Mary, and to put it behind her. After she had made three visits to a counsellor, who was not very helpful, she was told by the order that she would have to pay for any further counselling out of her own meagre personal budget money. The order would send her more money if she applied for it. She felt blamed and misunderstood by the superiors. She eventually made a statement to the police after other women came forward in the area. The incident happened when the sister was in her 60s.*

As religious we have a moral, ethical and Christian obligation to support those children and vulnerable adults who have been abused, including those in our own orders. The effects of abuse stay with an individual for the whole of their lives. Religious who have been abused themselves are no exception. For religious, these issues can get in the way of supporting others who have been harmed and can impact upon the ability of some religious to confront the damage which has been caused to others.

*A story: This sister was abused in her family as a child. She reports having no close friends and does not feel close to anyone. She would love to have a friend but recognises that her anti-social behaviour turns people off. She rebuffs people, which gives out signals contrary to her own deepest needs. She does not relate easily or warmly to anyone.*

For religious who have themselves been abused, there may be barriers to engaging with sexual abuse issues *per se* or to engaging with other individuals who have been abused. Some of these barriers include the following:

'I am sitting on my own silence; I can't engage with the bad stories of others.'

'I have personal agendas relating to my abuse which I have not done anything about, like shame, anger.'

'Engaging could set off self-destructive behaviours I have been trying to conceal/control.'

*A story: As an adult, this sister was raped by a relative. He was coming out of a difficult marriage, needed to talk and invited her to a meal. He raped her at the end of the evening. She has since been in abusive relationships with priests.*

More issues include the following:

'I am likely to get angry if this issue even comes up because no one has been there to acknowledge what happened to me, or they would probably not even believe me if I told them.'

'I cannot tell anyone because my community would not understand/support me.'

*A story: This sister had been sexually abused as a child by a relative. Later, when on mission to another country, she was sexually abused by the local priest in the parish. The other sisters in the community would be angry when she tried to protect herself from him by withdrawing from his social visits to the community. She was urged by the superior to 'be nice to Father'. She asked for a move from this mission.*

Here are some further examples:

'It is painful for me to listen to other people's stories. I might get angry, sad or experience their trauma as my own.'

'I don't even want to meet with or talk with other survivors of abuse.'

'I might over-engage with other survivors and 'swamp' them with my sympathy/empathy; I may even be tempted to 'comfort' them physically in inappropriate ways.'

'I am fearful that if I engage with a survivor, I might get caught up with the legal processes that they might take up.'

'Religious life used to be a "safe place" for me. It isn't any more. And now I have to be prepared to get involved in this issue and be an enabler of others' safety.'

*A story: She was sexually abused as a child, frequently raped. She entered the convent, she said, to escape the abuse. Early in her religious life, the parish priest, whom she considered a friend, arrived drunk at the convent one afternoon and tried to rape her. She fought him off and locked the door. She reported the incident to her major superior who did not believe her and dismissed the incident. She had a hysterectomy in her late 20s. The doctor told her superior at the time that there was 'a lot of damage'. She said that the doctor must have known, which embarrassed her.*

## **What can we do?**

Speaking in general terms, and being aware of the difficulties in this area for religious who have been abused themselves, what can we do in religious life towards building communities and engaging in ministerial practice marked by health and safety?

We must ensure that we have called upon the best practice in our entry criteria. I am not only talking here of psychological assessment, which is, in my view, an essential criterion. I am talking also about such issues as the age of the candidate, their life experience so far, developmental issues (including sexual development, emotional, intellectual and social development). Religious life is for grown-ups! It's for adults, not adolescents!

Formation around celibacy in religious life must be inclusive. Heterosexual celibacy formation cannot be the norm any more. Lesbian and gay candidates must be assisted in how to live healthily in same-sex communities.

We should stop accepting that chronic loneliness and isolation is a natural by-product of community living for religious. Everyone needs close friends, inside and outside of the community. Intimacy needs have to be met in healthy ways.

We should be vigilant in the matters of grooming and inappropriate behaviours. As the saying goes, if you see something, say something.

We should foster an environment where those in religious life can speak openly and respectfully with each other about sexual issues, including orientation.

We must work towards justice for survivors, speaking of them and dealing with them with empathy and understanding.



We must be aware of and resist values in our culture and of our church that are antithetical to the values of the Gospel which we openly profess.

We must develop a consciousness of the power of media, advertising and the internet in shaping our views, especially regarding the objectification of women and children (for example, slogans: Just do it! You're worth it! Jokes which demean women, vulnerable adults).

We should cultivate a culture of resistance to toxic societal and cultural values.

We must comply with civil and canonical safeguarding requirements, like police checks, and authorisation of movement between dioceses, states and countries.

### **So where to from here?**

We are at a crossroads in the church culture. As Gospel people, we have an obligation to identify and critique cultural as well church values, some of which are, in fact, anti-Gospel values. I am speaking here of misogyny, racism, disrespect of children, marginalisation of vulnerable people like the elderly, the disabled, the sick and indeed, women. Some of these values are insidiously woven into the fabric of society and sadly, in the case of the experience of many children and women, embedded in the church itself and its structures.

We are truly brought to our knees by this scandal among us. Those of us who have worked closely, in professional contexts, with women and men who have been sexually abused, have been horrified by the stories we have heard. All of us feel deeply a primordial ache for those who have been abused (a 'womb-ache', as women might say).

This is not how it is meant to be among us as Christians, Catholics and religious. Like all the People of God, we in religious life are called to communities and to ministerial practice that is marked by health and integrity particularly in relation to the vulnerable.

Culture is not an excuse for maintaining the status quo. Culture is not an excuse for the abuse of children, women and other vulnerable adults. If cultures, including the church culture, and the sub-culture of religious life, need to be redeemed in this area, we as religious women and men, we as church leaders, should be at the head of the protest movement to reclaim the goodness of our cultures. We do not, and should not, have a choice here.

The patriarchal culture of the church, the culture that privileges males over females, and where the dominant symbolism is male, needs to be eroded, bit by bit. Women are more than their bodies. Women have a divine and human right to be more than objects, more than objects for abuse by others, including by others in the church. Women too are made in the image and likeness of God. Women's voting arms have been in plaster for too many centuries in our church. Women must claim the right to raise a voting arm where it counts in the church. Women's official voice in the church must be heard.

There were about 3,000 bishops at Vatican II, and 23 women – for the last two sessions only. They were there as officially invited auditors (one of them was an Australian laywoman, Rosemary Goldie). Their number made up 1% of those attending the Council. Cardinal Suenens recalled in his memoirs, published in 1992, that he had to persuade Pope Paul VI to allow the women observers to take communion (on the tongue) from the pope's hand. Women were present, but their mouths were kept shut except for taking communion. Women must, one day, take their equal place at the table, and I include at the eucharistic table. The sacramental nature of women's ministry must be honoured. I believe we must all continue to work towards reclaiming what has been denied to women for centuries in our church.

As the People of God, we are all called, women and men, to be the face and the grace of humanity, to be the face and the grace of divinity in our societies, and in our churches. The Gospel calls us to this way of being in the same way that Jesus of Nazareth was called to be the face and the grace of the divine to us all. It will take courage, persistence and solidarity among women and men in our church to respond to this call with honesty and energy.

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# Scapegoating and blind panic

Muriel Porter

Dr Brock has referred to the damage that the sexual abuse scandals have done to the church, noting that trust in the church has been eroded. All the churches have suffered great damage to their reputation in the eyes not only of the general public, but of church members as well. Reputation is the aspect that I would like to focus on.

As was made plain in the evidence that came to light in the Royal Commission, one of the major factors that impelled church leaders to cover-up child sexual abuse was the protection of their church's reputation. To protect the good name of the church, victims were shamefully treated and paedophile clergy protected.

My thesis is that protection, or at least rebuilding, of the church's reputation, is the primary motive behind a great deal of the reaction to the scandal, at least in my own church, the Anglican Church of Australia. (I am in no position to reflect on what is happening in other churches.)

The clergy themselves have now become the church's scapegoats in the struggle to rebuild the church's reputation. The Anglican Church is going to extraordinary lengths to make individual clergy pay the price for the church's good name. It is using measures introduced to stop further abuse to insulate itself from further reputational damage, extending them so that the slightest suggestion of sexual wrongdoing by a clergy person – even in consensual adult relationships – is now subject to extreme disciplinary action.

The severe restrictions now being imposed on the private lives of clergy can be seen only as an over-reaction to the damage caused by the abuse crisis. They have also given the puritan faction in the church a golden opportunity to insist that all clergy and church workers be subject to harsh purity rules in all their personal behaviour. The new restrictions on the private lives of clergy, and the professional standards processes developed to police them, have opened the door to what might be termed an 'avenger's charter'. For example, say an adult woman's relationship with a single priest (Anglican priests are allowed to marry) ends against her will. If she wants revenge, she can claim he abused his pastoral responsibility to her as a clergyman. Never mind that she was not in his parish, nor even perhaps a believer – her claim is still taken seriously and the priest is admonished, if not removed from office. Some have even been defrocked – that is, deposed from holy orders. What might it look like if she went to the media, is the unspoken fear behind much of this response. The media would almost certainly recognise her complaint for the predatory nonsense that it is and completely ignore it, but such is both the paranoia on the one hand and the manipulative strategies of puritans in the church on the other, that the fear goes unchallenged.

The professional standards regimes in Anglican dioceses are now predisposed to believe anyone who claims to be a victim – I am speaking of adults here, not children. And they are predisposed not to trust the word of the accused priest or church worker. Most Anglican clergy are now quite fearful of frivolous, revenge-motivated complaints emerging out of nowhere.

There is one other aspect of my church's response to the Royal Commission. As part of our attempts to rebuild our reputation and public trust, and to keep our insurers happy, we have now imposed an extreme regulatory burden on parishes. I have just overseen the implementation of a draconian set of rules imposed by the Diocese of Melbourne in my parish. Every person in the parish who has any kind of public role in the parish – from the women who serve coffee after church services, to the adults who sing in the choir, to the people who hand out the books at the church door – has had to read and commit to a convoluted 22-page 'child safety code of conduct'. In my parish – a medium-sized parish – that was 73 people. Of those, 34 also had to have working with children checks and police checks. (Ironically, most of these people had to have these checks because, in the church's name, they visit people in nursing homes!)

Yes, this has been a time-consuming and expensive exercise that many struggling parishes have neither the personnel nor the finances to support. And the reality is that, in the Anglican Church at least, the sexual abuse of children has rarely happened in parishes except in specific settings such as designated youth work, where a full-on protective regime is certainly warranted. The evidence to the Royal Commission shows child abuse in the Anglican Church mainly happened in schools or orphanages.

But that is not the major problem with this regulatory burden. It would be bearable and indeed welcomed if any of this would really protect children. But it won't. My fear is that it will only drive the sexual grooming and abuse of children and vulnerable adults out of sight.

This over-reaction is designed mainly to protect the church's reputation. Look what extraordinary lengths we are going to, we can say! And of course, its insurance. If in the future a parishioner is accused of abuse, then the church can point to these regulations to claim it did all in its power to prevent that abuse.

We have rushed into an unwieldy regulatory and punitive response – and scapegoated clergy – rather than take some time to reflect humbly, and theologically, on what our Christian response should be. Dr Brock has said that the church is at the crossroads in terms of its culture. I am afraid that my church has simply rushed through the crossroads in blind panic, without pausing to check just which road would be the best way forward for everyone.

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**Dr Muriel Porter OAM** is a Melbourne journalist, author, religious commentator and Anglican lay leader. She has been a member of the Anglican Church's national decision-making body, the General Synod, since 1987, and has been a member of its key committees. She was a leader in the decades-long struggle to see women ordained as priests and bishops in the Anglican Church. Muriel has written numerous books on the contemporary Australian religious scene, including *Sex, Power and the Clergy* (2003), and *The New Scapegoats: The Clergy Victims of the Anglican Church Sexual Abuse Crisis* (2017). Muriel was formerly a senior lecturer in journalism at RMIT University, Melbourne, and is now an Honorary Research Fellow of the University of Divinity and a member of the adjunct faculty of Trinity College Theological School, Melbourne.

# Unintended consequences: the Royal Commission, religion, and civil society – a reflection on The Salvation Army

John Cleary

The outcome of the Royal Commission raises existential questions for religious organisations such as The Salvation Army. These issues are in some part reflective of the current unease in civil society generally. In seeking to restore its mission in this wider context, The Salvation Army, and the church generally, may find renewal for itself and, in turn, contribute to the renewal of our civic culture.

The wake of the Royal Commission into Institutional Responses to Child Sexual Abuse will be wide, and it will contain some unintended consequences. As Megan Brock has indicated, the ripples of pain extend beyond the immediate victims and their families. Notwithstanding the progress on redress, the line has yet to be drawn under full financial reparation. That may take some years, as previously settled claims are revived.

One unanticipated consequence of financial redress has emerged in Tasmania, where the Anglican Church is proposing to fund its redress scheme by selling assets, including some local churches. This has stirred local community opposition even among some abuse survivors. Long-standing church buildings in small towns have come to be regarded as part of a common heritage, supported and maintained by the local community over generations. In some real sense, they 'belong' to the community. Should the Anglican Church as an institution be able to monetise these 'community assets' to fund redress for victims of child sexual abuse? Some would argue that it is committing a second crime in order to 'fix' the first. Who 'owns' the parish graveyard is, it seems, more than a simple legal question.

This incidental consequence of the Royal Commission throws into relief one aspect of the long, slow unravelling of Christendom. The line of separation between religious institutions and congregations and their increasingly secular surrounding communities, is hardening. The Royal Commission has been catalytic in this hardening of public attitudes against formal religion, the echoes of which are heard in current debates over same-sex marriage, freedom of religion, and religious education.

Faith-based movements must finally adjust to a civil society where the default position is one of complete cultural disestablishment. No more trust-based concessions.

The impact will not simply be confined to institutional structures and charitable service delivery. Many of the churches, charities, and institutions named by the Royal Commission are critically dependent on the commitment of volunteer members and supporters.

The corrosive impact of the child sexual abuse scandals on these members, although measured in time and money, goes deeper. Many have sustained their life-long faith through commitment to bodies professing ideals that now seem shredded. Such pain is deeply felt. For some, it may mean complete loss of religious faith. For others, faith may be sustained, but only by stepping away from institutional allegiance.

The Salvation Army is a comparatively small movement within the wider religious communities of Australia, yet for much of its history it has enjoyed a profile considerably larger than its size. In the current circumstances, it may be seen as something of a canary in the coalmine, not just in terms of reputation and finance, but with regard to its continued vitality as a movement.

Theologically, The Salvation Army is conventionally Wesleyan/Arminian. Its distinctive charism was found in action: all Christians should be visible activists. There was to be no priestly ordination; the difference between full-time 'officers' and volunteer 'soldiers' was to be functional, not sacramental. There was to be no distinction based on gender. Women were to have full equality in all spheres with men. The role of the movement was to organise and facilitate lay activism. The orientation was outwards, towards community redemption, seen in terms of both personal conversion and social transformation, bridging an emerging gulf between personal pietism and social reform. Local poverty was not simply an individual failure; unemployment in Manchester could easily be the result of a failed cotton harvest half a world



away. From the 1880s, The Salvation Army developed as an internationally structured institution. Global issues were to be challenged through local mobilisation. In Australia, from the depression of the 1890s, through two world wars and the Great Depression of the 1930s, 'The Salvos' were seen to match the description of 'Christians with their sleeves rolled up.' The 'Salvation Army Lass' became a heroine of popular culture, even for such a scourge of institutional religion as Henry Lawson.<sup>1</sup>

From the end of the Second World War until only recently, the Salvos consistently rated among the top 10 charities in Australia. The annual Red Shield Appeal slogan, 'Thank God for the Salvos', was accepted almost without question. According to the Royal Commission, of the survivors who told Commissioners in private sessions that they had been abused in religious institutions, about 7 percent said they had been abused in Salvation Army-run institutions,<sup>2</sup> considerably less than the numbers for the Catholic and Anglican churches. Yet, in the wake of the Royal Commission, the fallout for the Salvos has been severe. In just the year 2014, the Army's position in the reputational rankings of Australia's 40 largest charities fell 17 places.

Such damage is not readily recoverable. The Royal Commission has set a new baseline. Prior reputation no longer cuts it with the public. Wars and the Great Depression are lost to history. The uniform, once seen as a public positive, now bears visible stains. The impact will be felt across the entire range of Salvationist operations, from individual Salvationists in local congregations through to social service agencies, and on to national and even international structures.

I was at a meeting last year, when an elderly retired Salvation Army woman officer approached me to say that she could not believe what was being said about the Army. She and her late husband had given their lives to The Salvation Army, including his service as a Red Shield officer during WWII. It now seemed that their lifelong commitment counted for nothing. The uniform she wore every day was now a source of public shame – in some way, she was being made to feel the guilty party.

Such consequences will amplify existing stresses on the internal life of the movement. In the years following the Second World War, as governments began to take more responsibility for the delivery of social services, charitable agencies receiving government funds were expected to be staffed by appropriately trained professionals. In 1978, the historic functional distinction between full-time officers and volunteer soldiers was given a priestly dimension with the introduction of the term 'ordained' into the commissioning of full-time officers. For many, this marked the transition from radical movement to accepted church with regularised clergy.

Yet, perceived organisational maturity may lead to a degree of institutional hubris. In 1885, The Salvation Army first came to public attention through the 'Maiden Tribute' campaign to end child prostitution in England. It is a powerful irony that in 2014 it was the sexual exploitation of children in Australia that exposed its greatest failure.

In recent years, the range of activities open to local Salvationist activism has shifted more towards supporting the internal culture of the movement. Those remaining avenues for internal lay activism are subject to appropriate external scrutiny and accountability measures such as Working with Children checks. In addition to the formal checks, governments are developing 'guidelines' for agencies, including churches that are working with children.<sup>3</sup> The very general nature of such guidelines raises questions of interpretation at the local level which may serve to inhibit rather than encourage local initiative. This is true for both smaller groups which may be overwhelmed by the sheer challenge of compliance, and larger more institutionally sensitive groups where bureaucratic caution regarding liability may prevail. More recently, spheres of ethical and even pastoral concern for churches generally are coming under pressure to be subject to externally regulated criteria. The current discussion regarding the Catholic Church and the confessional seal is perhaps the most contentious example.

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1. Devenish, S. (2009, November). Henry Lawson and the Salvation Army, *Crucible*, 2(1), <http://www.crucibleonline.net/wp-content/uploads/2016/08/Henry-Lawson-and-the-Salvation-Army.pdf>

2. Royal Commission into Institutional Responses to Child Sexual Abuse, (2017). *Final Report, Volume 16, Book 3, Section 14.2 Commonwealth of Australia*, 10, [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_16\\_religious\\_institutions\\_book\\_3\\_0.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_3_0.pdf)

3. See Department of Health and Human Services. (2015, November). *An Overview of the Victorian Child Safe Standards*, Victorian Government, <https://www.eciavic.org.au/documents/item/1039>

Structures and procedures will need to be aligned to conform with this strengthened regulatory framework. But whilst professionalised services may have the capacity to undertake such changes fairly readily, there will also be an impact on services delivered through congregational activity, particularly those which cross the boundary between congregational life and professional service delivery.

For example, what is to be the permissible link between church-run alcohol and drug rehabilitation services, and the worshipping communities with which they may be associated? Rebuilding community connections and relationships are critical to many such programs, and the local church is one such point of reconnection. At what point does attendance at a church function or service get defined as inappropriate 'proselytisation'? Where precisely is the line?

Other trends have been at work for some years which amplify the impact of the Royal Commission on the church and charitable sector.

Over the past couple of decades, government has begun to withdraw from social service provision, outsourcing many such services to the church and charitable sector. Employment services is an area that The Salvation Army pioneered in the 1890s and which it re-entered in the 1990s. Employment Plus quickly became a success story, as did a number of similar agencies. However, over succeeding years, tighter government contractual demands pressured many such services away from advocacy and support towards becoming de facto agents for policing government enforcement regimes.

The introduction of competitive tendering for such services has further reduced the capacity of church and charitable agencies to play an effective advocacy role, significantly inhibiting their capacity to speak on matters of social justice.

Governments are demanding increased transparency through agencies like the Charities and Not-for-Profits Commission. Already, concerns have been raised about the extent to which such a body could be used to restrict the capacity of charities and not-for-profits to engage in policy advocacy.

One further recent example. Two bills, the Foreign Influence Transparency Scheme Bill (2017) and the Electoral Legislation Amendment Bill (2017), came before the Australian Parliament in mid-2018. Both bills were presented as part of a national security package. Ostensibly they were designed to enhance transparency when dealing with foreign influence on electoral and related matters. However, both contained provisions that could profoundly affect the ability of all faith traditions to manifest their beliefs. Ostensibly the bills were designed to enhance transparency when dealing with foreign influence on electoral and related matters. Constitutional lawyer and Catholic priest, Fr Frank Brennan, described the bills as 'cumbersome' and 'very shoddily drafted'.

The Law Council, the Human Rights Council and Australian Lawyers for Human Rights complained that the 'influence package' outlined in the bills was so broad and undefined that it could criminalise harmless foreign communication for a now multi-ethnic and multi-faith Australia. Potentially this could embrace such internationally connected church-based agencies as World Vision, the St Vincent de Paul Society and The Salvation Army. Following widespread concern, the bills have been subject to significant modification.

It is worth noting that, at the time these bills were being discussed, the concerns of many religious bodies were focused on the Religious Freedom Review. However, the potential impact of the security legislation on religious freedom was largely overwhelmed by a narrow focus on the rights of religious groups to determine codes relating to sexuality and behavior – the very area in which the Royal Commission demonstrated that churches had so comprehensively failed.

The cumulative impact of such changes on movements like The Salvation Army raises existential questions. And it's not just about the money. Foundational principles such as lay activism, the practical relationship between spiritual values and social service delivery, even structured internationalism, are all at issue.

Does The Salvation Army retreat into its citadels, pull down the banners, confirm a change from organised Soldiership to congregational membership and become simply another church in the local religious marketplace, confining social service to a few defined professionally delivered services? What then is the Army to do with its defining image, hard-won by past generations and reinforced by the annual Red Shield Appeal, of every Salvationist as a frontline activist? The current national restructure of The Salvation Army in Australia is, in some part, a reflection of the depth of these challenges.

If the Royal Commission is providing the catalyst for change, the contributing elements are to be found in the social context of the past half-century. The impact of television, from the mid-1950s, began the technological and consumer revolutions that daily increase the pressures operating against community engagement. From the 1960s, Australian church attendance and clergy numbers have been in steady decline. So too has support for secular avenues of community engagement, from service clubs to sporting associations, trades unions and even political parties.

Mainstream denominations that were very much in tune with the post-war enthusiasm for creation of global institutions, from the United Nations through to the World Council of Churches and the rise of the welfare state, found themselves increasingly at odds with the trends of the 1980s, typified by Margaret Thatcher's 'There is no such thing as society', and Ronald Reagan's 'Government is the problem', peaking with the fall of Communism in 1989.

The faith traditions which are experiencing growth in today's consumer-driven era are those emphasising the benefits of 'faith' to individual lifestyle. Church music has moved from sacrifice to celebration. Highly individualised pietism cooperates with a growing secular sentiment that religion had no place in worldly affairs. To this extent, western Christianity has contributed to its own demise by retreating from its critical place in the public square.

Through the revelations of the Royal Commission, the public has come to identify institutional religion with finger-wagging conformity to right belief accompanied by a comprehensive failure of right action, both in the committing of crimes against children and reluctance to accept institutional responsibility for those crimes.

It was an avowed atheist, George Orwell, who more than half a century ago raised the public question of how we are to inculcate ethics in the absence of a spiritual authority that commands respect. These thoughts were echoed more recently by another public atheist, Christopher Hitchens, in a broadcast debate with his brother, conservative journalist and author Peter Hitchens, in the year prior to Christopher's death: According to Christopher Hitchens, Christendom, 'a community of belief and value that endured for many, many centuries', had been destroyed by two world wars:

*What will we do about civilization; what will we do about values, ethics, morals; how will we teach them; how will we learn to live with one another in the absence of any real religious authority, any credible one, any one that's worthy of the name, worthy of respect?<sup>4</sup>*

Hitchens was not saying there was no alternative, just that we had yet to develop an adequate replacement for the framework lost with the demise of Christendom.

As the Royal Commission acknowledged in its final report, the established denominations – Anglican, Catholic, Methodist and Presbyterian – were significant in shaping and maintaining the ethical framework of Australian civil society for much of our history. The path from Sunday school to parish council to synod and on to local, state, federal politics and the judiciary was once a common thread in parliamentary biographies.

It seems inevitable that the scandal of child sexual abuse in religious institutions will have contributed to the further decline of organised religion in Australia, accompanied by a further hollowing out of civil society. To what extent has the retreat of the church from the world already contributed to ethical failures in faith, finance, and sport, once the pillars of our civic culture? The current Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry illustrates a chain of ethical failure from chief executives down to senior managers and on to coalface employees – all steeped in a culture where the only interest is self-interest, and the only benchmark is material gain. A fading public memory is stirred by anecdotes of a time when the bank manager was trusted implicitly as a pillar of the community, ethically anchored by membership in a local religious congregation.

The times, however, are changing. Radical populism, fueled by global inequity, framed against a background of environmental and climate instability, is shaking the present system. *Laissez-faire*, it seems, has limits. Society does exist, communities are interconnected, history has not yet ended, and wise government will be critical to both local and global survival. In this context, questions of meaning and purpose have a renewed practical relevance.

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4. Pew Forum on Religion and Public Life, 'Can Civilisation survive without God?' Debate between Christopher Hitchens and Peter Hitchens, 12 October 2010, <http://www.pewforum.org/2010/10/12/can-civilization-survive-without-god>

Is it possible that the most remarkable unintended consequence of the Royal Commission could perhaps be its catalytic contribution to a renewal of our religious and civic culture?

Institutional religion will continue to find things difficult. Formal church membership will continue to decline. Clergy numbers will diminish to the point that significant theological and structural adjustment will become imperative.

Radical subsidiarity may provide the hinge. As clergy numbers decline, both the sacramental and managerial role of the clergy will require redefinition. Forms of lay ministry will, out of necessity, need to develop a sacramental component. The place of women as equal partners will continue to develop, reflecting the reality of the world. As external regulatory frameworks intrude further into church practice, key decision-making will increasingly depend on skilled lay advice and experience. As congregations decline, the focus will necessarily shift from institutional and pastoral maintenance, to external engagement.

Whilst such changes may be seen to be driven by a church in retreat, they may also be understood as the herald of renewal for both church and society as the church reengages with the public space as a lived reality. The institutional church will recover its public voice as it identifies with the voiceless outside its doors.

For The Salvation Army, the present course will involve reflection on its founding principles: The priesthood of all, lay mobilisation, gender equality, external orientation, commitment to the marginalised, global inter-dependence.

The reasonable demands for regulatory compliance suit the Army's concept of organised and trained laity embodied in Soldiership. The historic place of female leadership in The Salvation Army is taking on renewed significance. The contextual understanding of scripture evidenced in The Salvation Army's commitment to the equality of women in the 19th century, may be relevant in approaches to the LGBTI community in the 21st. The Army's global structure and local focus suits the emerging reality of the Global Village. Even such an apparently anachronistic internal cultural expression as the brass band is finding fresh relevance as a vehicle for renewed individual and community life in educational programs like *Just Brass*, recently featured in the ABC Television series *Don't Stop the Music*.

Notwithstanding the institutional impact of the Royal Commission, where the public sees it giving practical expression to its founding values, The Salvation Army is welcomed.

In 2018, The Salvation Army in Australia formerly merged into one national command. It celebrated with an inaugural national conference. The title of the conference embodied the outward orientation of its founding call: *Others*.

A critical space has opened in our civic culture. There is an emerging awareness of the failure of the shallow materialisms of both left and right in politics. Consumerist individualism has led to a crisis in loneliness. Cynicism surrounds institutions. The world is weary of empty promises. Faith without works is dead. The test of true religion may yet be found in recovering the root of the word '*religio*' – the ties that bind.

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**John Cleary** is a broadcaster and commentator best known for his two decades as host of the nationally broadcast *Sunday Nights* on ABC Local Radio. In his long career with the ABC Religion Unit, John was part of the original *Compass* team on ABC TV and was the founding presenter/producer of *The Religion Report* on Radio National. In 1986, John was the recipient of a British Council Chevening Fellowship looking at the future of public broadcasting with a particular focus on religion and the media. On his return from the UK, John served two terms as staff-elected director on the ABC Board of Directors. His 1992 book, *Salvo! The Salvation Army in the 1990s*, was awarded Australian Religious Book of the Year. In his years with *Sunday Nights*, John was active in the promotion of Inter-faith relations. He was invited by the Catholic Church to host the inter-faith event in Association with the visit of Pope Benedict for World Youth Day. He currently facilitates a quarterly public conversation for the Anglican primate, Dr Philip Freier, with leading public figures. He is also a member of the advisory board of the Islamic inter-faith organisation, the Affinity Inter-cultural Foundation. In the context of the Royal Commission on Institutional Responses to Child Sexual Abuse, John presented a two-part *Compass* television documentary on ABC TV about The Salvation Army and the abuse crisis.





# Healing and support for survivors, their families, and affected communities

*If there is one hole in all of the processes, the procedures and the protocols that have been issued from the top down, it is proper care of the victims. Over the number of protocols and reports that I've read, promoted and created by different church entities, one of the things that I see hardly ever mentioned is something comprehensive about caring for the victims. It is not enough to say, 'Give them money to go to psychologists'.*

Dr Thomas P Doyle OP, American Dominican priest, canon lawyer and survivor advocate. Evidence to the Royal Commission, Case Study 50, 7 February 2017.

# My vision for a national pastoral healing and support scheme

Mary Monagle

The Royal Commission into Institutional Responses to Child Sexual Abuse demonstrated the impact that clerical sexual abuse has on adult survivors. However, understanding of the damage this abuse has caused to families and affected communities remains low.

Our church leadership and religious orders in Australia need to know and comprehend that the sexual abuse of children is diabolical. It has shattered the lives of many of our children and undermined our right as parents to nurture each member of our families in a loving and natural way. The repercussions of this abuse have ricocheted across the church and civic communities for decades.

It is now the obligation of the Catholic Church in Australia to provide meaningful support and care to those who have been harmed by this church abuse.

It has been acknowledged that family support and strong peer relationships are important in mediating the impact of this abuse and to enable healing. Yes, families matter, but there are times when we older parents struggle with the complex parenting required as we endeavour to restore the health and wellbeing of our adult children.

No words that I can say can fully sum up the tragedy that has occurred in our families. I acknowledge that every survivor family's experience of church abuse and its aftermath is different. The fact is, the damage to our children is multifaceted and, for many affected by this abuse, long term.

To date, while there are some Catholic Church personnel who are doing magnificent and often heroic work, no demonstrated acknowledgement by the church at large has been given to those who support and minister to the survivors of church abuse. Any comprehensive approach to the ongoing care and support of survivors, their families, and affected communities is absent. This remains as a significant gap in the response by the Catholic Church of Australia to the child sexual abuse crisis.

Predominantly, the leaders of the church remain distant from those who have been harmed by church abuse. The question: 'How can I help you?' is avoided.

Often, the support being given by our church to those priests and religious who have abused our children, seems to outweigh the amount of support given to survivors.

Over the past five years, I have met on half-a-dozen occasions with leaders of the Catholic Archdiocese of Melbourne. On some of these occasions I have been accompanied by colleagues, including Fr Kevin Dillon, founder of the Lifeboat Geelong Foundation. My initial request to the Archdiocese was for the provision of a dedicated lay-led chaplaincy service for those who are seeking this particular avenue of healing. Earlier this year, I advocated to the Archdiocese for the provision of an outreaching care and support service for survivors, survivor families, and affected parishes. To date, my requests have been unsuccessful.

More recently, I met with the new Archbishop of Melbourne, Archbishop Peter Comensoli, who shared his thoughts about the kind of review and restructuring that is needed in relation to our Archdiocesan response to those affected by church abuse. I can only say that I am hopeful this new Archdiocesan leadership will bring with it a renewed and fresh understanding of healthy and affective religious and pastoral ministry.

Locally, in the absence of pastoral support provided by our Archdiocese of Melbourne to victims of church abuse, a number of network groups have developed to support and heal those who have been harmed by these grievous church abuse crimes. Two of the dedicated support groups who work faithfully in this unique area of pastoral care are Fr Kevin Dillon's Lifeboat Geelong Foundation and In Good Faith and Associates (headed by Helen Last). In the Diocese of Maitland-Newcastle, Maureen O'Hearn has

faithfully coordinated Zimmerman Services Healing and Support Group. This service has ministered to hundreds of survivors over the past ten years and is committed to 'walk with survivors throughout their healing journey'.

What needs to change:

- I believe it is time for our church to do what it was created for, to return to the teaching and example of Jesus Christ and to live the values of the Gospel.
- To demonstrate atonement, the Catholic Church in Australia – including Catholic religious institutes – must take responsibility for the lifelong care and support to survivors and those who have been harmed by this church abuse.
- It is time to adopt a new vision for responding to victims of child sexual abuse. This new vision needs to go beyond the notion of 'redress'. The Church needs to recognise that this is a rare opportunity to develop a nationally coordinated scheme to assist in restoring the health and wellbeing of those traumatised by church sexual abuse.
- We need to create a survivor-centred, survivor-informed outreach, healing and pastoral support service, including lay chaplaincy, to be extended to all those who have been harmed by this church abuse.
- It is vital that locally-focused healing services for victims, their families, and affected communities are supported and financed by the Catholic Church and Religious Orders at the national level.
- It is critically important that the church should begin to consult with existing survivor advocacy and support organisations. Any new healing and support services should draw upon the knowledge of those existing healing and support services whose qualities have demonstrated success over the past ten years.
- Right Justice is essential for those who have been re-traumatised by their experience of the legal processes of the Catholic Church's Towards Healing and the Melbourne Response.
- Right Justice is also demanded for the whistle-blowers and truth-tellers among Catholic Church personnel who heroically protected children entrusted to their care, historically, at great personal cost.
- Pastoral outreach and healing support to all who have been harmed by church abuse should not be neglected when Catholic Professional Standards Limited comes to develop, implement and audit new standards.
- We need to raise awareness of the complex impacts of church child sexual abuse on many survivor families, impacts that are now becoming inter-generational.
- We need to move beyond past practices which have seen changes of diocesan leadership followed by changes to diocesan policies and procedures, to the detriment of survivors needs and without proper consultation. First, consult with the survivors. 'We are the people of God'.
- For those dioceses that have not already done so, it is imperative that every Catholic diocese in Australia heeds the recommendations of the Second Vatican Council by establishing a diocesan pastoral council and developing a diocesan pastoral plan.
- As part of taking responsibility for the impacts of child sexual abuse, which are often lifelong, the Church should consider developing a 'health card' for survivors, modelled on the veterans' gold card, which would enable survivors to meet a range of health needs throughout their lives.
- Provide survivors with a 24-hour 'hotline' similar to the model of Beyond Blue.

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**Mary Monagle** is the wife of a survivor of clerical child sexual abuse and the mother of a survivor of clerical child sexual abuse. Mary is a retired registered nurse, having practiced in bush nursing and qualified and specialised in anaesthetics and recovery care. She has a strong interest in social justice. As a volunteer she has assisted in the management and care of women and children in a women's refuge, fundraised to provide accommodation for refugees, assisted in a project to fund education for young women in Romania and the Philippines, and advocated on behalf of survivors of clerical sexual abuse. Mary and her husband Ray live in Melbourne.

# Proposal: A sacred space of spiritual healing for those who have suffered church abuse in Australia

Joe Johns

The need for the church of God to reach out to those wounded by the very individuals who were mandated to care for them the most has now reached its apex. It is time for gospel servants to truly be instruments of peace for those broken by the ultimate betrayal.

In all the research into the impacts of clergy sexual abuse on victims and survivors, one of the most devastating aspects of what we have learned is that for many victims it was as if God himself had harmed them. At the centre of spiritual healing for survivors, the link between the perpetrator of the trauma and our loving God must be broken.

The avenues of spiritual healing for victims of clergy abuse are scarce in Australia. There is a clear need for a dedicated sacred space for victims of church abuse, to be used for personal and communal prayer.

From the research that has been conducted for this project, no known house of prayer, place of prayer, church, or chapel exists that is expressly designated as a place of healing for survivors of clergy abuse or for victims of sexual abuse in general. There is a side altar for such purposes in the Cathedral of Our Lady of the Angels in Los Angeles, but this area is open and not a place where private prayer can take place without the possibility of interruption.

Mintaro, South Australia, is an historic town in the beautiful Clare Valley, less than two hours by car from Adelaide, an area renowned for its many wineries and its beautiful scenery. The entire town, which has a population of less than 200 people, was listed as a state heritage area in 1984. St Peter's Anglican Church is set in an acre-and-a-half of land in the centre of Mintaro. An iconic small Australian country church built of red brick and the striking ochre-coloured Clare Valley stone, it was originally a Primitive Methodist Chapel (foundation stone laid on 6 February 1860), and was purchased by the Anglican Church in 1905 at a time when it had not been in use for many years.

St Peter's hasn't had a worshipping community since 2007, and with the beautiful old church building facing potential sale, the townspeople approached the local bishop with a proposal to save the property by establishing a quiet garden. Subsequently, the community agreed to adapt the quiet garden concept into that of a healing garden as part of a proposed vision to transform the church and grounds into a sacred space that will promote spiritual healing of victims and survivors of church abuse in Australia. The project has the support of the Bishop of Willochra, Bishop John Stead, and the new St Peter's will open in March 2019.

St Peter's is an ecumenical and an interfaith venture. St Peter's Sacred Space will offer a menu of options for its visitors. Upon arrival, visitors will be welcomed and given a pamphlet that describes the ministry of St Peter's with a description of what forms of ministry are on offer. Visitors can choose to engage any, all or none of the options offered. St Peter's ministry menu will consist of the following:

## 1. Pastoral care

Pastoral care is an ancient model of emotional and spiritual support found in all cultures and traditions. It has been described in our modern context as a form of individual and corporate patience, whereby trained pastoral carers support people in their pain, loss and anxiety; and their triumphs, joys and victories. At St Peter's Mintaro, the provision of pastoral care will centre on offering our visitors a safe place in which spiritual and emotional support will be offered to those who wish to share their stories with the ministers on staff. The listening that takes place and the emotional and spiritual support offered during the ministry of pastoral care is not counselling *per se*: the purpose of a pastoral care listening session is simply to listen to what the person wishes to share and to provide emotional and spiritual support in the light of what has been shared.

## **2. Spiritual companionship**

Spiritual companionship is the help given by one Christian to another that enables the recipient to listen to God's personal communication to him or her, to respond to this personally communicating God, to grow in intimacy with God, and to live more fully the fruit of this relationship with God. For victims and survivors of clergy sexual abuse, the impacts may be compounded by a distorted understanding of God in the aftermath of that experience. The focus of the ministry of spiritual companionship at St Peter's will be to help those who wish to avail themselves of this ministry to discover who God truly is, independent from the minister or person or system responsible for the abuse they have suffered.

## **3. Church as a safe place again**

Many survivors of church abuse no longer feel able to enter churches, even for the funerals of their own parents, so inextricably linked is the abuse with the physical structure of a church building or of a school associated with a church. I propose that the building of St Peter's Church be renovated so that the outside remains as it is, although completely revitalised, while the interior is transformed in the style of minimalist chapels now being created in Europe. The intent of such a minimalist chapel would be to create a sacred space that survivors immediately recognise as a holy place despite the absence of standard features of churches wherein people might have suffered abuse. The goal is to create a sacred space that fosters spiritual connectivity with God through beauty and simplicity.

My proposal is that the interior of St Peter's be transformed in a way that replicates, as much as possible, the 13<sup>th</sup> century St Francis Oratory in Assisi. To create a sacred Christian space that could assist survivors in prayer and that would be unlikely to trigger, in a survivor, memories of a place of abuse linked to a specific church in Australia. Granted, some might not want to step into the chapel regardless, but some will.

The chapel would be primarily intended for private use: individuals can have the chapel entirely to themselves for private prayer. A minister will wait outside the chapel while a person is inside, so that the survivor can have one-on-one time alone with God in the sacred space. This sacred alone time is to help foster the understanding that God is God: that God is not the minister who harmed them. *'Be still and know that I am God.'* (Ps 46:10).

## **4. A healing garden for survivors**

I have proposed that the current Quiet Garden at St Peter's Mintaro be rededicated as a Healing Garden, on the model of the successful Healing Garden of the Catholic Archdiocese of Chicago, which was created to be a place that invites reconciliation, hope and healing for survivors of church abuse and their families. It is a place where survivors will be offered the opportunity to write their stories and name the person and or the system responsible for the abuse they suffered, and then pray their story directly into God's hands by burning the story in a special area in the garden; alternatively, they may, in private, tell the story verbally to themselves and before God. This prayer is an act of surrendering into God's hands the pain that only God can fully understand and ultimately heal. *'Let my prayer be set forth as incense before Thee, The lifting up of my hands as the evening sacrifice.'* (Ps 141:2).

## **5. The Cross**

It is proposed that a tall wooden cross be erected in the grounds of St Peter's Church. At the base of the cross a body of water in the fashion of a small moat would be constructed. A water pump would ensure that the water would flow continuously. Survivors will be given small pieces of slate on which they will be invited to write the names of those who have harmed them to drop their piece of slate into the water at the foot of the cross. The action is twofold in its purpose. Firstly, it symbolises the delinking of themselves from the person who harmed them and, secondly, it places that person and what they did at the foot of the cross for Jesus to take and to carry for them. *'Then Jesus said, Come to me, all of you who are weary and carry heavy burdens, and I will give you rest.'* (Matt 11:28).

In brief, St Peter's Mintaro is ideally suited to become a sacred space for the spiritual healing of those who feel disconnected from God as a result of the abuse they have suffered in life. A particular focus of this ministry will be for those who have suffered sexual abuse at the hands of ordained ministers and non-ordained religious workers who served with a Christian church or a non-Christian religious institution. The mission and vision of St Peter's will be to facilitate opportunities for people who feel disconnected from God as a result of the abuse they have suffered to re-establish direct communication with God, with the hope that a discovery or rediscovery of God's love for them will take place.



Pastoral carers/spiritual companions involved in this ministry would need to be vetted for their proven ability to provide exceptional pastoral care to God's people.

The model of pastoral care and spiritual companionship for survivors and their supporters that will be offered at St Peter's Mintaro, is based on that of the spiritual meeting place at the University of Canberra. In this style of ministry, individuals drop in and are offered pastoral care on an ad hoc basis. Given that there would be limited hours that we could cover for this ministry we would need to make known when pastoral care and spiritual companionship would be offered and have phone numbers posted on the church door for those who may need immediate assistance.

St Peter's Mintaro has the potential to be a pilgrimage destination for survivors and supporters to bring their stories and leave them in God's hands. What may also be explored is the possibility of inviting the loved ones of victims of clergy abuse to come to Mintaro and plant a small tree or leave a symbol of their lost loved one in an area of the garden designated as a memorial site for those who took their lives.

St Peter's Chapel would also be a place for a weekly worship service and for daily private prayer for anyone who wishes to pray there. I propose that we look at ways of keeping the chapel open seven days a week, even if we can only have it open for a few hours each day.

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# Implications for governance and leadership

*Good governance is the set of values, norms, structures and behavioural expectations that together comprise principles with universal applicability. That is not to deny the unique theological, spiritual and canonical foundations of religious bodies and of consecrated life. Nor is it to ignore the vexed precept of the separation of church and state. However, boundaries are porous, civil and cultural norms are not neatly confined to institutional types, and community expectations are pervasive and influential.*

Susan Pascoe AM, President and Chair of the Australian Council  
for International Development

*It is necessary to improve pastoral structures in such a way that the co-responsibility of all the members of the People of God in their entirety is gradually promoted ... this demands a change in mindset, particularly concerning laypeople. They must no longer be viewed as 'collaborators' of the clergy but truly recognized as 'co-responsible' for the Church's being and action.*

Pope Benedict XVI, Address to the diocesan synod of Rome, May 2009

# Church governance and leadership

Susan Pascoe

## Introduction

The Catholic Church is in crisis. Daily revelations and announcements regarding the handling of sexual abuse are mainstream news. Catholics are angry and civil authorities are stepping in to investigate and prosecute. Business as usual won't suffice – systemic, institutional and cultural change is called for. These are dynamic and uncharted waters.

This Health and Integrity in Church and Ministry conference is an historic opportunity for those associated with church life and ministry in Australia to reflect locally on the learnings from the Royal Commission into Institutional Response to Child Sexual Abuse. However, dramatic events in Chile, the United States, Ireland and Germany in 2018 have escalated the handling of child sexual abuse in the Catholic Church to an urgent global issue – one in which there is both civil and ecclesial interest.<sup>1</sup> The leaked report commissioned by the German bishops<sup>2</sup> comes soon after the Pennsylvania grand jury report<sup>3</sup> and is the latest in a long list of damning reports.<sup>4</sup> What is different is that these latter reports have created a tipping point. We now hear the voices of the survivors and victims, and their narrative demands reform.

The Australian Royal Commission's final report contains some shocking and confronting evidence and findings, together with 407 recommendations, 21 of which were addressed to the Catholic Church, nine to other specific religious denominations and 27 to all religious institutions in Australia.<sup>5</sup> The Royal Commission made nine recommendations in relation to canon law. It received international media attention, but not the international storm of revulsion that attended the release of the Pennsylvania grand jury report, or the shock regarding the scale of abuse in Germany.

Recent events have revealed the scale and international nature of the abuse like layers of an onion:

- the mass resignation of the Chilean bishops in June 2018 over their collective culpability in the cover-up of child sexual abuse, the pope's acceptance of seven of these resignations<sup>6</sup>, and his admission that he had made a 'grave mistake' in originally defending Bishop Barros
- the resignation on 30 July 2018 of Archbishop Philip Wilson of Adelaide following his conviction in a New South Wales court for concealing child sexual abuse and following calls to resign from fellow bishops, priests and the Australian Prime Minister (Archbishop Wilson has since been acquitted on appeal)
- the resignation two days earlier of Cardinal Theodore McCarrick of Washington DC, and the pope's direction that he withdraw to a life of prayer and penance while the canonical charges are heard<sup>7</sup>

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1. This paper is an updated version of the one presented to the conference to take account of this tumultuous and dynamic environment in the global church. The author acknowledges the helpful feedback from respondents at the conference and readers of the initial draft of this paper.

2. 'German Catholic priests "abused thousands of children"', *BBC News*, 12 September 2018, <https://www.bbc.co.uk/news/world-europe-45500072>

3. Attorney-General of Pennsylvania. (2018). *Pennsylvania Diocese Victims Report*, Office of the Attorney-General, Commonwealth of Pennsylvania, <https://www.attorneygeneral.gov/report>

4. For a list of 26 previous Australian and overseas reports on child sexual abuse in the Catholic Church, see Cahill, D. and Wilkinson, P. (2017). *Child Sexual Abuse in the Catholic Church: An Interpretive Review of the Literature and Public Inquiry Reports*, School of Global, Urban and Social Studies, RMIT University, Melbourne, 21–2, <https://www.rmit.edu.au/content/dam/rmit/documents/news/church-abuse/child-sex-abuse-and-the-catholic-church.pdf>

5. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Recommendations*, Commonwealth of Australia, <https://www.childabuseroyalcommission.gov.au/recommendations>. See also Appendix 3 of this collection, Royal Commission Recommendations Directed to Religious Institutions.

6. 'Pope accepts Chilean Bishops' resignation over abuse scandal', *BBC News*, 11 June 2018, <https://www.bbc.com/news/world-latin-america-44442233>; Wooden, C. (2018, 21 September). Two more Chilean bishops step down in wake of abuse crisis, *National Catholic Reporter*, <https://www.ncronline.org/news/accountability/two-more-chilean-bishops-step-down-wake-abuse-crisis>

7. Pope Francis accepts resignation of Cardinal McCarrick following sex abuse scandal, *ABC News*, 28 July 2018, <http://www.abc.net.au/news/2018-07-28/pope-accepts-mccarrick-resignation-as-cardinal/10047620>; MacDonald, S. (2018, August). Abuse survivor says senior clerics 'complicit' with McCarrick, *The Tablet*, <https://www.thetablet.co.uk/news/9505/abuse-survivor-says-senior-clerics-complicit-with-mccarrick>; Harlan, C. (2016, 16 August). US bishops say church needs lay Catholics to help address 'moral catastrophe', *The Washington Post*, [https://www.washingtonpost.com/amphtml/world/europe/us-bishops-say-church-needs-lay-catholics-to-help-address-moral-catastrophe/2018/08/16/9c3a5ffa-a16b-11e8-93e3-24d1703d2a7a\\_story.html&freshcontent](https://www.washingtonpost.com/amphtml/world/europe/us-bishops-say-church-needs-lay-catholics-to-help-address-moral-catastrophe/2018/08/16/9c3a5ffa-a16b-11e8-93e3-24d1703d2a7a_story.html&freshcontent)

- Pope Francis writing directly to the faithful using online communication<sup>8</sup>
- the direct attack on the pope by a former senior Vatican diplomat, Archbishop Carlo Maria Viganò, calling on him to resign over his alleged role in the cover-ups<sup>9</sup>
- the public spats between progressive and conservative bishops in the United States following Viganò's letter<sup>10</sup>
- ongoing calls for Cardinal Donald Wuerl of Washington, DC to resign over his alleged mishandling of child sexual abuse, and protests against the cardinal during a recent Sunday mass<sup>11</sup>
- the protests and relatively thin crowds during the pope's visit to Ireland in August 2018
- the leaking of the German bishops report on sexual abuse on 12 September 2018
- Pope Francis' historic meeting with a group of leading US Catholic bishops on 13 September 2018, and the removal of Bishop Michael Bransfield of the Diocese of Wheeling-Charleston, West Virginia, who faces allegations of abuse<sup>12</sup>
- the scheduling of an historic meeting in the Vatican in February 2019 of all presidents of conferences of bishops to discuss the crisis engulfing the church.<sup>13</sup>

Since this paper was delivered, the Australian Catholic Bishops Conference (ACBC) and Catholic Religious Australia (CRA) have formally responded, on 31 August 2018, to the findings of the Royal Commission and released the report of their Truth Justice and Healing Council's responses to the Royal Commission's recommendations.<sup>14</sup> Their release attracted national and international media attention, with most of it focusing on the ACBC's rejection of the Royal Commission's recommendation in relation to the seal of the confessional<sup>15</sup> – despite some 98 percent of the recommendations being accepted and a commitment from ACBC President Archbishop Mark Coleridge: 'We make the pledge "Never again". There will be no cover-up. We will respond quickly to accusations, improve governance structure, be more transparent and we will listen.'<sup>16</sup>

Arguably, this is further evidence of a tipping point – when the word of a bishop or a pope is not enough, then people demand demonstrable action. At the time of writing, the Vatican is now promising to respond to Archbishop Viganò's allegations, despite the pope originally telling reporters, 'I will not say a word about this.' Tumultuous times.

This paper on church governance and leadership will focus on the Catholic Church in Australia, as the largest of the churches<sup>17</sup> and the religious organisation found to have perpetuated the highest incidence of child sexual abuse. The Royal Commission heard that issues related to governance contributed to the

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8. Pope Francis, *Letter to the People of God*, 20 August 2018, <https://www.vaticannews.va/en/pope/news/2018-08/pope-francis-letter-people-of-god-sexual-abuse.html>
  9. McElwee, J J. (2018, 26 August). Pope Francis dismisses Viganò's accusations of McCarrick cover-up, *National Catholic Reporter*, <https://www.ncronline.org/news/accountability/pope-francis-dismisses-viganos-accusations-mccarrick-cover>; O'Connell, G. (2018, 10 September). The Vatican is preparing a response to Viganò's accusations, *America*, <https://www.americamagazine.org/faith/2018/09/10/vatican-preparing-response-viganos-accusations>; Rice, C. (2018, 13 September). Catholics, keep your wallets closed until the Church reforms from the Vatican down, *USA Today*, <https://www.usatoday.com/story/opinion/voices/2018/09/13/catholic-priest-corrupt-sexual-abuse-lay-parish-column/1266858002/>
  10. Coday, D. (2018, 31 August). Viganò's letter reveals church's internal power struggle, *National Catholic Reporter*, <https://www.ncronline.org/news/accountability/vigan-s-letter-reveals-churchs-internal-power-struggle>; Catholic News Service. (2018, 29 August). US bishops respond to claims made in Viganò letter, *The Tablet*, <https://www.thetablet.co.uk/news/9664/us-bishops-respond-to-claims-made-in-viganos-letter>
  11. Pope Francis accepted Cardinal Wuerl's resignation as Archbishop of Washington, DC on 12 October 2018.
  12. Zauzmer, J., and Boorstein, M. (2018, 13 September). Pope Francis meets with US bishops as more leaders face allegations of harassment and cover-ups, *The Washington Post*, [https://www.washingtonpost.com/world/pope-francis-orders-investigation-of-wva-bishop-on-sexual-harassment-charges/2018/09/13/b0ebdd34-b741-11e8-94eb-3bd52dfe917b\\_story.html?utm\\_term=.4d4fc3540e27](https://www.washingtonpost.com/world/pope-francis-orders-investigation-of-wva-bishop-on-sexual-harassment-charges/2018/09/13/b0ebdd34-b741-11e8-94eb-3bd52dfe917b_story.html?utm_term=.4d4fc3540e27)
  13. Horowitz, J., and Goodstein, L. (2018, 12 September). Pope Francis summons world's bishops to meet on sexual abuse, *The New York Times*, <https://www.nytimes.com/2018/09/12/world/europe/pope-bishops-conference.html>
  14. *Australian Catholic Bishops Conference and Catholic Religious Australia's Response to the Royal Commission into Institutional Responses to Child Sexual Abuse*, Australian Catholic Bishops Conference and Catholic Religious Australia, 31 August 2018, <https://www.catholic.org.au/acbc-media/media-centre/media-releases-new/2139-acbc-and-cra-response-to-the-royal-commission/file>. For the Truth, Justice and Healing Council's four-volume *Analysis Report* to the ACBC and CRA on the Royal Commission's final report, see <http://www.tjhcouncil.org.au> (accessed 29 October 2018).
  15. For example, see Davey, M. (2018, 31 August). Catholic church rejects royal commission call to report abuse disclosed in confession, *The Guardian*, <https://www.theguardian.com/world/2018/aug/31/priests-wont-report-abuse-disclosed-in-confession-australian-bishops-say>; McKirdy, E., and Westcott, B. (2018, 31 August). Australian Catholic Church rejects calls for priests to report child abuse confessions, *CNN*, <https://edition.cnn.com/2018/08/30/australia/australia-catholic-church-response-intl/index.html>; Australia abuse inquiry: Catholic Church rejects call to overhaul confession, *BBC News*, 31 August 2018, <https://www.bbc.com/news/world-australia-45364556>
  16. McKirdy, E., and Westcott, B. (2018, 31 August). Australian Catholic Church rejects calls for priests to report child abuse confessions, *CNN*.
  17. Bouma, G., and A Halafoff, A. (2017). Australia's Changing Religious Profile – Rising Nones and Pentecostals, Declining British Protestants in Superdiversity: Views from the 2016 Census, *Journal for the Academic Study of Religion*, 30(2), 129–143.

occurrence of, and the poor response to, child sexual abuse. It heard graphic evidence of the concrete impacts that poor governance practice, such as weak transparency and limited accountability, had on the lives of individuals. It found that the ACBC and CRA are out-of-date in their methods of selection, training and ongoing support and oversight of people in ministry.<sup>18</sup> And that the roles of senior leaders need reform to ensure that they and their organisations meet contemporary standards of good governance.

It is intended that the reflections in this paper have wider application to other religious institutions, despite their organisational and governance differences. The intent is to probe contemporary understandings of good governance practice and to consider their application to the governance of religious entities.

It will of necessity take a contained, forward-looking focus, as space permits neither a broader consideration of the perspectives of victims/survivors, nor national political debates (such as the adequacy of proposed redress payments). Instead, I will reflect on some lessons from contemporary understandings of good governance practice for religious bodies, in light of the findings and recommendations in the Royal Commission's final report.

Given that authority and responsibility within dioceses and parishes are generally vested in individual church leaders,<sup>19</sup> and not in corporate entities/boards, some broadly accepted governance practices are of limited application, as they focus on the behaviour of boards.<sup>20</sup> However, the major principles of governance relate to norms, practices, dispositions and behaviours of those in leadership and are relevant to all forms of leadership. In this regard, it is noteworthy that the Royal Commission distinguished between the governance arrangements and management practices of some dioceses and congregations and that of many of the Catholic Church's education, health and welfare bodies (see Recommendation 16.7).

### **Should governance principles for corporate, government, and not-for-profit entities be applied to religious organisations?**

Good governance is the set of values, norms, structures and behavioural expectations that together comprise principles with universal applicability. That is not to deny the unique theological, spiritual and canonical foundations of religious bodies and of consecrated life. Nor is it to ignore the vexed precept of the separation of church and state. However, boundaries are porous, civil and cultural norms are not neatly confined to institutional types, and community expectations are pervasive and influential. And the contractual arrangements that many church bodies, particularly in the health, education and welfare sectors, enter into for government service delivery, have exacting civil regulatory requirements that require good governance practice.

Is it reasonable to expect church bodies to operate on comparable, or equal governance standards as corporate, government and not-for-profit (NFP) entities? Should religious entities be subject to the same, or to a comparable regulatory regime?

My answer to both these questions is 'Yes!' There are a number of reasons. First, these governance principles are the ethical standards expected by the society we live in, so that there would need to be clear and exceptional circumstances to exempt religious bodies from such standards. (The universal condemnation of those Australian cricketers involved in ball tampering in South Africa in March 2018, is a good illustration of how such society-wide norms are immediately thrown into sharp relief when transgressed.)

Second, most religious bodies are in receipt of monies from government, donors, or grant-makers. It is not unreasonable that they adopt generic, broadly-accepted governance standards as a means of accountability and assurance.

Third, the Catholic Church teaches the need for church bodies to understand and respect the cultural and legal norms of the communities in which they operate, and other churches have similar expectations.<sup>21</sup>

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18. See Recommendations 16.20–16.25.

19. See *1983 Code of Canon Law*, Canons 135–144.

20. This may be behind the observation in Volume 2, page 33 of the TJHC *Analysis Report* that whether the Royal Commission understood the complex theological reality of ecclesial governance structures within the Catholic Church is a 'moot point', and its attempts to equate church structures and processes to those of a commercial entity were 'misconceived'. On the other hand, the TJHC comments that it is hard to argue against the Royal Commission's findings in this area.

21. Although it was argued in evidence to the Royal Commission that the church teaches that all members of the church are to obey the civil law 'provided that it doesn't conflict with the moral order'. See Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 2*, 699, [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_16\\_religious\\_institutions\\_book\\_2.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_2.pdf)



For example, the 1983 Code of Canon Law provides that:

*Canon 22. When the law of the Church remits some issue to the civil law, the latter is to be observed with the same effects in canon law, in so far as it is not contrary to divine law, and provided it is not otherwise stipulated in canon law.*<sup>22</sup>

Fourth, it has been argued that the standards of governance within canon law are at least equal to those proposed for all other charities. With the advent of the Australian Charities and Not-for-profits Commission (ACNC) in December 2012, the regulatory expectations and legal requirements of all charities were set out in the *ACNC Act 2012 (Cth)*<sup>23</sup> and then the *Charities Act 2013 (Cth)*.<sup>24</sup> The legal position in common law countries, dating back to 1601, is that religious bodies are charities. They are therefore covered by the same regulatory provisions as all other charities. However, in the drafting of the ACNC Act, an exemption was created that saw a new type of entity enshrined into statute – the Basic Religious Charity (BRC). Entities that meet the eligibility criteria are exempt from the reporting obligations of other charities and not-for profits.<sup>25</sup> In arguing for the exemption, the position was put, and accepted at the time, that the governance standards contained in the ACNC Act, and those embedded in canon law, were equivalent. In practice, this exempts entities such as parishes from reporting their financials annually to the national regulator, and from the requirement to meet the governance standards. They do not have to be accountable to their ‘members’, nor assure the suitability or conduct of their ‘responsible persons’.

Curiously, reporting exemptions for Basic Religious Charities may find little support in the Vatican now. In a recent interview reflecting on the church’s response to the sexual abuse scandals globally, Fr Hans Zollner SJ, psychologist and theologian, and President of the Centre for Child Protection at the Pontifical Gregorian University in Rome, noted:

*We should be talking not only about the past and present, but the future. It’s in the best interests of the Church as an institution, a system, that we are as transparent as possible. That will help us to be more credible. Paradoxically, admitting your mistakes makes you more authentic and credible than when you try to hide them. This is a logic that works in the era of social media even more than before, and it’s something we haven’t yet understood.*<sup>26</sup>

For the reasons set out above, I would argue that it is reasonable to expect church bodies to meet the ACNC’s governance standards. At the time of the drafting of the ACNC Bill, the institutional deficiencies in church governance had not yet been exposed by the Royal Commission. In the wake of the Royal Commission’s revelations, it is now difficult to argue that church entities should continue to be exempt from meeting the same governance standards as other charities, from reporting compliance with these standards, or from facing the same consequences for breaching these standards.

The rationale set out here bolsters Recommendation 16.7 of the Royal Commission’s final report, that the Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes including in relation to issues of transparency, accountability, consultation and the participation of lay men and women.

Charities receive billions of dollars annually in funding and tax relief from governments at all levels. They are often in receipt of donations and philanthropic bequests, and many deliver services on behalf of governments. Some enter into contractual arrangements with commercial entities to deliver programs and services in areas such as health, disability and aged care. The single biggest grouping of charities in Australia is religious organisations, and they offer a broad range of services, often to vulnerable and marginalised beneficiaries such as the homeless, but also to more privileged members of our community through enterprises such as private NFP hospitals. Church bodies constantly interact with other entities, and established commercial requirements, especially standards of governance, should be expected of all.

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22. There are sometimes widely differing interpretations of canons, including Canon 22. In his testimony to the Royal Commission, Kieran Tapsell argued that this canon expresses a ‘general principal whereby canon law has priority over civil law wherever there is a conflict’ (see Royal Commission into Institutional Responses to Child Sexual Abuse. [2017]. *Final Report, Volume 16, Book 2*, 700, [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_16\\_religious\\_institutions\\_book\\_2.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_2.pdf)). Professor Rik Torfs takes a similar view in his keynote paper for the Health and Integrity conference. It should be noted that the existence of different English translations of the 1983 Code contributes to this diversity of interpretations.

23. *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*, <https://www.legislation.gov.au/Details/C2012A00168>

24. *Charities Act 2013 (Cth)*, <https://www.legislation.gov.au/Details/C2013A00100>

25. To meet the eligibility criteria, an entity must (amongst other factors) have religion as its sole purpose, not be an incorporated entity, not have Donor Gift Recipient (DGR) status, and not have received more than \$100,000 funding from government in the preceding three years.

26. San Martin, I. (2018, June). Expert on Abuse says it’s about, ‘who are we as a Church?’ *Crux*, <https://cruxnow.com/interviews/2018/06/01/expert-on-abuse-says-its-about-who-are-we-as-a-church>

## Governance standards

The not-for-profit (NFP) sector is often described as the third sector, after government and the commercial (corporate) sectors. There are some differences in the governance standards for each of the three sectors, but also a high degree of commonality. This section will outline some key governance standards, principles and codes across the three sectors and then identify those sufficiently common to be described as generic, and those with particular application to religious bodies.

Corporate governance expectations are embedded in legislative requirements, including in the *Corporations Act 2001* (Cth);<sup>27</sup> in case law; in regulatory requirements; and in non-binding principles or guidelines, such as the Australian Securities Exchange Ltd (ASX) and Australian Institute of Company Directors (AICD) governance principles.<sup>28</sup> There are annual public reporting cycles to shareholders and reporting requirements to regulatory bodies. Increasingly, activist shareholder bodies and large investment funds are also holding corporate boards to account.

While many of the governance principles relate to the expectations of boards, and in that respect are of limited application to church models of leadership at the hierarchical level, the fundamental norms of behaviour, competencies and commitments are principles that apply to all participating in a developed society, whether individuals or corporate citizens. A recent debate about the degree of prescription and 'political correctness' in corporate governance requirements triggered by new AMP Board Chair, David Murray,<sup>29</sup> has not diminished acceptance of the need for and benefits of governance principles or standards. As Dr Angelo Aspris, Senior Lecturer in Finance at the University of Sydney, has commented:

*While good governance and corporate performance go hand in hand (with plenty of evidence to support this), we should never pretend, even for a moment, that adhering to best practice will prevent the next Big-Un, Blue Sky, RFG, GetSwift or Dick Smith.*

*It should be noted, however, that the development of ASX corporate governance principles has been effective in raising standards of corporate behaviour, disclosure and accountability on average. Credit is due here. But this is where it ends. Murray's main criticism is that there is now significant regulatory overreach.<sup>30</sup>*

A comparison of the ASX Corporate Governance Principles<sup>31</sup> and the AICD Guiding Principles of Good Governance,<sup>32</sup> reveals that both identify ethics and accountability as key principles while using slightly different language (such as timely and balanced disclosure for accountability). That boards work to instil a culture that supports the organisation's purpose is included in the AICD principles (and the ASX has been criticised for the absence of a principle relating to culture in its current version). It is noteworthy that the ASX Corporate Governance Principles are currently under review and that the ASX does identify 'integrity in corporate reporting' as a key principle in the 2014 version. Both sets of principles include risk management, arguably important for corporate and individual models of leadership.

In the government sector, there are behavioural standards for public sector employees that, if met, support good governance practices. Commonwealth public servants are required to comply with the Australian Public Service Commission (APSC) code of conduct, which specifies impartiality, commitment to service, accountability, respect and ethical behaviour.<sup>33</sup> Australia's state and territory jurisdictions have a range of very similar requirements set out for their employees, departments and government boards.

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27. *Corporations Act 2001* (Cth), <https://www.legislation.gov.au/Details/C2018C00275>

28. The Australian Securities Exchange Limited (ASX) has published three editions of the ASX Corporate Governance Principles and Guidelines for Corporate Australia. The ASX also has binding rules for listing on its exchange. The Australian Institute of Company Directors (AICD) has published *Guiding Principles of Good Governance* and a range of materials to support their implementation, as well as *The Good Governance Principles and Guidance for Not-for-Profit Organisations* (which are currently under review).

29. David Murray kicks off a debate that is clearly needed, *Australian Financial Review*, 2 August 2018, <https://www.afr.com/opinion/editorials/david-murray-kicks-off-a-debate-that-is-clearly-needed-20180801-h13fys>; Aspris, A. (2018, 3 August). AMP's Murray right to question the value of corporate governance rules, *The Conversation*, <https://theconversation.com/amps-murray-right-to-question-the-value-of-corporate-governance-rules-100954>

30. Aspris, A. (2018, 3 August). AMP's Murray right to question the value of corporate governance rules, *The Conversation*.

31. See ASX Corporate Governance Council. (2014). *Corporate Governance Principles and Recommendations*, 3<sup>rd</sup> edition, <https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf>

32. See Australian Institute of Company Directors. (2017). *Guiding Principles of Good Governance*, <http://www.companydirectors.com.au/~media/resources/director-resource-centre/governance-and-director-issues/guiding-principles-of-good-corporate-governance.ashx?la=en>

33. Australian Public Service Commission. (2014). *Code of Conduct*, <https://www.apsc.gov.au/code-conduct>

By way of example, in Western Australia's Public Sector Commission (WA PSC) *Good Governance Guide for Public Sector Agencies*,<sup>34</sup> ethics and integrity, accountability, and risk management are once again included. The APSC conduct code, the WA PSC governance guide, and the ASX principles all note the importance of respect.

The expectations of individual directors of corporate entities in the government sector is set out in the Victorian Public Sector Commission's 2017 directors' guide to public entity governance.<sup>35</sup> An extract below advises directors on their responsibilities and accountabilities:

*While the same general principles of governance operate in the public, not-for-profit and private sectors, some differences of emphasis apply in the public sector. These differences arise from the fact that public entities are part of the executive arm of Government. That is, they are created, resourced and supported by Government to carry out a public function. Therefore, public entities need to implement and comply with government policy and applicable legislation. As a consequence, this generally means there are higher transparency requirements than in the private sector.*<sup>36</sup>

The emphasis in the VPSC guidance on transparency, proper behaviours, values and stakeholder engagement is not surprising for a public sector body.

Finally, the NFP sector is required to comply with regulatory requirements at state and territory level, and with the ACNC and Charities Acts if they are charities, as are most church agencies apart from Basic Religious Charities. Like corporate Australia, the charitable sector is very diverse, with the top 10 percent of charities by size commanding some 80 percent of the revenue in the sector. Around 37 percent of charities are very small, with revenue under \$50,000 per annum, and most of these are run by volunteers. Many charities of all sizes are reliant on the services of volunteers. Given the nature of the sector, the ACNC's governance standards were pitched at a level to ensure that the broad range of charities could understand their obligations and comply. Whilst generally applying to agencies, rather than to the institutional church or religion, the ACNC governance standards contain generic governance principles that should be considered by all institutions, and particularly by those with leadership responsibilities.<sup>37</sup>

The Australian Institute of Company Directors (AICD) *Good Governance Principles and Guidance for Not-for-profit Organisations* fleshes out the baseline governance expectations, with an eye both to the ACNC Governance Standards and its own guiding principles on good corporate governance.<sup>38</sup> It is noteworthy that the Royal Commission's final report referred to the utility of these standards.<sup>39</sup>

It was a strong focus of the ACNC during its establishment phase that charities were provided with accessible materials, education and advice on the governance standards. The NFP sector had lobbied for decades for a fit-for-purpose national regulator and there was a clear disposition by most charities to comply with the new regulatory requirements. While a small minority of religious leaders and entities

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34. There are nine governance principles contained in Western Australia's Public Sector Commission *Good Governance Guide for Public Sector Agencies*. The guide says attention to these principles will assist agencies to have appropriate systems and structures to meet accountability obligations and achieve a high level of organisational performance. See Western Australia Public Sector Commission. (2018). *Good Governance Guide for Public Sector Agencies*, Perth, <https://publicsector.wa.gov.au/public-administration/public-sector-governance/good-governance-guide-public-sector-agencies>

35. Victorian Public Service Commission. (2015). *Welcome to the Board: Directors' Guide to Public Entity Governance*, Melbourne, <https://vpsc.vic.gov.au/html-resources/welcome-to-the-board/>

36. Extract from Victorian Public Service Commission, *Welcome to the Board: Directors' Guide to Public Entity Governance* (Section 2.1): While the same general principles of governance operate in the public, not-for-profit and private sectors, some differences of emphasis apply in the public sector. These differences arise from the fact that public entities are part of the executive arm of Government. That is, they are created, resourced and supported by Government to carry out a public function. Therefore, public entities need to implement and comply with government policy and applicable legislation. As a consequence, this generally means there are higher transparency requirements than in the private sector ... [T]he emphasis on demonstrating proper behaviours and values is also generally greater ... [S]ince entities use state power and resources, citizens, media and integrity bodies monitor what entities do and how they do it. Adverse findings or publicity can affect directors' and entities' reputations and can also lead to removal by the Minister.

37. Registered charities (except for a limited class of charities called 'basic religious charities') must meet a set of five 'governance standards' to be and remain registered with the ACNC. The governance standards are a set of five core, minimum standards of governance. Broadly, they require charities to remain charitable, operate lawfully, and be run in an accountable and responsible way. They are intended to help charities remain trusted by the public and continue to do their charitable work. See Australian Charities and Not-for-profits Commission, *ACNC Governance Standards*, <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-standards>

38. Australian Institute of Company Directors. (2013). *Good Governance Principles and Guidelines for Not-for-Profit Organisations*, <http://www.companydirectors.com.au/~media/cd2/resources/director-resources/nfp/pdf/nfp-principles-and-guidance-131015.ashx>

39. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16*, 147, <https://www.childabuseroyalcommission.gov.au/making-institutions-child-safe>

were opposed to the introduction of a national charity regulator, many religious organisations to whom the regulatory regime applied, used the introduction of the legislation to review their governance arrangements, reorganise reporting relationships, and refresh their governing rules. In my experience, most of those who had reservations at the start came to see the benefits of light-touch regulatory oversight, at least for their funded agencies.

The AICD Governance Principles and Guidelines for NFP Organisations and the ACNC Governance Standards share with many of the corporate and government principles, standards and guidelines, an emphasis on accountability, culture, integrity, ethics, risk management and stakeholder engagement. Given the critical importance of charities working toward their charitable purpose, it is not surprising that both the AICD NFP principles and the ACNC standards include these elements. The AICD and other peak bodies are also committed to diversity – in particular, to gender equity in organisational leadership, a key feature of good governance implicit in the principles (and supported by extensive documentation and research findings in equal opportunity legislation).

The Royal Commission's final report contains many references to the absence (or weak presence) of lay involvement in Catholic Church governance,<sup>40</sup> especially of laywomen, and notes the benefits of inclusivity. The introduction of a new canonical legal form of governance, the Public Juridic Person,<sup>41</sup> which is being adopted by a number of Australian Catholic religious congregations to oversee their enterprises, has attracted a broad range of lay women and men experienced in professional governance practice into governance roles in these institutions. This represents a useful model for other church agencies to examine.

I want to briefly examine two other key documents of relevance to this paper, before moving to reflection. In December 2017, a group of professional member bodies published *Managing Culture: A Good Practice Guide*,<sup>42</sup> following concerns aired by the Australian Securities and Investment Commission (ASIC) and the Australian Prudential Regulation Authority (APRA) about evidence of poor corporate practice and the significant risks around poor corporate culture in Australia. It defines governance as having four key components – transparency, accountability, stewardship, and integrity. It notes that culture is inextricably linked to governance, and that strong governance underpins a healthy culture. It proposes that those responsible for the governance of an organisation should embed an ethical framework that is practical, authentic, stable and understandable, noting that the culture of an organisation must be driven and modelled by the leaders. It also cites the UK Banking Standards Board characteristics of good culture – honesty, respect, openness, accountability, competence, responsiveness, personal and organisational resilience, and shared purpose.<sup>43</sup> If we examine these attributes in relation to more broadly framed governance principles and standards outlined earlier, we find a striking congruence.

Finally, the report of the Prudential Inquiry into the Commonwealth Bank of Australia (CBA) commissioned by Australian Prudential Regulation Authority (APRA), not only examines the governance and fiduciary conduct of the CBA but provides general advice in its commentary and findings.<sup>44</sup> I will focus on two themes from the report which are of relevance to our discussion. First, the authors note that 'compliance obligations are broader than strict legal requirements and incorporate standards of integrity and ethical behaviour'.<sup>45</sup> The report also notes that 'compliance functions globally have more recently been focused not just on evaluating with business units whether an activity or product is allowed under regulation ('can we?') but, critically, whether they should engage in such an activity or product in the first place ('should we?').'<sup>46</sup>

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40. It is important to note the difference between governance and management when analysing the involvement of laypeople, especially women. Increasingly women are taking key management roles in church agencies, including smaller numbers in diocesan entities (as distinct from incorporated health, education and welfare bodies).

41. A PJP is a church entity which is able to act in the name of the church. Canon law defines a PJP as 'an aggregate of persons or things constituted by the competent ecclesiastical authority to fulfil a proper function given them in view of the common good' (Can. 114 §1).

42. See Chartered Accountants Australia and New Zealand, The Ethics Centre, Governance Institute of Australia and Institute of Internal Auditors Australia. (2017). *Managing Culture: A Good Practice Guide*, <https://www.iaa.org.au/technical-resources/publications/managing-culture---a-good-practice-guide>

43. *ibid*, 22.

44. The Australian Prudential Regulation Authority (APRA) established an inquiry into the Commonwealth Bank of Australia (CBA) following a series of damaging incidents and business practices that had damaged the reputation and public standing of the bank. Headed by former APRA Chairman, John Laker AO, with members Jillian Broadbent AO and Graeme Samuel AC, the inquiry panel not only investigated the CBA's governance shortcomings and malpractice, but also presented its findings in light of accepted standards of good governance practice.

45. APRA. (2017). *Prudential Inquiry into the Commonwealth Bank of Australia*, 7, [https://www.apra.gov.au/sites/default/files/CBA-Prudential-Inquiry\\_Final-Report\\_30042018.pdf](https://www.apra.gov.au/sites/default/files/CBA-Prudential-Inquiry_Final-Report_30042018.pdf)

46. *ibid*, 35.



My reflection on this apt distinction is that many of the lawyers advising church leaders and agencies on their responses to allegations of sexual misconduct over time would have been more helpful had they understood this ethical dichotomy.

The APRA-commissioned report also looks at accountability, given the legalistic, perfunctory and defensive posture that the CBA displayed with oversight bodies. It notes that ‘accountability means being answerable for actions, decisions and outcomes within one’s area of control and influence ...’, and that ‘... accountability can be delivered through formal frameworks and culture ... [H]owever, the cornerstone of culture is the actions and behaviours of the CEO and the Group Executives, and the standard to which they are held by the Board’.<sup>47</sup> The parallel for a Catholic Church leader is that the cornerstone of culture is the actions and behaviours of the bishop and the standards to which he is held by the Vatican.

The Royal Commission’s final report found deficiencies in both canon law and Vatican procedures. The hierarchical nature of church governance; the independence, power and lack of accountability of bishops; deficiencies in relation to accountability, transparency and inclusion in decision-making; and the slow and inconsistent responses from the Vatican were amongst the governance problems besetting the local church. As noted earlier, the Royal Commission recommended that the ACBC review governance and management structures of dioceses and parishes, with an eye to lessons from the management and governance of its health, welfare and education bodies. Such a broad governance review might consider requiring all dioceses to publish annual reports with detailed financial statements, greater use of advisory bodies at parish and diocesan levels, and the inclusion of independent/community representatives on boards (something The Salvation Army is introducing).

The APRA report into the CBA has already been very influential on governance practice in Australia. Given its concurrence with the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, its influence is likely to continue. Other inquiries into corporate behaviour in Australia, such as the 2017 independent review of the board of the Certified Practising Accountants (CPA),<sup>48</sup> also contain important lessons on proper relationships, reasonable remuneration, transparency and organisational culture.

### Personal reflection

One of the challenges in addressing issues at the nexus of civil, canonical and theological understandings, is the use of language. Whereas the APRA inquiry into the CBA refers to the ‘could we?’/‘should we?’ dichotomy, we might expect religious entities to speak more in terms of ethics and morals. While secular bodies speak of governance, many churches are more likely to speak of divine guidance, discernment and relationships. These communication differences can pose challenges in getting the conversation started, but they are important to acknowledge, because people may be in furious agreement but using different language.

The incident that best illustrates this for me is the use of language in the report of the 2009 Victorian Bushfires Royal Commission. I was one of the three Commissioners – none of us knew one another before the inquiry. In our early conversations, we identified that the sanctity of human life was paramount in our deliberations. We discovered that we were all Catholic! It is noteworthy that in the report we talk of the primacy of human life – secular language, but the same concept.

I have worked and volunteered in a number of church agencies and was appointed as inaugural Commissioner of the ACNC, hence I have many first-hand and professional insights into the conduct of religious agencies. I have great respect for the overwhelming majority of volunteer, consecrated, and paid personnel who contribute to the varied work of churches in Australia. However, I have witnessed power asymmetries, weak transparency (including within church bodies), and governance tensions at the interface between civil and canonical codes.

I will illustrate with a short anecdote. At one stage of my career, I sat on the governing board of a well-run church agency. This entity did no public reporting. When some of us pointed to the benefits of an annual report, the Chair became quite agitated. This person fulminated, ‘Transparency! Transparency! Has anyone stopped to ask if it’s a good idea?’ The problem was that this person had been appointed by

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47. *ibid*, 58.

48. McPhee, I., et al. (2017, 30 November). *CPA Australia Independent Review Report*, Melbourne, <https://static1.squarespace.com/static/596d2063579fb3247d043fbc/t/5a1f54fa9140b75e12b65280/1512002865635/CPA+Australia+Independent+Review+Final+Report.pdf>



the bishop and was seen to represent the views of the bishop. Therefore, it sent a chill not just through the committee, but other agencies who heard of the encounter. It operated normatively, dampening accountability not only in that agency, but in the diocese. There was nothing to hide – the agency was well run. But the default position was to quash transparency and avoid any scrutiny. A series of Royal Commission recommendations on child safety and church governance and the Catholic Church's own draft Child Safe Standards now make this position untenable.

Another illustration is of an incident much earlier in my career, in the mid-1970s when I was a neophyte teacher in a Catholic school in Western Australia. This was the era of the Karmel Commission and generous grants for non-government schools – a new phenomenon at that time. My school had applied for a library grant, but then proceeded to use the money to create a special education centre. Even as a young teacher, this seemed wrong to me. When I pointed out the discrepancy to the nun in charge, she patted me on the hand and said, 'Don't worry dear. It's all God's work.' Her assurance didn't assuage my unease. The nun concerned had no ambiguity in her mind about the creative use of public monies for God's work. This is an example of conduct that might meet a personal code of ethics – after all, she was not about to benefit personally. However, it would not meet a basic fiduciary and governance standard – monies should be spent for the purposes for which they are given.

Unfortunately, in the intervening decades, I have seen, and continue to see, examples where those working for church agencies fail to fully grasp the inadequacies and illegalities of such an approach. 'Doing God's work' is not an adequate rationale for ignoring basic governance precepts. Ongoing education in good governance and transparent reporting (both recommended by the Royal Commission) are key means by which to address such behaviours.

Shrinking numbers of churchgoers and regular financial contributors are reducing parish and diocesan coffers and necessitating the identification of other sources of income. In addition, the financial redress of survivors of child sexual assault will put stress on the viability of many congregations and dioceses. In locating other sources of income, those charged with managing the financial affairs of religious bodies would be wise to keep ethical considerations and fiduciary standards in their line of sight – the 'could we?'/ 'should we?' dichotomy. In the event that one church agency freely agrees to provide financial support to another, then it has the status of a donor. However, if the 'donor' agency is operating under direction or duress, the transaction might at best be improper, and at worst illegal.

I have seen professional advisors, awed in an episcopal presence and too keen to please, advise on courses of action and behaviours that might be within the letter of the law but are certainly not within its spirit.<sup>49</sup> The onus is on church leaders to reform the institutional church by adopting the general governance principles identified earlier, relating to culture, ethical behaviour and integrity, and to avoid short-term gain at the risk of a longer term loss of moral authority and reputation. When I was ACNC Commissioner, I urged those responsible for charities to act ethically and within the spirit of the law or risk reducing trust in their enterprise and trashing their brand. This is a lesson learned too late by Oxfam UK, who have suffered a massive blow to their reputation and their bottom line following their recent inept handling of historic sexual abuse allegations.<sup>50</sup>

A further reflection is that there is not always an easy fit between the requirements of canon and civil law for the management of church agencies, and the broader relationships between church and state. The bishop is appointed with absolute authority within the diocese (subject to canon law, civil law and Vatican requirements). Members of the diocese are subject to his authority and are expected to obey. Difficulties can arise when senior lay personnel are also subject to the requirements of government contracts and are personally responsible and liable for the proper expenditure of monies from the public purse. The requirements of directors of Victorian Government boards outlined earlier, illustrate the elevated expectations from government of those delivering contracted services such as education, health or welfare. It is notable that there are higher transparency requirements, and that integrity officers such as auditors-general and anti-corruption commissioners have an interest in their work.

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49. Evidence to the Royal Commission in relation to the Ellis case is a good example of this.

50. Elgot, J., and McVeigh, K. (2018, 21 February). Oxfam loses 7,000 donors since sexual exploitation scandal, *The Guardian*, <https://www.theguardian.com/world/2018/feb/20/oxfam-boss-mark-goldring-apologises-over-abuse-of-haiti-quake-victims>; Khan, E. (2018, 18 May). Oxfam to lay off 100 people as funding falls following aid worker sex scandal, *The Independent*, <https://www.independent.co.uk/news/uk/home-news/oxfam-charity-lay-off-100-people-haiti-sex-scandal-funding-cut-a8357476.html>

Church agencies are in receipt of tens of billions of dollars in funding gleaned by governments from taxpayers. It would be wise for the proposed review of governance arrangements in the Catholic Church (and for other churches) to consider not only their structures, but their management practices and reporting relationships, so that there is a greater understanding of roles and responsibilities – and liabilities. As well, the reporting obligations mandated by accountability requirements warrant a proactive rather than reluctant stance. One of the lessons from the APRA inquiry into the CBA, is that the bank had defensive and perfunctory relationships with regulatory bodies. Far better for religious organisations funded by government to get onto the front foot, motivated by a commitment to transparency and accountability.

## Response of the Catholic Church

There are signs of hope. Pope Francis' recent letter acknowledged the moral failure and criminal behaviour and pledged to rectify the culture and practice that allowed it to flourish:

*Looking back to the past, no effort to beg pardon and to seek to repair the harm done will ever be sufficient. Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated ... [T]he extent and the gravity of all that has happened requires coming to grips with this reality in a comprehensive and communal way ... [I]t is impossible to think of a conversion of our activity as a Church that does not include the active participation of all the members of God's People.<sup>51</sup>*

One of the Pontiff's key advisers on handling sexual misconduct, Cardinal Seán O'Malley, issued a forthright statement of the need for change:

*The Church must embrace spiritual conversion and demand legal transparency and pastoral accountability for all who carry out its mission. This transformation is not easily achieved, but in all aspects it is imperative. The way we prepare priests, the way we exercise pastoral leadership and the way we cooperate with civil authorities; all these have to be consistently better than has been the case ... [T]he clock is ticking for all of us in Church leadership, Catholics have lost patience with us and civil society has lost confidence in us. But I am not without hope and do not succumb to despondent acceptance that our failures cannot be corrected.<sup>52</sup>*

Cardinal Daniel DiNardo, President of the US Conference of Catholic Bishops, described the handling of allegations regarding former Cardinal McCarrick and the findings of the Pennsylvania Grand Jury inquiry, as a 'moral catastrophe':

*Whatever the details may turn out to be regarding Archbishop McCarrick or the many abuses in Pennsylvania or anywhere else, we already know that one root cause is the failure of episcopal leadership ... [T]he overarching goal in all of this is stronger protections against predators in the Church and anyone who would conceal them, protections that will hold bishops to the highest standards of transparency and accountability.<sup>53</sup>*

In Australia, following publication of the pope's letter, the ACBC President, Archbishop Mark Coleridge, issued a call to action on behalf of his fellow bishops:

*These are important words from Pope Francis, but words are not enough. Now is the time for action on many levels.<sup>54</sup>*

The formal response of the ACBC and CRA to the Royal Commission's recommendations contained strongly worded commitments for action to protect the vulnerable and improve governance. However, as Cardinal O'Malley noted, such guarantees now fall on jaded ears. The church faithful and civil society are reserving judgement, and state and territory governments are pitting themselves on a collision course with church authorities by introducing legislation to mandate reporting of child abuse revealed in the confessional.

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51. Pope Francis, *Letter to the People of God*, 20 August 2018, <https://www.vaticannews.va/en/pope/news/2018-08/pope-francis-letter-people-of-god-sexual-abuse.html>

52. Cardinal O'Malley: legal transparency and pastoral accountability needed, *The Boston Pilot*, 16 August 2018, <https://www.thebostonpilot.com/article.asp?ID=183059>

53. President of U.S. Bishops' Conference announces effort that will involve laity, experts, and the Vatican as U.S. bishops resolve to address 'moral catastrophe', United States Conference of Catholic Bishops, 16 August 2018, <http://usccb.org/news/2018/18-139.cfm>

54. Statement from ACBC President, Archbishop Mark Coleridge, Australian Catholic Bishops Conference, 21 August 2018, <https://www.catholic.org.au/acbc-media/media-centre/media-releases-new/2137-acbc-statement-on-pope-francis-letter-on-sexual-abuse/file>

There is some assurance in the reflections of the incoming Archbishop of Melbourne, Archbishop Peter Comensoli, on his appointment to Australia's largest diocese in a post-Royal Commission era, in an interview with *The Tablet* on 18 July 2018:

*The new Archbishop of Melbourne says that rebuilding trust in the Church requires looking at all governance while ensuring that safeguarding procedures are compliant. 'It is also about how do I, as a bishop, find a way of building a safe culture based on trust and compassion for those who have been abused, and for the families harmed by abuse', he explained.*<sup>55</sup>

The Royal Commission's final report identified an interplay of factors that contributed to the Catholic Church's response to child sexual abuse:

*Child sexual abuse by Catholic clergy and religious may be explained by a combination of psychosexual and other related factors on the part of the individual perpetrator, and a range of institutional factors, including theology, governance and culture. The same theological, governance and cultural factors that contributed to the occurrence of the abuse also contributed to inadequate responses of Catholic institutions to that abuse.*<sup>56</sup>

The Commitment Statement from the leadership of the Catholic Church in Australia during the conduct of the Royal Commission<sup>57</sup>, and the subsequent release of the Catholic Professional Standards Ltd draft Child Safe Standards, based on the 10 Child Safe Standards identified by the Royal Commission, were positive and proactive first steps which acknowledged wrongdoing and addressed the better management of child abuse allegations in the future.

In Catholic Professional Standards Ltd<sup>58</sup> and the Implementation Advisory Group,<sup>59</sup> the Catholic Church in Australia has formalised the establishment of independent mechanisms whose task is to progress the Royal Commission's recommendations. Local initiatives such as the reform of governance arrangements in the Diocese of Sale,<sup>60</sup> and the workshops with Fr Hans Zollner SJ, auspiced by the Archbishop of Brisbane in 2017 and the bishops of Wollongong and Paramatta in 2018, are examples of proactive local responses.

However, these necessary and important steps do not address the broader critique from the Royal Commission of factors such as clericalism, organisational structure, governance, leadership, canon law, and other factors such as the selection, training and oversight of people in ministry, the confessional, and the effect of celibacy. The German Bishops report and the Pennsylvania Grand Jury report, following so closely on the Royal Commission's final report, illustrate the degree to which these are global issues. Indeed, Pope Francis refers to clericalism and the exclusion of lay Catholics in his letter *To the People of God*.<sup>61</sup> As noted earlier, the exclusion of women from most aspects of Catholic Church governance was observed by the Royal Commission as a factor which may have contributed to the inadequate response of Catholic Church institutions to sexual abuse allegations. This short paper does not have time to explore all these factors, but will make brief comment on the three that relate most closely to good governance practice – organisational structure, leadership, and canon law.

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55. Lamb, C. (2018, 17 July). Melbourne's new archbishop says promoting the Church as an 'institution' allowed "great evils" to happen, *The Tablet*, <https://www.thetablet.co.uk/news/9412/-melbourne-s-new-archbishop-says-promoting-the-church-as-an-institution-allowed-great-evils-to-happen>. See also Cowie, T. (2018, 31 July). Melbourne's new Catholic archbishop hopes to help heal city's wounds, *The Age*, <https://www.theage.com.au/national/victoria/melbourne-s-new-catholic-archbishop-hopes-to-help-heal-city-s-wounds-20180731-p4zumb.html>

56. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Executive Summary*, 67, <https://www.childabuseroyalcommission.gov.au/preface-and-executive-summary>

57. The Commitment Statement was first published in the Truth Justice and Healing Council's *Submission in response to the Royal Commission's Issues Paper No. 2, Towards Healing*, 20 September 2013, page 1, [http://www.tjhcouncil.org.au/media/39435/30549468\\_2\\_TJHC-Towards-Healing-submission-30-Sep-2013.pdf](http://www.tjhcouncil.org.au/media/39435/30549468_2_TJHC-Towards-Healing-submission-30-Sep-2013.pdf)

58. Catholic Professional Standards Ltd (CPSL) was formed by the ACBC and CRA in response to the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse. It operates independently from the church. There are no bishops, priests or religious brothers or sisters on the CPSL Board. CPSL board directors are laypeople with professional expertise in the fields of law, education, human services, safeguarding and regulation. (From CPSL website <https://www.cpsltd.org.au/about-us/who-we-are/>)

59. The Implementation Advisory Group will advise the ACBC and CRA on reforms to ensure that Catholic institutions and communities are places of safety and transparency and advise on matters such as support of survivors; governance and church culture; child-focused standards; National Redress Scheme; seal of confessional and mandatory reporting; handling of abuse allegations and concerns.

60. See [http://www2.ceosale.catholic.edu.au/Governance\\_of\\_Catholic\\_Education.aspx](http://www2.ceosale.catholic.edu.au/Governance_of_Catholic_Education.aspx)

61. Pope Francis, *Letter to the People of God*.

Extracts from the Executive Summary of the Royal Commission's final report illustrate a clear view on inadequacies in organisational structure and governance:

*The governance of the Catholic Church is hierarchical ... [T]he powers of governance held by individual diocesan bishops and provincials are not subject to adequate checks and balances. There is no separation of powers, and the executive, legislative and judicial aspects of governance are combined in the person of the pope and in diocesan bishops. Diocesan bishops have not been sufficiently accountable to any other body for decision-making in their handling of allegations of child sexual abuse or alleged perpetrators ... [T]he hierarchical structure of the Catholic Church created a culture of deferential obedience in which poor responses to child sexual abuse went unchallenged ... [T]he exclusion of laypeople and women from leadership positions in the Catholic Church may have contributed to inadequate responses to child sexual abuse. In accordance with contemporary standards of good governance, we encourage the Catholic Church in Australia to explore and develop ways in which its structures and practices of governance may be made more accountable, more transparent, more meaningfully consultative and more participatory, including at the diocesan and parish level.<sup>62</sup>*

The recommendation that the ACBC should conduct a national review of governance and management (Recommendation 16.7), provides a timely opportunity for the senior leadership of the Catholic Church in Australia to examine its structures, cultural norms, and operating procedures in light of contemporary good governance practice, some of which have been outlined earlier. The conduct of the review itself will be telling, in terms of the degree of consultation, levels of inclusion, and amount of transparency. With the passage of time, it is likely that the potency and urgency of the findings of the Royal Commission will diminish, and religious bodies may revert to business as usual – hence the hope that church leaders of all religious affiliations will proactively use the Royal Commission's findings to examine their practices against their own precepts and good governance principles – not just in relation to the prevention of child sexual abuse, but more broadly. For the Catholic Church, the Plenary Council of 2020–21 is a timely focal point.

In relation to leadership, the Royal Commission found that prioritising reputation over pastoral responses led to catastrophic consequences for the victims of child sexual abuse. It queried the basis and process for the selection of bishops and recommended that the ACBC request the Holy See to amend the appointment process for bishops. This is one of a number of recommendations (along with the recommendation that there should not be an exemption for the seal of the confessional in proposed mandatory reporting laws in relation to child sexual abuse) that have implications for the global church. This puts the ACBC in the position of potentially breaking new ground for the global church in their handling of a local response. This could be viewed either as a threat or an opportunity. I see it is an unprecedented opportunity for leadership from a local church that already has taken the initiative and put the mechanisms in place for an historic Plenary Council in 2020.

The Royal Commission found that canon law was unhelpful in guiding responses to allegations of child abuse: 'We heard that canon law as it applied to child sexual abuse was cumbersome, complex and confusing.'<sup>63</sup> The Royal Commission made a number of recommendations for reform of aspects of canon law, including the establishment of a national ecclesiastical court.

All organisations in the corporate, government and NFP sectors are subject to binding regulatory requirements, non-binding guidelines, and good practice codes, principles and standards that can also assist in supporting the primacy of ethical practice in the culture and conduct of religious organisations. As the APRA inquiry into the Commonwealth Bank of Australia found, legalistic and defensive postures are unhelpful – good practice adopts proactive approaches to ensuring that throughout the organisation, the 'should we?' approach takes precedence over the 'could we?'. And recent good governance guides have emphasised the importance of culture led from the top to guide practice throughout the enterprise. As argued earlier, churches may use different language, but these principles and behaviours are universal. Ethics, integrity, the dignity of the human person, and care for the vulnerable sit at the heart of church practice – its leaders now have the opportunity to reassert them.

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62. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Executive Summary*, 69, <https://www.childabuseroyalcommission.gov.au/preface-and-executive-summary>

63. *ibid*, 70.



## Concluding comment

Australia's Royal Commission into Institutional Responses to Child Sexual Abuse, conducted mainly in the public eye over a period of five years, has produced a watershed moment for religious organisations in Australia. The recent release of the Pennsylvania grand jury report created a global tipping point for the Catholic Church (only reinforced by the leaking of the German Bishops Report), and now places the ACBC and CRA response in an international context, with the episcopacy and the People of God looking to the Vatican for leadership. The meeting in February 2019 of the presidents of all the church's conferences of Bishops, and the announcements for action that follow will be a critical step in restoring confidence amongst the faithful and broader civil society.

The evil goes beyond Australia and beyond child sexual abuse, because the deeds perpetrated were able to flourish due to systemic institutional deficiencies of culture, governance and management in a global institution. Watching to see the response are the victims and survivors of child sexual abuse and their families, the faithful who remain affiliated, the volunteers and professionals who work for church agencies, the broader Australian community, and sections of the global community. There are green shoots emerging from this wasteland of poor practice – formal responses and local initiatives are promising. I hope and pray for wise discernment, courageous leadership and good judgement.

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# Church governance and leadership: 'An autocracy meets good governance'

Peter Johnstone

In February 2016, Cardinal George Pell was asked by Senior Counsel of the Royal Commission into Institutional Responses to Child Sexual Abuse about the failures of Catholic bishops across the world to act on clerical child sexual abuse. He was specifically asked whether those failures suggested any structural problems in the way in which the Catholic Church operates. Cardinal Pell, in a denial that has been echoed by many bishops and become known as the 'few bad apples' defence, replied *inter alia*: 'I think the faults overwhelmingly have been more personal faults, personal failures, rather than structures.'<sup>1</sup> But those same 'personal' faults and failures have occurred in church jurisdictions across the whole world.

Cardinal Pell's response, therefore, begs the following questions:

1. How is it that so many leaders of the Catholic Church committed such evil, throughout the world and up to the Holy See, protecting paedophiles and exposing further children to clerical sexual abuse?
2. What does such pervasive evil say about the state of the church's governance?
3. Does not this remarkable coincidence of criminal behaviour by so many church leaders committed to the teachings of Jesus evidence substantial structural, cultural and governance failures?

Cardinal Pell's response, the 'bad apples' defence, denies the obvious: such egregious personal behaviour on the part of the church's leaders across the world, shows a more fundamental problem: an institution acting contrary to its most basic responsibilities. This behaviour of so many of the church's leaders showed an organisation primarily concerned with a devious defence of its reputation, a defence that imperilled children and offended gravely against the very teachings of the church.

The Royal Commission has exposed an organisation whose system of governance still reflects its roots in the early Roman systems of autocratic government, and which exercises power in a manner foreign to its founder, obsessed with its status more than its mission, with a clericalist culture based on the unquestioned authority of those who hold office with little respect for the views of an increasingly informed and articulate faithful.

## The concept of governance

Governance is a concept central to the efficacy of any human organisation, and refers to the means by which an organisation is directed and controlled in pursuing its mission and strategic objectives. Sound leadership is impossible without good governance addressing crucial matters of concern to every good leader, such as strategic direction, authority, accountability in decision-making, reporting, relationships, and particularly the modelling of principles, beliefs and values. Structures and culture are critical to effective governance and sound leadership.

The dysfunctional culture of the church resists notions of leadership that detract in any way from the ability of its clerical leaders to exercise unfettered authority without consultation or accountability. This thinking seems to be based on a presumptuous faith that God is in the business of protecting church leaders from error even when they fail to respect the best of human practices.

There is much resistance in the institutional church to the notion of accountability and indeed to the very relevance of good governance. Some bishops see the church as exempt from such basic (and Christian) standards of human behaviour. Not so long ago, an Australian bishop protested to me that governance was a matter for boards and not really relevant to the church. Boards are of course just one means of ensuring organisational accountability and effectiveness, and the Catholic Church has adopted them in many of its own institutions and agencies. But regardless of the means adopted, the principles of good governance must always guide organisational structure and practice. God has not exempted the church

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1. Royal Commission into Institutional Responses to Child Sexual Abuse. (2016, 29 February). *Transcript of G Pell, Case Studies 28 and 35*, 16186:21–28.

and its hierarchy from the responsibility of governing well and in accordance with best human practice. Indeed, it is simply good theology that God expects us to be accountable for our behaviour and to use our human gifts fully in doing God's work.

Cardinal Donald Wuerl proposed a key governance question for the church in 2003 at a Yale University conference called to address the then expanding child sexual abuse crisis. He asked, 'How do we provide to the leadership of the church a mechanism to be accountable to the whole body?'<sup>2</sup> But such statements by church leaders appear to have been no more than lip service. Cardinal Wuerl, Pittsburgh's bishop for 18 years until 2006, is among those named in the shocking recent report of the Pennsylvania grand jury as having failed to shut down abusers.<sup>3</sup>

Australia's Royal Commission condemned the church's dysfunctional governance and recommended that the Australian Catholic Bishops Conference (ACBC) should conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay women and men (Recommendation 16.7).

Senior leaders of the Catholic Church in Australia were found by the Royal Commission to have been involved in irresponsible cover-ups, thus allowing child sexual abusers to assault more children. In any other organisation, such findings would demand a close examination of the structures, the governance arrangements and the culture that could accept such criminal decision-making.<sup>4</sup> But the common response of the church's leaders has been to try to limit the fallout by belatedly condemning the paedophiles and apologising to the victims and survivors, while avoiding the issue of the crimes of the church's own institutional leaders, and the obvious need for reform of the dysfunctional governance that enabled those crimes. This tactic of seeking to limit the public focus to the horror of the actual abuse and necessary child safety processes has been effective in distracting from the institutional crimes and dysfunctional governance. This denial of the need for institutional reform is itself a further illustration of an autocratic lack of accountability and transparency.

The Catholic Church has further handicapped the efficacy of its governance by entrenching male domination in canon law, which limits 'the power of governance' to ordained males (Canon 129 §1). The modern world has long recognised that gender equality is not just a matter of justice, but that gender balance is, in itself, a major contributor to good governance. Recognition of the equality of women and men, let alone the broader need for diversity, is a hallmark of modern organisations. The discrimination inherent in male domination should be foreign to the church founded by Christ. Indeed, the church should lead the way in promoting social justice in all its forms and in using the God-given skills of all the faithful.

The exclusively celibate nature of this male domination further limits diversity and societal experience in decision-making, quite apart from the possible impacts of celibacy on the incidence of child sexual abuse. It is time that the church caught up with the rest of society and truly accepted the equality of women and the need for diversity in decision-making, and rejected the hypocrisy involved in the current institutional discrimination.

For a global church seeking to promote and follow common Christian teachings across the world and to model the principles of a Christian life to the rest of society, good governance is simply essential. It is the way human organisations make the best of organised human endeavour. Good governance – thoughtful, focussed, accountable and inclusive leadership – promotes a sound organisational culture that supports the alignment of values and commitment throughout the organisation. It grows a positive organisational climate, with decision-making based on sound discernment and inclusion of stakeholders, always focussed on the organisation's core purpose and values.

The Royal Commission has exposed the dysfunction of the Catholic Church's governance and the toxicity of its clericalist culture. However, the church fails even to acknowledge the gravity of the issue of its dysfunctional governance. To date, there has been a worrying tendency on the part of some to play the

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2. Wuerl, D W. (2004). Reflections on Governance and Accountability in the Church, in Oakley, F., and Russett, B. (eds.), *Governance, Accountability and the Future of the Catholic Church*, Continuum, New York, 13–24.

3. Boorstein, M. (2018, August). Cardinal Wuerl target of rising anger after Pa. grand jury report, *The Washington Post*, [https://www.washingtonpost.com/local/social-issues/2018/08/20/0a6ae810-a49f-11e8-97ce-cc9042272f07\\_story.html?utm\\_term=.8118cbb78a60](https://www.washingtonpost.com/local/social-issues/2018/08/20/0a6ae810-a49f-11e8-97ce-cc9042272f07_story.html?utm_term=.8118cbb78a60) (accessed 28 September 2018).

4. The Archbishop of Sydney, Archbishop Anthony Fisher OP, gave evidence to the Royal Commission during Case Study 50 that the response of the church to child sexual abuse had involved 'a kind of criminal negligence to deal with some of the problems that were staring us in the face'. (See *Transcript of Coleridge/Hart/Fisher/Wilson/Costelloe, Case Study 50*, 23 February 2017 at 25997:12–14).

victim card and even the sectarian card, suggesting that legitimate findings of the Royal Commission are somehow anti-Catholic.

## The Catholic Church's formal response to the Royal Commission

The much-delayed response from the Australian Catholic Bishops Conference (ACBC) to the Royal Commission's Report of December 2017, was eventually published on 31 August 2018, a few days after the Health and Integrity in Church and Ministry conference.<sup>5</sup> As noted above, the Royal Commission had condemned the Catholic Church's dysfunctional governance and recommended that the Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes, including issues of transparency, accountability, consultation and the participation of lay women and men (Recommendation 16.7).

This key recommendation received strong endorsement from the ACBC's own Truth Justice and Healing Council (TJHC). In its post-Royal Commission report to the ACBC and Catholic Religious Australia, the TJHC drew attention to the Commission's findings that, *inter alia*:

- The powers of governance held by individual diocesan bishops and provincials are not subject to adequate checks and balances.
- Diocesan bishops have not been sufficiently accountable and there has been no requirement for their decisions to be made transparent or subject to due process.<sup>6</sup>

The TJHC described the Royal Commission's findings as 'damning of the Church's decision-making and accountability', and concluded that 'the case for an independent review along the lines recommended by the Commission is compelling.' The TJHC advised the ACBC that the review 'should be progressed as a matter of urgency, and within a broader assessment of the effectiveness of governance and lay participation generally in the Church.' The TJHC recommended that the ACBC should delegate the conduct of the review to the ACBC's Implementation Advisory Group to establish the terms of reference in accordance with the framework of analysis used by the Royal Commission; that the review team should include both corporate and canon law experts, plus a recognised authority on ecclesiology; that an extensive consultation process should be conducted; and that the review should be completed by mid-2019 with results made public during the lead up to the 2020 Plenary Council.

On 1 May 2019, the ACBC and CRA announced that a panel of experts had been convened to conduct the national review of the governance and management structures of Catholic dioceses and parishes, in accordance with the Royal Commission's recommendation 16.7.<sup>7</sup> I anticipate that the findings of the review will serve to inform the Holy See of the need for reform throughout the world.

## Next steps

At present, the Australian bishops seem to be using the Plenary Council scheduled for 2020/2021 as their response to the present governance crisis facing the church. The Plenary Council must be welcomed, but it cannot provide the immediate action that is needed. The Plenary Council is not only a long way off, but its decision-making is controlled by the bishops alone, and even if the bishops' decisions prove to be helpful, they will still need ratification by the Holy See, involving further uncertainty and possibly years of further delay. There is a danger that the Plenary Council will be used as a means of 'kicking the can down the road' with the hope that the sense of urgency in the community will dissipate in the meantime and permit a return to 'business as usual'. It is already worrying that very few bishops are conducting consultations in their own dioceses to inform themselves as to the thinking of their people, the *sensus fidei fidelium* (sense of faith of the faithful), as envisaged by the Second Vatican Council and a clear responsibility of every diocesan bishop under canon law.

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5. Australian Catholic Bishops Conference and Catholic Religious Australia's Response to the Royal Commission into Institutional Responses to Child Sexual Abuse, August 2018, at <https://www.catholic.org.au/acbc-media/media-centre/media-releases-new/2139-acbc-and-cra-response-to-the-royal-commission/file> (accessed 20 May 2019).

6. Truth Justice and Healing Council, *The Royal Commission's recommendations, and responses from the Truth Justice and Healing Council*, March 2018, 195, at <http://www.tjhcouncil.org.au/img/pdf/TJHC-Volume-2.pdf> (accessed 20 May 2019).

7. Media release: 'Respected leaders named to conduct Church governance review', Australian Catholic Bishops Conference and Catholic Religious Australia, 1 May 2019, <https://www.catholic.org.au/acbc-media/media-centre/media-releases-new/2189-respected-leaders-named-to-conduct-church-governance-review/file> (accessed 20 May 2019).

It is of note that the bishops of Australia made no attempt to ‘include the active participation of all the members of God’s People’, in preparing their response to the Royal Commission’s report. In the words of Pope Francis, the *sensus fidei* ‘fosters true wisdom and gives rise ... to proclamation of the truth’.<sup>8</sup> Despite its clear doctrinal endorsement, the fact is that consultation with their people is foreign to our bishops’ clericalist model of autocratic governance.

The responsibility of the faithful to be involved in the governance of the institutional Catholic Church is provided for very specifically in canon law. Canon 212 §3 follows Vatican II in stating that:

*The Christian faithful have the right and even at times the duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the Christian faithful.*

In August 2018, Pope Francis released across the world a personal response to the scandal of clerical child sexual abuse in the form of a letter addressed ‘*To the People of God*’, in which he asks for a profound transformation of hierarchical and presbyteral culture. He states that, ‘It is impossible to think of a conversion of our activity as a Church that does not include the active participation of all the members of God’s People.’<sup>9</sup>

The pope’s letter would appear to have been an unusually quick response to the Pennsylvania grand jury report just a week earlier in the United States, in which more than 300 priests were accused of committing sexual assault and their bishops of covering up for them. Francis refers to the effort and work being carried out ‘in various parts of the world’, presumably having in mind the many other scandals erupting worldwide as well as the final report of Australia’s Royal Commission.

Pope Francis’ letter condemns as crimes, ‘the abuse of power and the abuse of conscience perpetrated by a significant number of clerics and consecrated persons’ and calls for a ‘solidarity that summons us to fight all forms of corruption, especially spiritual corruption’. Francis acknowledges, and condemns, the church’s pervasive culture of toxic clericalism. He acknowledges that the church has ‘delayed in applying these actions and sanctions that are so necessary’. However, while sternly recognising the presence of ‘filth’, ‘pride’, and ‘self-complacency’ among the church’s leaders, Francis fails to identify steps that need to be taken to reform the governance structure and culture that have nurtured this evil. Many of the ‘actions and sanctions that are so necessary’, were set out in the Royal Commission’s final report of December 2017, in the form of recommendations that go far beyond procedural changes for child safety.

Following his letter ‘*To the People of God*’, Pope Francis has subsequently summoned the presidents of bishops’ conference throughout the world (more than 100 bishops) to a four-day meeting in February 2019 on the clerical sexual abuse crisis that is engulfing the worldwide Catholic Church and his papacy<sup>10</sup>. The Vatican has said that the conference will deal with ‘the protection of minors’, suggesting a limited focus on child safety processes and that it will continue dealing with the ‘few bad apples’, rather than recognising the need for radical reform of the church’s dysfunctional governance.

## **What needs to be done**

Early in his pontificate, Pope Francis offered in his first apostolic exhortation the prospect of reform consistent with the needs identified in this paper in speaking of his ‘dream’ of:

*... a missionary impulse capable of transforming everything, so that the Church’s customs, ways of doing things, times and schedules, language and structures can be suitably channelled for the evangelisation of today’s world rather than for her self-preservation.*<sup>11</sup>

Five years later, that need for transforming the church’s customs and ways of doing things – its governance – has been strikingly confirmed.

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8. International Theological Commission, *Sensus Fidei in The Life Of The Church*, Rome, 2014, n.2

9. Pope Francis, *Letter To the People of God*, 20 August 2018, at <https://www.vaticannews.va/en/pope/news/2018-08/pope-francis-letter-people-of-god-sexual-abuse.html> (accessed 28 September 2018).

10. Carroll, R., et al. (2018, 13 September). Pope summons senior bishops for summit on clerical sexual abuse, *The Guardian*, at <https://www.theguardian.com/world/2018/sep/12/pope-francis-summons-senior-bishops-summit-clerical-sexual-abuse> (accessed 28 September 2018).

11. Pope Francis. *Evangelii Gaudium*, Apostolic Exhortation on the Proclamation of the Gospel in Today’s World, n 28, [http://w2.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html) (accessed 28 September 2018).



To be effective, there will need however to be more than the implementation of good provisions already contained in canon law but ignored in practice, such as diocesan synods and pastoral councils. The Royal Commission has identified a number of changes to canon law as means of ensuring good governance in the church.

I suggest that the following steps, needing to be implemented – locally and universally – would be complementary to, and consistent with, the Royal Commission’s recommendations to reform the Catholic Church’s governance:

1. Revise canon law to include a section on guiding principles of governance and leadership, based always on Jesus’ teachings in the context of accountability, inclusiveness and subsidiarity.
2. Amend canon law to provide that all diocesan bishops must:
  - a. report all cases of clerical child sexual abuse to civil authorities
  - b. establish a diocesan pastoral council
  - c. conduct a diocesan assembly every five years with an agenda determined in consultation with the diocesan pastoral council, and with the broad participation of clergy and laity as a means of engaging with the *sensus fidei fidelium*
  - d. develop and constantly review a public diocesan strategic plan in consultation with the diocesan pastoral council, and informed by the proposed diocesan assemblies to pursue the mission of the church in the unique circumstances and needs of each particular diocese
  - e. report publicly against the diocesan strategic plan every year, a report to be prepared in consultation with the diocesan pastoral council.
3. Ensure that quinquennial reports by bishops to Rome about the state of their dioceses are informed by the proposed diocesan synods, and reflect consultation with the diocesan pastoral council, and require the reports’ contents to be publicly available, saving any warranted confidentiality.
4. Change the selection processes for the appointment of bishops as follows:
  - a. Require apostolic nuncios to ensure effective consultation with the faithful, including clergy and laity, at the least involving consultation with diocesan pastoral councils and public invitations to the faithful to comment on the needs of a diocese, all informed by examination of current diocesan pastoral plans.
  - b. Explicitly include in the selection criteria that a candidate must not only have high moral attributes and appropriate qualifications and be ‘endowed with other qualities which make him suitable to fulfil the office in question’, but that those qualifications and other qualities specifically include leadership skills and have regard to the needs of the diocese in the context of the diocesan plan and the views of the diocesan pastoral council and the faithful (see Canon 378 §1).
  - c. Modify the secrecy provisions of the selection process so that there is public knowledge of the conduct of the process and its nature.
5. Ensure continuing formation programs for all clerics, particularly bishops, to promote an understanding of, commitment to, and skills in leadership of people based on Christian values and respect for the *sensus fidei fidelium*.
6. Commit to gender balance in the leadership of the church at all levels, starting with women with appropriate skills and qualifications in executive positions in all dioceses, and at the Holy See being appointed to lead some half of dicasteries in the Vatican curia (note: ordination not required).
7. Remove the ban on women’s ordination.
8. Remove the requirement for compulsory celibacy for ordination.<sup>12</sup>
9. Ensure regular turnover in the Vatican Curia, which should be staffed by church personnel from throughout the world selected as outlined above, familiar with ‘the smell of the sheep’,<sup>13</sup> and committed to a sound sense of accountability to Christ’s mission for the church and informed by the *sensus fidei fidelium*.

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12. It should be noted that Australia’s National Council of Priests recently called for optional celibacy and married priests and plans to take the issues to the Vatican. See McCarthy, J. (2018, 16 September). We live in joyful hope: Plan to allow married Catholic priests, *The Sydney Morning Herald* at <https://www.smh.com.au/national/we-live-in-joyful-hope-plan-to-allow-married-catholic-priests-20180916-p5042e.html> (accessed 28 September 2018).

13. Glatz, C. (2013, 28 March). Pope Francis: Priests should be ‘Shepherds living with the smell of the sheep’, *The Catholic Telegraph*, <https://www.thecatholictelegraph.com/pope-francis-priests-should-be-shepherds-living-with-the-smell-of-the-sheep/13439> (accessed 28 September 2018).



Many of the above proposals could be adopted by agreement by the ACBC to apply in Australia forthwith, and proposals 2, 3, and 5 could be included on the agenda for Australia's forthcoming Plenary Council 2020/21 for approval by the Holy See as particular law for Australia. These proposals should lay a structural foundation for accountability and inclusiveness, necessarily accompanied by transparency and subsidiarity, in the governance of the church, and for reform of the culture of clericalism. Such structural and cultural change requires leadership from the most senior levels.

If ever there were a catalyst that demonstrated the need for radical change of the type outlined, then the present imperative for an adequate response to the international scandal of child sexual abuse in the Catholic Church is surely it. Pope Francis could use the substantial and increasing evidence of the church's failed response to clerical child sexual abuse to build on his recent letter 'To the People of God' to act forcefully through introducing radical governance changes in the church as outlined above.

The Catholic Church can no longer sustain the defence offered in evidence to the Royal Commission, that 'the faults overwhelmingly have been more personal faults, personal failures, rather than structures'<sup>14</sup> – the 'few bad apples' defence. In canon law and common duty, all Catholics have a moral obligation as members of the faithful to accept responsibility for the state of their church's dysfunctional governance and to hold their leaders accountable. Good governance – accountability, transparency and inclusiveness – must replace the autocracy and associated clericalist culture that have been responsible for evil in the church.

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14. Royal Commission into Institutional Responses to Child Sexual Abuse. (2016, 29 February). *Transcript of G Pell, Case Studies 28 and 35* at 16186:21–28.

# Implementing a company structure for Catholic schools: some early learnings

Maria Kirkwood

I have been asked to respond to Susan Pascoe's paper on leadership and governance. In doing so, I note her reference to a local initiative of the Diocese of Sale (Victoria) in the reform of governance arrangements and related specifically to Recommendation 16.6 of the Royal Commission Recommendations to the Catholic Church:

*Recommendation 16.6: The bishop of each Catholic Church diocese in Australia should ensure that parish priests are not the employers of principals and teachers in Catholic schools.<sup>1</sup>*

It is worth noting that the Diocese of Sale has, over some seven years, attempted to address the issue of governance of the Catholic schools in the Diocese, well before any recommendations or scrutiny of the issue by a Royal Commission or any similar body. The decision taken by the bishop and clergy of the Sale Diocese in May 2017 occurred independently of Recommendation 16.6.

In reflecting further on Ms Pascoe's paper, and being supportive of its intent and thrust, it may be useful to look at the example of the Diocese of Sale and the experience of setting up a company structure to manage all aspects of Catholic education in the Diocese. The journey to the establishment of Diocese of Sale Catholic Education Ltd (DOSCEL) was complex and detailed and, at times, went against some of the very principles espoused in Ms Pascoe's paper. A previous attempt to remove some of the responsibility for elements of school administration from the clergy of the Diocese had collapsed due to an inappropriate model being chosen, which made the replacement structure financially unviable.

A shroud of total confidentiality surrounded the development of DOSCEL, for a number of reasons. Whilst transparency and accountability were intended as major features and positive outcomes of the new model, transparency and accountability were, by choice, negligible in the setting up of the model. Stakeholder consultation was limited to the bishop and senior clergy, with a strict expectation of confidentiality. It was not until the proposed model had gone through canon law and civil law scrutiny that it was put to all the clergy of the diocese for consideration. Principals of the schools were not engaged in the process until the bishop and clergy had agreed on the model and the parish priests responsible for schools had signed the agreement to transfer all aspects of the proprietorship of schools, primary and secondary, to the established company.

The fact that all parish priests gave their assent on the day of the presentation, even though they were provided with an opportunity to reflect and discern for seven days, was not only a surprise but spoke volumes about their strong desire to be pastoral, faith and spiritual leaders in the schools and parishes of the Diocese of Sale and to divest themselves of the administrative, managerial and employment authority (power) they held at the time. I believe their assent was also a reflection that trust had been built in the staff of the Catholic Education Office, that they would be able to take on the responsibility and work effectively with a board of directors to support and promote a vision for best practice in Catholic education.

The learnings from this experience have been monumental. In the almost nine months since DOSCEL commenced operation on 1 January 2018, there has been notably more 'pushback' against aspects of the new company model from sections of the education community than there has been from the diocesan clergy. This is not totally surprising. In the past, there has been a tendency for school principals and business managers to be able to rely upon a comparatively 'light touch' in terms of oversight, due to their close personal and working relationships with overworked parish priests. Whereas, under the new model, this has been replaced by a necessarily more rigorous form of scrutiny and regulation. This change is being experienced in a variety of ways, including, in some cases, a degree of angst, anger and resistance.

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1. See Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 2*, 678–80.

The significant principles of good governance, outlined in Ms Pascoe's paper – taking 'transparency', 'accountability' and 'stewardship' to name but three – are being tested in the fire of loss of autonomy expressed and experienced by some principals. The fact that this supposed autonomy never really existed is a most unpalatable truth for some and a completely unacceptable one to others. The basic and admirable governance principles, noted above, which one would like to believe are easily and wholeheartedly upheld in all areas of our Catholic organisations, now exist under an accusing cloud of bureaucracy and the regulatory overreach also noted in Ms Pascoe's paper.

Changes to governance and leadership structures in the church are going to require a significant shift in thinking, not just from bishops and clergy, some of whom have probably already made the shift, but also from the laity, especially those who have benefitted from the relaxed and relational nature of some of the church structures.

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# Church law

*What are the barriers in canon law to changing the system? It is never easy to lose power, including for those governing the universal church. Yet, invoking divine law as a reason for not allowing changes is sometimes too easy a solution ... Very often, divine law is less divine than it seems to be at first glance.*

Rik Torfs, Professor of Canon Law, Catholic University of Leuven

# Canon law and the recommendations of the Royal Commission

Rik Torfs

## Brief remarks about the canon law recommendations that were contained in the Royal Commission's final report

The Royal Commission made a lot of valuable suggestions with regard to the improvement of the canon law legal system and thus prohibiting or combating properly child sexual abuse in the church. Before making a brief analysis of several of the suggestions, it is important to formulate the lines along which a coherent reasoning on this issue should be developed.

A first element is the necessity to safeguard the already existing human rights standards as currently formulated in canon law.<sup>1</sup> This seems to be obvious at first glance. Yet, the legitimate concern for punishing perpetrators and assisting victims could lead to a weakening of already existing standards. Some important legal principles of paramount importance for a healthy human rights policy are rather new in the church and deserve strong support.<sup>2</sup> Just a few examples: the obligations and rights of Christian faithful as such have been formulated for the first time in the history of canon law in canons 208 to 223 of the *1983 Code of Canon Law* (CIC 1983).<sup>3</sup> They are not perfect, and their concrete implementation is partly dependent on a not always efficient procedural system.

Among the improvements that have existed since 1983, we find canon 221 §3: 'The Christian faithful have the right not to be punished with canonical penalties except according to the norm of law.' This principle is quite different from Canon 2222 in the *1917 Code of Canon Law* (CIC 1917), which under certain circumstances allows a punishment without a previously existing legal norm. Canon 221 §3, formulating the principle of legality for the first time, remains endangered even within the framework of the CIC 1983 itself. Indeed, canon 1399, the concluding canon of Book VI dealing with sanctions in the church goes as follows:

*In addition to the cases established here or in other laws, the external violation of a divine or a canonical law can be punished by a just penalty only when the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandals.*

It goes without saying that this norm is incompatible with canon 221 §3. In case we admit the formal superiority of fundamental rights to other norms of the code and of canon law as a whole, this canon should even be considered as lacking all force. Yet, this interpretation of the current canon law system is not unanimously shared. At the same time, we note that bishops and other church authorities hesitate to make use of canon 1399, since transgressing the principle of legality within the structures of the Roman Catholic Church endangers its credibility in the secular legal world and in public opinion.

Another norm, with roots in both older canonical legislation and Roman law, is canon 1313 concerning possible retroactivity of penal norms.<sup>4</sup> Canon 1313 §1 says: 'If a law is changed after a delict has been committed, the law more favourable to the accused is to be applied.' Penal norms can only be retroactive in case they are positive for the accused. This principle, not new in the church, was and is indispensable to be in line with modern human rights standards. To sum up, my first point is: whatever you do, never weaken or put into danger the human rights culture within the church.

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1. Cf. Torfs, R. (1995). *A Healthy Rivalry: Human Rights in the Church*, Peeters Press/WB Eerdmans, Leuven, IV and 125; Torfs, R. (1999). 'Rights in Canon Law. Real, Ideal or Fluff?', in Canon Law Society of America. (1999). *Proceedings of the Sixty-First Annual Convention*, October 4–7, Minneapolis, Minnesota, CLSA, Washington, DC, 343–384.

2. See Hamel, E. (1984). L'Église et les droits de l'homme. Jalons d'histoire, *Gregorianum*, 65, 271–299.

3. Torfs, R. 'Human Rights in the History of the Roman Catholic Church', in van der Ven, J A., and Zierbertz, H G., (eds.). (2013). *Empirical Research in Religion and Human Rights. Human Rights and the Impact of Religion*, 3, Brill Leiden/Boston, 55–74.

4. Torfs, R. (2009). Rétroactivité des peines canoniques, *Revue de droit canonique*, 59, 183–199.



A second element is an equally urgent necessity to improve the current quality of canonical principles and techniques, norms and standards. Yes, more transparency is required. Yes, better procedures are a necessity. And a true separation of powers cannot be avoided any more in the church. What is important is that the two lines ultimately join each other. They should both be seen from a human rights perspective. While maintaining the existing norms that go in the direction of a full protection of human rights, other norms not yet meeting those standards should be added. I shall argue that there is no reason to see an opposition between human rights in the church and a consistent and solid canonical legal system.

With regard to several of the Royal Commission's canon law recommendations, a separate remark should be made. Recommendation 16.13 is formulated as follows:

*The Australian Catholic Bishops Conference should request the Holy See to amend the "imputability" test in canon law, so that the diagnosis of paedophilia is not relevant to the prosecution of or penalty for canonical offense relating to Church sexual abuse.*

It is true that in the church, imputability does not have the same content and the same implications it has in most secular legal systems. To summarise it briefly, one can say that in a secular system, imputability is more easily accepted, fewer requirements have to be fulfilled. Conversely, canon law accepts many reasons to avoid imputability. And I understand very well that some people consider this to be a weakness. By the way, church authorities themselves also seem to be thinking in a similar direction, as proposals for remodelling the canon law penal system are considerably stricter than has been the case up until now. This being said, the current position of the church still is that punishing people is not always a good idea. This principle is present in canon 1341, where the penalty is clearly perceived as a last solution, an *ultimum remedium*:

*An ordinary is to take care to initiate a judicial or administrative process to impose or declare penalties only after he has ascertained that fraternal correction or rebuke or other means of pastoral solicitude cannot sufficiently repair the scandal, restore justice, reform the offender.*

This canon is not without danger, as pastoral solutions seem to have priority over correctly doing justice to people. The same hesitation with regard to punishment is present when liability is at stake. The first canon covering this topic, canon 1321 §1, is clear in that regard: 'No one is punished unless the external violation of a law or precept, committed by the person, is gravely imputable by reason of malice or negligence.' This leads to many excuses; the list of exceptions contained in canon 1323 is impressive. Moreover, canon 1324 describes many situations in which violation of the norm does not lead to exemption from a penalty, but to a tempered punishment or a penance. Some of those reasons are more than debatable. For instance, canon 1324 §1, 9° foresees a tempered penalty for a person who without negligence did not know that a penalty was attached to a law or a precept. Most secular systems reject such a principle and use the presumption *iuris et de iure* that every person is supposed to know the law. To put it briefly, it is certainly true that the liability question in canon law should be reconsidered. Yet, there can also be good reasons to maintain some differences with secular legal systems, as long as two principles are clearly kept in mind.

The first principle is that, as a result of the legal procedure, the perpetrator should in any case be of no danger anymore to potential victims. Whether there is penal imputability or not should be *de facto* irrelevant in that regard. Both the perpetrator who is ill and thus not liable, and the perpetrator who is responsible for his deeds should be treated equally when it comes to the potential danger they can cause. In my own country, some people consider it to be a success when, after a long legal trial, the tribunal recognises the imputability of the crime to the perpetrator. Here I think the truth is more important than the psychological feeling of family and friends of the victim. Or the victim himself, if he is still alive. So, I come back to the recommendation: Should the diagnosis of paedophilia be irrelevant to the prosecution? Here the answer is more medical than it is legal, but the result should be the same when it comes to the safety of future victims. To put it in yet another way, it should be possible to punish perpetrators for what they did by, for instance, losing their office or being laicised. Yet both solutions can also be available as a result of a medical diagnosis not leading to penal imputability yet resulting in the loss of an office or a laicisation.

The second principle that should be preserved by all means is the position towards the victim. The recognition should be the same, including financial compensation, whether or not the perpetrator can be held liable for his crimes. If the perpetrator is not responsible himself, because of illness for example, the church as an institution should take up this responsibility. Changing canon law in that regard is recommendable.

Recommendation 16.12 says:

*The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the time limit (prescription) for commencement of canonical actions relating to child sexual abuse. This amendment should be applied retrospectively.*

Both elements of the recommendation are problematic, especially the latter one. Yet, legal constructions can be made to circumvent the problem and still lead to good results when it comes to content. Why are both elements of the recommendation problematic? Lifting any penal prescription is not unique in the legal world. Crimes against humanity are, also in an international context, no longer subject to prescription. From a moral viewpoint, lifting prescription in more cases than today is very understandable. But then again, it is good to have a look at the more positive side of this very old institution with deep roots in ancient legal systems such as Roman law. At first glance, prescription is the opposite of justice, because the intrinsically bad is finally excused after a certain lapse of time. Yet is it psychologically possible for humans to be always under a lifelong threat of punishment because of a crime committed half a century ago or even longer? Theorists of prescription hold the opinion that ultimately prescription is more just than justice itself when it takes too much time to achieve it. At some stage, people need the normalisation of a situation. The empty space before a new start. It is also true that today, secular society fostering stricter moral standards than in the previous century puts pressure on the old and historic notion of prescription.<sup>5</sup> This issue will probably be the object of debate in the coming years.

Another question that emerges when it comes to the lifting of prescription is whether the death of the accused forms the ultimate frontier. In other words, could a victim claim a compensation after the accused has passed away? Some people would say yes to this question, as the pain of the victim does not depend on the coincidental circumstance of whether the accused is dead or alive. He can die young, or he can live a very long time. However, an important point remains that an accused who has passed away cannot defend himself any longer. Unless he reported his crime in a written document before he died, it seems to be very difficult to find him guilty afterwards.

Apart from principle reasons pleading in favour of prescription, practical arguments can also be invoked. The longer ago a fact took place, the more difficult it becomes to remember it properly. Human memory reforms and reshapes facts of the past. It is generally known that souvenirs of youth

are often interpreted as more positive and colourful than they were at the moment of the facts. That has always been a second and more practical reason to be very cautious in the lifting of prescription for too many crimes in too many cases. We should be able to strike a good balance between these remarks that plead in favour of prescription, and moral indignation offering arguments to rule it out.<sup>6</sup>

The second part of the recommendation pleads in favour of a retroactive application of the lifting of prescription. One should be very well aware of the consequences of such a move. It would mean that a person, who possibly committed a crime, but after prescription of the latter is in a safe situation, would qualify for prosecution again after a period of complete safety. I am afraid that such a recommendation is incompatible with human rights and long traditions in penal law. Of course, by making use of canon 1399 quoted above, church leaders today already can punish without an underlying law and neglect the principle of prescription for a higher good, for instance to avoid scandal. Yet in doing so, the church would abandon the positive steps made in CIC 1983, accepting the principle of legality for the first time in history. Retroactive norms would be a step backwards and would enlarge the cleavage between the canonical legal system and the rule of law.<sup>7</sup> In that regard, notwithstanding all good intentions, I regret

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5. Also in a remote past, some experts were already advocating non-prescription for 'cruel' crimes remaining in people's memory. See Beccaria, C. (1869). *Des délits et des peines*, Librairie de la bibliothèque nationale, Paris, 128. Cesare Beccaria (1738–1794) was a famous philosopher, politician and penal law expert.

6. Prescription as such is not part of a fundamental right. Where it exists, it should of course not be equally applied to all crimes. See Nihman, A. (2008). *Juger à temps. Le juste temps de la réponse pénale*, L'Harmattan, Paris, 604.

7. Not only a penal law, yet also a new interpretation of an existing law never should be applied retroactively, see ECHR. (2012, 10 July). *Del Rio Prada v Spain*.

that in the 2010 *Normae de delictis contra fidem necnon de gravioribus delictis*, article 7 §1<sup>8</sup> *in fine* allows the Congregation for the Doctrine of the Faith to derogate from prescription in individual cases. It is a mirror of canon 1399 CIC 1983.

Whereas I am very hesitant with the lifting of prescription and I cannot accept retroactivity, I think other solutions can be found to control the perpetrator and to help the victim when it comes to crimes of the past. With regard to the victim, financial compensation remains possible, even after penal prescription, when the damage caused by the act can be proven. Here, canon 128 can be very useful: 'Whoever illegitimately inflicts damage upon someone by a juridic act or by any other act placed with malice or negligence is obliged to repair the damage inflicted.' Prescription is not even an issue if the damage continues to exist. This canon could be strengthened by a commitment of the church to make provision for financial compensation when the perpetrator is unable to do so.

With regard to the accused saved by prescription, it is clear that he remains morally responsible for what he did. If it becomes clear that he committed the crime, for instance as a result of public confession or a secular penal trial, a bishop can take administrative measures against the priest, and could also invite him to apply for laicisation himself, a technique which has not been used enough up to now. In other words, it is possible in my opinion to reconstruct the retroactive lifting of prescription by other techniques including the paying of damages, taking administrative measures, and inviting priests on moral grounds to take up their own responsibility. Is the solution fully equivalent to the strict and radical result of the recommendation? Probably not fully, yet we should not forget that we are in a period of transition, and that a better and stricter legislation will apply on all cases in the future. A lawyer is not always able to solve every single problem of the past in a way that is completely waterproof, bringing justice to the victim and the accused while safeguarding the quality of the legal system.

Recommendation 16.10 is formulated as follows:

*The Australian Catholic Bishops Conference should request the Holy See to amend canon law so that the pontifical secret does not apply to any aspect or allegation or canonical disciplinary processes relating to child sexual abuse.*

It goes without saying that child sexual abuse is not a topic that should be protected by the pontifical secret. Moreover, the current norm that when it comes to child sexual abuse, priests can only be confronted with and judged by their peers is a very bad idea and gives the impression, even if reality is different, of lack of openness, covering up and mutual protection. One can even argue that giving laypeople a more important role in canon law cases involving priests accused of child sexual abuse also offers an additional guarantee to the priests themselves who all have an interest in being judged in an open system without hidden codes and subtle mechanisms implicitly playing a part in the decision making.

Recommendation 16.9 goes as follows:

The Australian Catholic Bishops Conference should request the Holy See to amend the CIC 1983 to create a new canon or series of canons related to child sexual abuse, as follows:

- a. All delicts related to child sexual abuse should be articulated as canonical crimes against a child, not as moral failings or as breaches of the (special obligations) of clerics and religious to observe celibacy.
- b. All delicts related to child sexual abuse should apply to any person holding the 'dignity, office or responsibility in the Church' regardless of whether they are ordained or not ordained.
- c. In relation to the acquisition, possession or distribution of pornographic images, the delict (currently contained in Art 6 §2 1° of the revised 2010 norms attached to the *motu proprio Sacramentorum sanctitatis tutela*) should be amended to refer to minors under the age of 18, not minors under the age of 14.

With regard to (a), I fully agree with the principle that child sexual abuse is a crime and is not just a consequence of failure to observe celibacy. I would suggest that it is better to remain sober in formulating the crime, because the more detailed the set of norms, the weaker the protection may become as a result of canon 18, stating that laws which establish a penalty are subject to strict interpretation. This means for instance that an interpretation *a similibus* or the reading of a penal norm as non-exhaustive in the examples it quotes, is impossible. A detailed penal norm trying to envisage every possible crime is very likely to omit some of them.

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8. *Salvo iure Congregationis pro Doctrina Fidei a praescriptione derogandi pro singulis casibus, actio criminalis de delictis Congregationi pro Doctrina Fidei reservatis praescriptione exstinguitur spatium viginti annorum.* [http://www.vatican.va/resources/resources\\_norme\\_it.html](http://www.vatican.va/resources/resources_norme_it.html)

With regard to (b), I fully agree that all delicts should apply to any person holding any dignity, office or responsibility in the church. In the CIC 1983, only clerics were potential perpetrators of child sexual abuse. There are two reasons for this. The first is the already mentioned unhappy qualification of these crimes as delicts against special obligations (i.e. as failures to observe the priestly obligation of celibacy). The second is that at the time when CIC 1983 was promulgated, laypeople were less active in the church, certainly on a professional basis, than they are today. From a historical perspective, it is understandable that according to canon 1333 §1, suspension can only affect clerics.

The suggestion formulated in point (c) can be followed. One could ask oneself the question whether a distinction should be made between the nature of the images, the different age categories, or the position of secular penal law in the country where the delict has been committed. This question should be studied properly. Of course, a distinction is meaningless when, as suggested elsewhere, the crime always leads to the same radical sanctions without taking into account age and other circumstances.

Recommendation 16.11 states:

*The Australian Catholic Bishops Conference should request the Holy See to amend canon law to ensure that the 'pastoral approach' is not an essential precondition to the commencement of canonical action related to child sexual abuse.*

I fully support this recommendation. Two misunderstandings should be ruled out. The first is the idea that a conflict should always be tackled in a peaceful way and that a negotiated solution is better than a legally enforced one. While this may be true for administrative conflicts as described in canon 1733, it is completely wrong when it comes to criminal acts. Transgressing a criminal law is different from having a difference of opinion with one's bishop or other hierarchical superior. It must be noticed however, that in the years during which CIC 1983 was being drafted, secular penal law experts and criminologists in some jurisdictions fostered the idea of a penalty that would be negotiated between the perpetrator and the victim. Clearly, however, that path has been abandoned.

Also, in the days of the drafting of the 1983 Code, penal norms were not popular. Some argued, referring to ecclesiological concepts such as the church as the People of God, that penalties were not appropriate in a loving community such as the church. Arguments were even invoked in favour of suppressing penal law altogether. The alternative, according to some, was a pastoral approach. Today it is very clear that the opposition of a legal to a pastoral approach was an artificial one. Obviously, a refusal to implement the law is not a pastoral attitude. The opposite is true. Being pastoral means in the first place accepting everybody's rights, *ius suum cuique tribuere*.<sup>9</sup> A pastoral approach that leaves the legal norms aside, strengthens the discretionary power of the pastor. He chooses whether or not, and when, legal norms enter into the discussion. What this means is that a pastoral approach very often comes down to a form of arbitrary behaviour.

Recommendation 16.14 is formulated as follows:

*The Australian Catholic Bishops Conference should request the Holy See to amend canon law to give effect to Recommendations 16.55 and 16.56.*

These recommendations foster a very strict enforcement of norms prohibiting child sexual abuse, including the permanent removal from ministry of perpetrators as mentioned in Recommendation 16.55. Recommendation 16.56 advises, with regard to Catholic priests and religious, to dismiss them from the priesthood, and/or or dispense them from their vows as a religious.

Two remarks can be made in this regard. A first question to examine is whether all perpetrators should receive equal punishment. One could imagine stricter implementation of penalties to some than to others. There certainly is a difference between sexually abusing a young child and having one single sexual contact with a person who is close to 18 years old. I understand very well the firm attitude as set forward by the recommendations. Tolerant behaviour is certainly not the right solution. Yet the question can be asked whether an equally radical punishment for every crime shows sufficient refinement and ultimately does justice. One could imagine for instance that for some, found guilty of a less heinous delict, another solution than a permanent removal from ministry. A solution may be a permanent prohibition against having contact with young people, or a prohibition against having contact with all people, the perpetrator being confined to a merely administrative job. I realise that this theoretical possibility is very difficult to

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9. The source can be found in Justinian's *Institutiones* (Inst. 1, 1, 3–4).



implement in an era characterised by many people feeling shocked by the behaviour of some priests, and rightly so. Yet, the (theoretical) possibility of a differentiated approach should at least be examined in all openness.

A second question deals with the recommendation formulated in Recommendation 16.56: should Catholic priests be dismissed from the priesthood?<sup>10</sup> While this punishment very often seems to be just given the seriousness of the crime committed, and while it is increasingly implemented today, laicisation also has disadvantages. These were spelled out among others by the American canon lawyer John Beal.<sup>11</sup> Indeed, there is an important difference between a priest no longer having an office or not being authorised to be in touch with the Christian faithful on the one hand, and a priest being laicised on the other. In the first hypothesis, the bond of incardination between the priest and his bishop or other superior still continues. Having an office or not is irrelevant in that regard. The underlying relationship of incardination remains intact, including the obligation of obedience the cleric has towards the bishop (canon 273, CIC 1983). To put it yet in another way, the bishop still keeps control over the cleric, over how he lives and what he does. However, if the perpetrator is laicised after having been found guilty of the crime he committed, the last link with his hierarchical superior is suppressed. There is no more possibility of control that the bishop can exercise. Certainly, the punishment is more radical. Yet, the laicised priest is completely free to do what he wants to do in society. From that perspective, he may be more dangerous to children and there may be a possibility of new abuse cases once he is laicised. Is this a reason not to implement laicisation any longer? I do not think so. The possibility should remain, including the priest asking for laicisation himself. Yet it is not an entirely positive story, the pros and cons should be balanced carefully.

### **Child sexual abuse can be tackled by canon law in various ways and at different levels.**

The Royal Commission decided not to make recommendations for changes to particular canon law for Australia, but rather to seek clarification or reform of certain issues at the level of universal law.

This approach has both advantages and disadvantages. The advantage is that aiming at universal law is more effective. A strategy making use of the possibilities offered by particular law will always be limited in its possibilities. Canon 135 §2 *in fine* is clear in that regard: 'A lower legislator cannot validly issue a law contrary to higher law.' Universal law always prevails. What does this mean exactly? Sometimes the answer is easy. A simple example to illustrate the point: A particular legislator accepting women for ordination will be stopped immediately by canon 1024, which states that 'a baptised male alone receives sacred ordination validly.' This is a very clear case which becomes even more dramatic by the fact that since the apostolic letter *Ordinatio Sacerdotalis* of 22 May 1994, the impossibility of ordaining women to the priesthood is seen as belonging to the divine constitution of the church.

The concrete space available to a particular legislator is not always as large as it seems, although there are possibilities. These are clearly formulated in canon 1315, especially §1 and §3. Canon 1315 §1 goes as follows: 'A person who has legislative power can also issue penal laws; within the limits of his competence by reason of territory or persons, moreover, he can by his own laws also strengthen with an appropriate penalty a divine law or an ecclesiastical law issued by a higher authority.' At first glance, this sounds promising for the Australian bishops. But two elements should be taken in to account. Firstly, the particular legislator remains bound by the legislator of universal law (the pope). I will come back to this issue later. Secondly, canon 1315 §1 should be interpreted in the light of canon 455 §1. The conference of bishops can only act in cases where universal law has prescribed it, or a special mandate of the Apostolic See has been issued. In all other cases, the individual bishop, and not the conference, is competent.<sup>12</sup>

Canon 1315 §3 adds some other possibilities, yet at the same time it warns of the need to remain cautious:

*Particular law also can add other penalties to those established by universal law for some delict, however, this is not to be done except for very grave necessity. If universal law threatens an indeterminate or facultative penalty, particular law can also establish a determinate or obligatory one in its place.*

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10. See Ingels, G. (1999). Dismissal from the Clerical State: An Examination of the Penal Process, *Studia Canonica*, 33, 169–212.

11. See Beal, J. P. 'At the Crossroads of Two Laws. Some Reflections on the Influence of Secular Law on the Church's Response to Clergy Sexual Abuse in the United States', in Torfs, R., (ed.), (2000). *Canon Law and Realism. Monsignor W. Onclin Chair 2000*, Peeters, Leuven, 51–74.

12. Canon 455 §1 of the 1983 *Code of Canon Law* provides that: 'A conference of bishops can only issue general decrees in cases where universal law has prescribed it or a special mandate of the Apostolic See has established it either *motu proprio* or at the request of the conference itself.'



Particular legislators should in any case take two points into account. Firstly, they cannot limit the rights accorded to the Christian faithful in general and to clerics in particular by issuing particular norms with or without a penal character. Could the bishop issue a penal norm prohibiting a priest buying a Porsche Targa? In my opinion, the answer is no. Certainly, canon 282 §1 says that clerics should foster simplicity of life and ought to refrain from all things that have a semblance of vanity. But this norm is not precise enough to forbid the Porsche Targa. Every priest also has a free zone in his life and is protected by canon 220 guaranteeing his privacy. In other words, a bishop does not only have the obligation to literally respect universal law, he should also safeguard the liberties and free zones as set forward by the latter.<sup>13</sup>

Secondly, particular legislators remain limited in their possibilities to impose a wide range of sanctions. Indeed, they are not allowed to impose the most radical penalties as canon 1317 *in fine* makes clear: 'Particular law, however, cannot establish a penalty of a dismissal from the clerical state.'

To sum up, given the restricted possibilities available to particular law, the Royal Commission's decision to focus on the universal legislator was a good idea.

Yet, appealing to the universal legislator also has disadvantages. The chances of being heard with anything more than just some kind attention or some sympathy are more remote. Changing universal law, as recent history has shown, remains a difficult and hazardous operation. It is true that Pope Francis is less hesitant in this regard than his predecessors, Benedict XVI and even more so John Paul II. But then again, achieving a change of universal law affecting the Catholic Church everywhere in the world will be a difficult and slow operation.

Another potential disadvantage could be that the higher the level of discussion, the more general the principles and theological considerations that will be made. It would not be the first time that elements of divine law entered into a discussion that began at a much lower level. A good example is offered by the Apostolic Letter *Ordinatio Sacerdotalis* of 1994, which would never have been issued without the Church of England allowing women to enter the priesthood. Only at that moment, the Roman Catholic Church clearly stated that the impossibility of female ordination to the priesthood was part of the divine constitution of the church.<sup>14</sup>

An intermediate approach that I would suggest myself, is the possibility of authorising more local variation under the overall umbrella of universal law. We can see today that this suggestion is made more often than in the past, increasingly also by diocesan bishops. What does it mean exactly? Perhaps all evolutions in the church should not develop simultaneously in all places in the world. One example is compulsory celibacy for diocesan priests. Waiting for a universal solution means that a conservative reflex will prevail for a very long time. Changes of universal law only become plausible if more or less all continents and countries can cope with the renewal. Yet, if the issue – which is clearly not of divine law, given the fact that for more than one millennium compulsory celibacy of priests was not always enforced or punished – is left to local episcopal conferences, non-simultaneous and culturally well-adapted decisions can be taken. I personally think that this strategy, granting more autonomy to the particular churches without giving up unity when it comes to essential matters, is the best way to arrive at slow and credible changes. An important issue will be: how courageous is the universal church? How quickly will it invoke divine law as an argument not to change anything, nor to delegate the decision-making to particular legislators? In this regard, the non-possibility of ordination of women seems to be blocked for a long time by the theological statement that the divine constitution of the church is at stake.

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13. See Schmitz, H. (1990). 'Professio fidei' und 'iusiurandum fidelitatis'. Glaubensbekenntnis und Treueid, Wiederbelebung des Antimodernisteneides?, *Archiv für katholisches Kirchenrechts*, 159, 395.

14. Pope John Paul II, Apostolic Letter, *Ordinatio Sacerdotalis*, On Reserving Priestly Ordination to Men Alone, 22 May 1994, [http://w2.vatican.va/content/john-paul-ii/en/apost\\_letters/1994/documents/hf\\_jp-ii\\_apl\\_19940522\\_ordinatio-sacerdotalis.html](http://w2.vatican.va/content/john-paul-ii/en/apost_letters/1994/documents/hf_jp-ii_apl_19940522_ordinatio-sacerdotalis.html). In number 4, the pope states: 'Wherefore, in order that all doubt may be removed regarding a matter of great importance, a matter which pertains to the Church's divine constitution itself, in virtue of my ministry of confirming the brethren (cf. Lk 22:32). I declare that the Church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the Church's faithful.' See also Cito, D. (1995). Lettera Apostolica sull'ordinazione sacerdotale da riservarsi soltanto agli uomini, 22 maggio 1994, con nota di D Cito, *Ius Ecclesiae*, 7, 347–353; Ferme, B. (1996). The response (28 October 1995) of the Congregation for the Doctrine of the Faith to the dubium concerning the Apostolic Letter 'Ordinatio Sacerdotalis' (22 May 1994): Authority and significance, *Periodica*, 85, 689–727; Raberger, W. (1996). Ordinationsfähigkeit der Frau?, *Theologisch-praktische Quartalschrift*, 144, 398–411; Torfs, R. (1994). *Ordinatio sacerdotalis*. Kanttekeningen bij een definitief afgesloten discussie, *Onze Alma Mater*, 47, 282–302.

But even divine law should be scrutinised in more depth. The Austrian canon lawyer Helmuth Pree wrote about this point and evoked some examples of norms once considered of divine origin, that eventually changed.<sup>15</sup> The evolution of ideas about the goals of marriage can serve as an illustration. Historically, *procreatio* and *educatio prolis* (procreation and the education of offspring) were considered to be the first goal of marriage underpinned by divine law. Vatican II changed that order as one can read today in canon 1055 §1, putting the good of the spouses on the same level as procreation and education of offspring.<sup>16</sup> As if God changed his mind. Later on, I will discuss a few issues where divine law seems to be directly or indirectly involved. Bringing clarity to that discussion is very important for a future positive evolution of canon law.

A last advantage of leaving more matters to the appreciation of the particular legislator than happens today, is a better interconnection between canon law and civil law. Although the church, as a result of freedom of religion, enjoys the right to organise itself according to its own theological standards and principles, it remains important to enter into a fruitful dialogue with secular legislation, the priorities it makes, and the way it evolves. I am certainly not saying that secular law should always prevail. There may be cases in which canon law does not follow and prefers to punish its ministers itself, considering compliance with the secular legislation unjust. However, in a democratic state that accepts the rule of law, these situations will be rare. An interpretation of certain canonical norms in the light of the existing secular legislation can be an interesting hermeneutical operation, without, of course, abandoning religious freedom and the theological insights of the church.

To conclude: although focusing on a change of universal law can lead to better results than just looking at the particular situation, probably the best way forward is insisting on giving more autonomy to local churches in matters dealt with, up until now, exclusively at the universal level.

In this section I would like to make a last remark on the possibilities of customary law. I do know that in practice, customs are limited to the realm of liturgy. That is what Giorgio Feliciani held already a long time ago. But there is no reason to stick to that limited application. Looking at the position of custom in the CIC 1983, there is room for a more all-encompassing approach. The legal position of custom is dealt with in canons 23–28. This means that, in terms of how the code is structured, the section on customary law immediately follows the section on ecclesiastical laws (canons 7–22). Not only do canons 23–28 provide for the possibility of creating customs *praeter legem* (outside the law), but also *contra legem* (contrary to the law). Certainly, canon 24 §1 says: ‘No custom which is contrary to divine law can obtain the force of law.’ But then again, where exactly can the limits of that divine law be situated? Moreover, one often overlooks the remarkable possibility of canon 26, which says that a custom needs 30 years to obtain the force of law, ‘unless the competent legislator has specifically approved it’. In other words, the legislator can speed up a custom on its way to becoming law. Obviously, customs remain vulnerable and the legislator can always make them disappear by issuing new legislative norms. But even then, the fact that the custom emerged and possibly was approved, was a signal to the universal legislator that something was going on, and that adapting his norms or his policy might be a good idea.

**Key issues for renewal in canon law. From an (implicit) *societas perfecta* model to a fruitful interaction between canon law principles and both secular law quality and governance standards.**

## 1. Clericalism

The Royal Commission rightly blames the culture of clericalism in the Roman Catholic Church as an important cause of its failure in dealing properly with child sexual abuse. This culture of clericalism is supported by different elements that, together, make a transparent and open legal approach problematical. The first reason has deep historical roots. Already at the end of the eighteenth century, Catholic thinkers such as Franciscus Rautenstrauch (1734–1785) promoted the idea of the Catholic Church as *societas perfecta* or perfect society.<sup>17</sup> The term was used as an answer to Protestantism seeing

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15. Pree, H. (1996). *Ius divinum* Between Normative Text, Normative Content, and Material Value Structure, *The Jurist*, 56, 50. Pree rightly states that there is no *ius mere divinum*. Rather, there is always a *ius divinum* grasped only within a human situation and language. In *ius divinum* the divine foundation mixes with the human element. Pree is very clear on this: *ius divinum* is to be considered both as the substratum of legal truth that underlies positive canon law and as the fundamental legal orientation. It is not an already given code of norms.

16. Hannon, P. (2002). Theological Reflections on ‘the Good of Spouses’ (can. 1055 §1), *Irish Theological Quarterly*, 67, 351–364.

17. See also Granfield, P. (1982). The Rise and Fall of *Societas Perfecta*, *Concilium*, 7, 3–9; Torfs, R. (1999). The Roman Catholic Church and Secular Legal Culture in the Twentieth Century, *Studia Historiae Ecclesiasticae*, 25, 1–20.

the church as a collegium within the state. Catholics didn't like this notion and tightened the idea of *societas perfecta* later, after the loss of the Papal States as a result of the unification of Italy in 1871. The further the church was away from a real state, the more theoretical thinkers insisted on the church being a perfect society. One of the main theorists in that regard was Camillo Tarquini (1810–1874).

One should understand the term perfect society correctly. It does not mean that the church is morally perfect, that it makes use of higher moral standards than secular states do. It only means that the church has everything it needs to function autonomously, not requiring the framework of a secular state as a context to operate in. This theory fits very well in the discussions of the nineteenth century, which included debates about power over marriage. Which prevails? State marriage or church marriage? The CIC 1917 was given shape in a context still openly promoting *societas perfecta* thinking. This is understandable while the pope was still a prisoner in his palace, as the Lateran Treaties that created Vatican City as the material support for the Holy See were only concluded in 1929. The CIC 1983 was promulgated in a completely different context. The ecclesiology of Vatican II did not talk about the *societas perfecta* as an image to describe the church. Preference was given to other theological ways of representation. The church was described as the Body of Christ, the *communio* of the Christian faithful, the People of God. The CIC 1983 aimed at the canonical translation of the concepts and ideas as formulated in the various documents of Vatican II. Probably, the dominating notion used in the code to describe the church, at least when it comes to establishing its structures, is the *communio hierarchica*. Yet, traces of other notions such as the Body of Christ or the People of God are also present. With regards to the position of the old *societas perfecta*, it is clear that it is no longer explicitly mentioned in the code. However, silently, it still influences various key norms of the CIC 1983. The best illustration of this tacit yet strong presence is canon 22, which is formulated as follows:

*Civil laws to which the law of the Church yields, are to be observed in canon law with the same effects, insofar as they are not contrary to divine law and unless canon law provides otherwise.*

A superficial view of this canon can lead to a positive conclusion: the church refers from time to time to civil law and gives the latter a place in its own legal order. However, a closer look shows the canon is saying that the church itself can freely decide whether or not to adopt certain civil norms. The fact that divine law is seen as problematic and prohibits the adoption of civil law is still understandable. Yet, the last part of canon 22 goes beyond that point: '... unless canon law provides otherwise.' This means that the church keeps its discretionary power to refer or not to refer to civil law, even when it comes to norms applicable to all, such as city planning laws or labour law regulations. The maintaining of this complete liberty reflects, without being explicit, the old idea of the *societas perfecta*.

To come back to the Royal Commission. It goes without saying that the *societas perfecta* nourishes the ambitions of a clerical system to remain autonomous and to close its doors to an open approach and external influences. Within the canonical system, which is still characterised by *societas perfecta* thinking, the CIC 1983 makes a fundamental distinction between laypeople and clerics. Admirers of Vatican II were happy with the new role that was granted to laypeople. However, this role should not be overestimated when it comes to its canonical implications. In that regard, a key norm remains canon 129 of CIC 1983. Its first paragraph sets the standard:

*Those who have received sacred orders are qualified, according to the norm of the prescripts of the law, for the power of governance, which exists in the Church by divine institution and is also called the power of jurisdiction.*

The supremacy of clerics is clearly set forward in this first paragraph. What about laypeople? Their role is described in paragraph 2:

*Lay members of the Christian faithful can cooperate in the exercise of this same power according to the norm of law.*

The wording of this canon is clear. Laypeople can cooperate, not participate, as had been suggested during the drafting of the code but was rejected on the initiative of some influential cardinals, including Basil Hume and Joseph Ratzinger. It goes without saying that the *summa divisio* as made in canon 129 strengthens the clerical culture in the church, which is protected by the implicit survival of the perfect society.

It is clear that in a context of legal and administrative openness, this canon cannot be maintained without further discussion. And in case it is maintained anyway, it should at least be openly recognised that by no means can this canon be seen as an expression of divine law. To put it another way, two solutions are possible. The first is dropping the canon, the second is not taking it too seriously, refusing it a high-ranking theological status. By the way, that is what F J Urrutia did in commenting on this canon.<sup>18</sup> It cannot be of divine law, he said, as the CIC 1983 accepts exception to the principle of canon 129 itself. The most striking exception is offered by canon 1421 §2, which allows laypersons to be appointed as judges, and when necessary, one of them can be selected to form a college. A layperson appointed as a judge is participating in the power of governance, not just cooperating as allowed by 129 §2. In other words, 1421 §2 proves that there is no divine law underpinning canon 129.<sup>19</sup> Some people argue that a layperson, when becoming a judge and member of a college has no proper power of governance. This is wrong, as has been demonstrated adequately by the late Jim Provost, who invoked canon 131 §1<sup>20</sup>, which starts as follows: 'The ordinary power of governance is that which is joined to a certain office by the law itself.'

To sum up: the culture of clericalism is still present in the Roman Catholic Church of today. But the pillars on which it is built are extremely vulnerable. One pillar is the *societas perfecta* ecclesiology which still survives in the current code of canon law without being supported by the ecclesiology of Vatican II. The second pillar is the radical distinction between the power of governance that can be participated in by clerics, whereas laypeople are only in a position to cooperate. While this may be true in theory, in practice the norm has exceptions. There is no good reason to keep the clerical culture alive from that perspective.

## 2. Lack of separation of powers

Probably the deepest reason for the ongoing prospering of the clerical approach of canon law is the lack of separation of powers in the church – or at least, the lack of balance of powers. In that regard, canon 135 is the key norm. Its first paragraph goes as follows:

*The power of governance is distinguished as legislative, executive and judicial.*

Optimists could see in this paragraph the germ of the separation of powers, but this is not what the paragraph says.<sup>21</sup> Although it distinguishes the three powers, it does not attribute them to different persons or colleges. They are distinguished for technical reasons, having a repercussion on issues such as the possibility of delegation. However, when it comes to the three powers themselves, they are always concentrated with key church figures. This becomes clear when reading about the power of the pope as described in canon 331 *in fine*: 'By virtue of his office he possesses supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely.' Here, no distinction is made between legislative, executive and judicial power, as the pope possesses them all. On a lower level, the same is true for the bishop. Canon 381 §1 says:

*A diocesan bishop in the diocese entrusted to him has all ordinary, proper, and immediate power which is required for the exercise of his pastoral function except for cases which the law or decree of the Supreme Pontiff reserves to the supreme authority or to another ecclesiastical authority.*

Unlike the pope, the bishop is limited in his power, but not along the lines of the legislative, executive and judicial power.

It is of utmost importance that checks and balances are created in the church. Should a distinction be made between legislative and executive power? Ideally it would not be a bad idea, yet in most democracies, the dividing line between the legislative and executive power is becoming vague, leading to a clear supremacy of the latter. But what certainly matters is an independent and impartial jurisprudence, which by the way will not be easy in cases where only clerics qualify or take the lead in the judicial realm, as they always remain incardinated and to some extent dependent on their hierarchical superior. Therefore, laypeople should qualify to become judges in all circumstances.

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18. Urrutia, F J. (1992). Lectio cursorial canon 129 CIC, *Periodica*, 81, 355–380.

19. Luis Navarro recognises the fundamental character of the principle of equality: "Il principio di uguaglianza radicale costituisce un vero principio costituzionale che, come tale, deve informare l'intero ordinamento canonico ..." ["The principle of radical equality constitutes a true constitutional principle which, as such, must inform canon law in its entirety."] Cf. Navarro, L. (1992). Il principio costituzionale di uguaglianza nell'ordinamento canonico, *Fidelium iura*, 158.

20. Provost, J. (1983). The Participation of Laity in the Governance of the Church, *Studia Canonica*, 17, 417–448.

21. Canon law does not contemplate a separation of powers with its corresponding unitary and independent organisations. See Labandeira, E. (1988). La distinción de poderes y la potestad ejecutiva, *Ius Canonicum*, 28, 85–98.



What always has to be examined in proposals such as these, which aim at the clear separation of powers, is whether presupposed divine laws can hamper a renewal of the system. We do not often read that canon 135 is based upon the divine ordination of the church. Yet some arguments go in that direction.<sup>22</sup> Some canon lawyers refer to the historical fact that the bishops are successors to the apostles, and that the latter, in their way of governing the church, were not bound by a phenomenon such as the separation of powers. Of course, this is true. The main advocate of the separation of powers was Charles Louis Montesquieu, who lived between 1689 and 1755. Yet, referring to the way the apostles acted as a reason for rejecting the separation of powers in the church today, looks very much like cautiously building up a reasoning underpinned by divine law to forever help concentrate all powers in the hands of the same key people. This idea should be combated.

To be complete, I also have to mention other arguments invoked for the current absence of independent tribunals. These arguments are much more practical, including the lack of enough qualified canon lawyers and the impossibility of organising local tribunals, even at the level of the episcopal conference. Such argumentation leaves God out of the picture and can of course be circumvented much more easily.

### 3. The selection of bishops

The selection of bishops remains a problem in the church. This was rightly spelled out by the Royal Commission, which recommended (Recommendation 16.8) that the Holy See should publish criteria for the selection of bishops, including criteria relating to the promotion of child safety. Also recommended was the establishment of a transparent process for appointing bishops which includes the direct participation of laypeople.

What are the current issues with regard to the appointment of bishops? A first issue is the almost unlimited power of the pope in this regard. Canon 377 §1 says: 'The supreme pontiff freely appoints bishops or confirms those legitimately elected.' Local exceptions remain possible. Historically, they were much more numerous than they are today, as reported by the French historian Jean-Louis Harouel.<sup>23</sup> It was the CIC 1917 that helped create as much as possible a uniform system, strengthening the power of the pope and limiting, if not suppressing, the role of both local church representatives and secular powers. There were good reasons for that move, including the disappearance or at least the weakening of local political influences, although, let us not forget, these can also be exercised by putting pressure on officials of the universal church. Together with the weakening of political influences, also the role of the *vox populi* or the opinion of local church members was largely put aside. One could imagine changes in this regard. Representatives of the local church, for instance, could propose a list of candidates from which the pope makes the final choice. The opposite is also thinkable, with the pope presenting a list leading to a choice made at local representative level, ultimately confirmed by the Holy Father. And why not give representatives of the local church the right of veto?

In practice, many still existing contracts and agreements between the Holy See and various civil authorities include provisions regarding the appointment of bishops. These can be divided into two major groups. Firstly, there is the right to consultation, also called the right to official communication. The Holy See communicates the name of the candidate to the respective government, which can make objections. The second is the more intrusive right to presentation: the civil authority can submit candidates to the Roman Pontiff. Perhaps this entanglement with civil authorities is not the best way for settling things in the future.<sup>24</sup> The role of the particular church should be much more important. In any case, the curriculum vitae of the candidate, whatever the required standards are, should be scrutinised in detail.

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22. See Viana, A. 'Commentary on canon 135', in Marzoa, Á., J Miras, J., and Rodríguez-Ocaña, R., (eds.), (2004). *Exegetical Commentary on the Code of Canon Law, I*. Prepared under the responsibility of the Martin Azpilcueta Institute Faculty of Canon Law, University of Navarre, Wilson and Lafleur/Midwest Theological Forum, Montreal/Chicago, 850: 'Canon law does not contemplate a separation of powers ... due to the constitutional principle of concentration of the *sacra potestas* in the Roman Pontiff and in the bishops. The Roman Pontiff and the bishops in their dioceses are at the same time and by nature, legislators, judges and administrators.'

23. Harouel, J-L. (1977). *Les désignations épiscopales dans le droit contemporain*, PUF, Paris, 142.

24. le Tourneau, D. 'Commentary on canon 377', in Marzoa, Á., Miras, J., and Rodríguez-Ocaña, R., (eds.), (2004). *Exegetical Commentary on the Code of Canon Law, II/I*, 758–759.



So far we have identified some questions with regard to the procedure of appointment. The second issue concerns the competence and qualities needed by a bishop. Canon 378 of the CIC 1983 enumerates several required qualities in the first paragraph, and goes as follows:

*In regard to the suitability of a candidate for the episcopacy, it is required that he is:*

*1° outstanding in solid faith, good morals, piety, zeal for souls, wisdom, prudence, and human virtues, and endowed by other qualities which make him suitable to fulfil the office in question;*

*2° of good reputation;*

*3° at least 35 years old;*

*4° ordained to the presbyterate for at least 5 years;*

*5° in possession of a doctorate or at least a licentiate in sacred scripture, theology, or canon law from an institute of higher studies approved by the Apostolic See or at least truly expert in the same disciplines.*

It goes without saying that the qualifications remain vague and that they probably would not hamper any candidate. Of course, all general conditions for an office will remain open for interpretation. However, two qualities should be strengthened in the future. First of all, the bishop should be free of any criminal behaviour, including child sexual abuse. Today, this requirement is not explicitly spelled out. Secondly, the bishop should be possessed of a strong personality and be able to withstand criticism and tough debates in secular society. In other words, he should be a person with moral courage, able to take the right decisions, including painful ones. This criterion is not explicitly mentioned in the list of canon 378. This list was given shape in an era different from ours. The underlying presumption was of a respectable and respected church in a society that did not challenge by any means the position of the church. For that reason, it was not seen as necessary that a bishop should be endowed with a keen fighting spirit or a lot of courage to overcome difficult debates in society. He could very well be a soft, holy man, reliable in a clerical context, yet dangerous in difficult situations. Today, the previously existing plausible position has vanished. In contemporary society, a different, more courageous, and more professional profile is required of the bishop.

It is clear that both issues are entangled, and that coming to a good choice also requires a keen understanding of the circumstances of the local church in which the bishop will have to function. Do we need new conditions formulated in canon 378? Probably yes. Yet criteria will always be abstract, and new norms do not help without a new mentality guiding those implementing them.

#### **4. Synods and synodality**

Can synods bring hope? The CIC 1983 made diocesan and national synods a matter for the discretion of the bishops. Do such gatherings need to be mandated to occur at regular intervals that can possibly be determined by particular law? Several elements play a part in this discussion. Firstly, tradition is not irrelevant. In many countries, diocesan or national synods never, or very rarely, took place. This is true of Australia, where the last national synod took place in 1937, the Archdiocese of Sydney has not had a synod since 1959, and Melbourne and Hobart not since 1916. However, the introduction of compulsory synods would only be a first step. For instance, canon 466 states:

*The only legislator in a diocesan synod is a diocesan bishop. The other members of the synod possess only a consultative vote. Only he signs the synodal declarations and decrees, which can be published by his authority alone.*

Clearly the problem is double. The organisation of the synod is one thing; its truly consultative force and its real power are another. During my career as a canon lawyer, my students of all continents were advocating the usefulness of synods with a true decision-making power. It could be an ideal solution. Yet in my eyes, other issues, including the power of governance exercised by laypeople and independent tribunals, should be achieved first in order to create a shift in mentality, before truly effective synods have a chance of being successful. One should not forget that synods that nourish expectations but do not lead to visible results will be a source of frustration and may cause laypeople to refrain from further participation in projects without concrete consequences.

## 5. Compulsory celibacy

Compulsory celibacy of priests is often perceived as one of the main reasons for their sexual crimes. Without denying the part this plays, I am convinced that the power structures as analysed above, including the clerical culture and the lack of independent jurisprudence have been more important contributors to the failure of the system. This being said, a refinement of the current legislation with regard to compulsory celibacy is also highly recommendable. Here, church authorities cannot invoke divine law as a limit for their possible action. Saint Peter had a mother-in-law, and such a person can only be acquired by marriage. It is only since the 12th century that compulsory celibacy was generally accepted and enforced in the Latin church. Recent popes have not denied this. In 1971, Paul VI was truly thinking of lifting compulsory celibacy, as reported by Cardinal Bernhard Alfrink (1900–1987) to the theologian Edward Schillebeeckx (1914–2009).<sup>25</sup> He eventually refrained from doing so because he did not want to be the pope making an end to a long tradition. This may be a fair reason, without it being fundamental however. Also, Pope Francis suggested that maybe one day, the church could ordain *virī probati* to the priesthood.<sup>26</sup> These *virī probati* are married men. However, in this configuration, marriage precedes ordination, not the opposite. But then again, the possible combination of marriage and ordination shows that there is no divine inspired reason for keeping norms with regard to celibacy the way they exist today.

A change of legislation should address two points of concern. Firstly, lifting the obligation of celibacy does not mean that the latter is meaningless. It rather says that celibacy is optional. For some, it will be a better way of life. For others, the opposite will be true. Lifting the obligation means that compulsory celibacy and priestly ordination are not necessarily intertwined. Secondly, compulsory celibacy remains very valuable for one type of ordained priest, namely religious order priests. They make a choice for a life together in an abbey or a monastery. A lifestyle very different from that of a diocesan priest, with other fundamental options and perhaps less loneliness.

## 6. The rights of priests

The life of clerics, their obedience to their bishop, the protection of their privacy and the free zone they possess in their personal life, is another important issue. Priests, notwithstanding their obedience to the bishop, should remain free people, with their own spiritual lives, sources of inspiration, and methods of serving the people. Crimes, which have to be avoided by all means, cannot imply a strict control on everything priests do in their lives. This does not mean that no specific measures with regard to priests can be taken. Again, the overall structural reform as advocated above is of utmost importance, and without these changes, nothing will fundamentally improve. This being said, here are some suggestions with regard to the legal position of priests.

Firstly, candidates should be scrutinised very thoroughly before ordination. American bishops do this better today than they did in the past, mainly under pressure of liability concerns imposed by secular tribunals. But the selection of priests should also take place in a context that respects privacy. In that regard, asking a candidate to the priesthood before he is authorised to enter the seminary whether he is homosexual or heterosexual, is an illegitimate question and also completely irrelevant with regard to possible child sexual abuse.<sup>27</sup> But then again, questions helpful to determining the psychological suitability and moral characteristics of a candidate are more than welcome, even necessary.

A second point concerns the contact between a bishop and his collaborators on the one hand, and the clergy on the other. Priests should not be left alone. There should be sufficient occasions and opportunities for them to formulate their needs and concerns and communicate these to the bishop, including for example any interest they may have in undertaking further studies, and their spiritual needs. In many countries, these contacts between bishops and priests after ordination are not always effective. I know of priests who have not been in touch with their diocesan bishop for over five or even ten years. The feeling of loneliness may inspire priests to make unexpected decisions in their lives.

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25. Schillebeeckx, E. (1995). *Theologisch testament: notarieel nog niet verleden*; Nelissen, Baarn, 200.

26. Pope Francis said so in an interview with the German weekly *Die Zeit*, 8 March 2017. See also: <https://cruxnow.com/global-church/2017/03/08/pope-francis-signals-openness-ordaining-married-men/>

27. Torfs, R. 'Instruction or Intrusion?', in Torfs, R., (ed.) (2008). *Homoseksualiteit en wijding. Juridische en maatschappelijke analyse van de kerkelijke instructie/Homosexuality and Holy Orders. Juridical and Social Analysis of the Ecclesiastical Instruction*. *Monsignor W. Onclin Chair 2006*, Peeters, Leuven, 13–23.

## 7. Canon law and civil law

A last very important issue is the relationship between canon law and civil law. The Catholic Church never had a profound tradition in this regard, at least when it came to collaboration. It always started from a model of rivalry, following the *societas perfecta* approach as described earlier. Most of the time, the ultimate question was: who is competent for what? Do priests enjoy a *sui generis* position exempting them from labour law and legislation? Can canonical marriages among the faithful be recognised in the civil realm without a civil marriage being necessary? Historically, the longing for church autonomy went even further, establishing in some countries a *privilegium fori* for clerics who could only be judged by ecclesiastical courts.<sup>28</sup> Today, this model belongs to the past. One of the reasons for this is that churches cannot argue any longer that they possess the right to act in their own parallel world without being affected by state legislation. The second is that state legislation itself became increasingly complex, occupying new fields left previously to the free choice of the citizens. For instance, labour law is relatively new, as is environmental law, and regulations with regards to the protection of historic monuments. The emergence of more compulsory law makes it increasingly impossible to create a free zone for the church.

The future relationship between civil and canon law will be given shape in another way. A first element is that they both accept human rights, including the idea that freedom of religion itself is one of them. Which means that religious freedom within a religion is of course nonsensical, and that in cases where there are conflicts between religious aspirations and secular human rights, as in the case of the impossibility of women's ordination to the priesthood, some delicate balancing has to be done. But then again, human rights should be a shared package, the starting point for any further collaboration.

A second element is the need for keen collaboration in certain fields. In that regard, the penal law systems of the church and of the state can be connected in a fruitful way.<sup>29</sup> Some people argue that the church should refrain from dealing with child sexual abuse cases itself and leave the handling of these to secular tribunals. This approach misses refinement, as secular judges can fine or jail priests found guilty of child sexual abuse, but have no authority to remove them from a church office or to impose laicisation upon them. The cooperation lies in establishing a correct timeline. Bishops should report problematic cases they are aware of to secular authorities (I leave apart the issue of the seal of confession). They have the right to start a penal procedure within the church, but once secular judges taken on the case, they should suspend the procedure until a final judgement has been issued. Only then should the canonical procedure be continued. In the meantime, of course, administrative suspension remains possible. The relationship between canon and civil law of the future will no longer be a fight over competence over matter, but a search towards a fruitful collaboration for specific cases, including those of child sexual abuse.

In that context, it remains important to highlight the way canon law education should be organised and structured. Unfortunately, today students with a legal background are in an increasingly difficult position in relation to obtaining a degree. They should at least have two full-time years of theology before being authorised to enter into the three-year JCL program.<sup>30</sup> This means that in a country where one becomes a lawyer after five years of study, the student needs another five years to become a qualified canon lawyer. That is 10 years of study altogether, and without the guarantee of becoming as rich as a tax lawyer. For the good of the church, it is important to have a healthy mix of canon lawyers from legal and theological backgrounds, so that deep thoughts are not left aside, but also that a fruitful dialogue between canon and civil law remains possible. Here also, the Australian Bishops Conference could ask the universal legislator to change the current system.

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28. *Privilegium fori* (privilege of the forum) refers to ancient privilege of clerics to be tried in an ecclesiastical court. Puznan, R. (1977–1999). *Privilegium fori*, in *Lexikon des Mittelalters*, VII, Metzler, Stuttgart, 228–229.

29. Torfs, R. 'Contractual Religious Freedom', in van de Beek, A., van der Borgh, E A J G., and Vermeulen, B P., (eds.) (2010). *Freedom of Religion*, Brill, Leiden/Boston, 141–154.

30. See [http://www.vatican.va/roman\\_curia/congregations/ccatheduc/documents/rc\\_con\\_ccatheduc\\_doc\\_2018042\\_8\\_istruzione-diritto-canonico\\_en.html](http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_2018042_8_istruzione-diritto-canonico_en.html)

## Conclusion

To conclude, here are my main points. Firstly, some structural changes in canon law are absolutely necessary. In universal law, a true separation of powers and room for power of governance for laypeople are of the utmost importance. Another change in canon law that deserves a recommendation is more space for particular legislation on certain specific matters. Today, universal law legislates in too detailed a way on too many issues.

Secondly, what are the barriers in canon law to changing the system? It is never easy to lose power, including for those governing the universal church. Yet, invoking divine law as a reason for not allowing changes is sometimes too easy a solution. One should have the courage to disentangle that mechanism and enter into discussion about it. Very often, divine law is less divine than it seems to be at first glance.

Thirdly, the future relationship between canon law and civil law needs to be one of collaboration, of working together on specific points. This requires full recognition of human rights with respect to both legal systems, without the church being exempted from the laws of the state.

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# Synodality and its consequences for canon law

Brendan Daly

Synodality means the active participation of all members of all the church in its processes of discernment, consultation and cooperation at all levels of decision-making and mission. The Second Vatican Council introduced synods of bishops to the life of the church, and they have been very effective for the universal church. Since Vatican II, synods of bishops have usually met every two years. But Pope Francis understands that synodality is much more than this and believes that the church must find new ways to live and work in the world using the prayer, advice and experience of all members, including the laity at the parish, diocesan, national and international levels.

In November 2013, Pope Francis expressed his dream of what a renewed church could be like:

*I dream of a 'missionary option', that is, a missionary impulse capable of transforming everything, so that the Church's customs, ways of doing things, times and schedules, language and structures can be suitably channeled for the evangelization of today's world rather than for her self-preservation. The renewal of structures demanded by pastoral conversion can only be understood in this light: as part of an effort to make them more mission-oriented, to make ordinary pastoral activity on every level more inclusive and open, to inspire in pastoral workers a constant desire to go forth and in this way to elicit a positive response from all those whom Jesus summons to friendship with himself. As John Paul II once said to the Bishops of Oceania: 'All renewal in the Church must have mission as its goal if it is not to fall prey to a kind of ecclesial introversion' (Post-Synodal Apostolic Exhortation Ecclesia in Oceania, 22 November 2001).<sup>1</sup>*

Pope Francis believes that this renewal of the church cannot be deferred.<sup>2</sup> He has stated 'the path of synodality is the path that God expects from the Church of the third millennium.'<sup>3</sup>

## International Theological Commission

This year, the International Theological Commission, appointed by the pope, published *Synodality in the Life and Mission of the Church* with the approval of the Congregation for the Doctrine of the Faith and the authorisation of Pope Francis.

Pope Francis considers synodality as a 'constitutive dimension of the Church'.<sup>4</sup> The International Theological Commission stated that 'the ecclesiology of the People of God emphasizes in fact the common dignity and mission of all the baptised, in the exercise of the multiform and ordered wealth of their charisms, their vocations, their ministries ... concretely manifest and realise [the church] being a communion in walking together, in gathering together and actively participating in all its members in its mission evangelising.'<sup>5</sup>

Synodality applies at all levels of the church. Synodality applies at the universal level in the relationship of the pope to the bishops and the local churches. Synodality already exists in bishops' conferences, diocesan pastoral councils, priests' councils, colleges of consultors and parish councils. The participation of the laity is required in other structures and organisms, such as in the selection and training of seminarians and novices. More importantly than the structures, there needs to be a conversion of minds and hearts, because without this structures will be 'simple masks without heart or a face.'<sup>6</sup> Many of the problems of sexual abuse have occurred because of a lack of synodality.

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1. Pope Francis, apostolic exhortation *Evangelii Gaudium*, 24 November 2013, par 27 [http://w2.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html)

2. *ibid*, par 25.

3. Pope Francis. (2015, 17 October). Speech on the occasion of the Commemoration of the 50th anniversary of the Institution of the Synod of Bishops, *Acta Apostolicae Sedis (AAS)* 107, 1139.

4. International Theological Commission, *Synodality in the Life and Mission of the Church*, 2 March 2018, n 1, [http://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_20180302\\_sinodalita\\_.html](http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_20180302_sinodalita_.html)

5. *ibid*, n 6.

6. *ibid*, n 107.



## Canon law

Although canon law requires some urgent changes, if canon law as it existed at the time had been implemented, the sexual abuse crisis would not be so bad. In country after country, bishops have not followed canon law.<sup>7</sup>

In 1911, the Congregation for the Council was concerned about bishops making financial decisions without consultation and advice. The Congregation wrote to the United States bishops:

*Among the methods which are now in use in the United States for holding and administering church property, the one known as Parish Corporation is preferable to the others, but with the conditions and safeguards which are now in use in the State of New York. The bishops therefore should immediately take steps to introduce this method for the handling of property in their dioceses, if the civil law allows it. If the civil law does not allow it, they should exert their influence with the civil authorities that it may be made legal as soon as possible. Only in those places where the civil law does not recognise Parish Corporations, and until such recognition is obtained, the method commonly called Corporation Sole is allowed,<sup>8</sup> but with the understanding that in the administration of ecclesiastical property the Bishop is to act with the advice, and in more important matters with the consent, of those who have an interest in the premises and of the diocesan consultors, this being a conscientious obligation for the Bishop in person.<sup>9</sup>*

Clearly, the Holy See was opposed to the corporation sole model and arbitrary decisions by bishops.

## Accountability and transparency

Pope John Paul II issued *motu proprio* the apostolic letter *Sacramentorum sanctitatis tutela*, on 30 April 2001.<sup>10</sup> This document specified that a sin against the sixth commandment with a minor is a grave canonical crime. Sexual abuse causes grave damage to the normal development of the victim and causes grave damage to the church and its credibility. Furthermore, it betrays the trust that people have in priests. Pope John Paul II was conscious that a priest who sexually abuses a child deserves the strictest punishment.

The Pope also appointed the Congregation for the Doctrine of the Faith to supervise investigations into credible complaints of sexual abuse of children and how they were handled. The Congregation was authorised to order penal trials for accused priests. Effectively, the Apostolic See established a system of accountability. Since 2001, when a diocesan bishop receives a complaint of sexual abuse of a minor he must notify the Congregation for the Doctrine of the Faith that he has received a complaint:

*Article 16. Whenever the Ordinary or Hierarch receives a report of a more grave delict, which has at least the semblance of truth, once the preliminary investigation has been completed, he is to communicate the matter to the Congregation for the Doctrine of the Faith which, unless it calls the case to itself due to particular circumstances, will direct the Ordinary or Hierarch how to proceed further, with due regard, however, for the right to appeal, if the case warrants, against a sentence of the first instance only to the Supreme Tribunal of this same Congregation.<sup>11</sup>*

The Congregation will then instruct the bishop about how the complaint is to be handled and will appoint a tribunal of its own or appoint a local tribunal to carry out a penal trial. This accountability to the Congregation for the Doctrine of the Faith is meant to ensure consistency in handling cases throughout the world and to ensure that appropriate penalties are applied for sexual abuse and other criminal cases.

There have been many bishops who have failed to take action against offending priests and who have not notified the Congregation for the Doctrine of the Faith of any complaints. Consequently, Pope Francis, on 4 June 2016, issued a *motu proprio*, 'As a Loving Mother,' legislating procedures for removal of bishops who fail to act in sexual abuse cases.<sup>12</sup> These provisions need to be implemented across the entire church.

7. I am saying that, since 1980, the bishops have been failing to implement canon law as it existed at the time. This includes some of the provisions of the 1983 Code and the two editions of *motu proprio Sacramentorum sanctitatis tutela* of 2001 and 2010.

8. As in Western Australia: *Roman Catholic Geraldton Property Act 1925*; *Roman Catholic New Norcia Property Act 1929*; *Roman Catholic Bunbury Church Property Act 1955*; *Roman Catholic Bishop of Broome Property Act 1957*; also *Roman Catholic Church (Incorporation of Church Entities) Act 1994* – which also provides for corporation sole (Queensland).

9. The Sacred Congregation for the Council, 29 July 1911, letter in *CLD*, 2, (1956), 444–445.

10. *AAS*, 93, (2001), 737–739.

11. Pope John Paul II, apostolic letter, *Sacramentorum sanctitatis tutela*, 30 April 2001, *AAS*, 93, (2001), 737–739; [http://www.vatican.va/resources/resources\\_norme\\_en.html](http://www.vatican.va/resources/resources_norme_en.html)

12. Pope Francis. (2016, 4 June). *motu proprio*, 'As a Loving Mother', *Origins*, 46, 9.

## Suitability for the granting of faculties

Often the present canon law has not been observed. The *1917 Code of Canon law*, which remained in force until 1983, required diocesan bishops and religious superiors to work together to ensure that only suitable priests were active in ministry. Consequently, a diocesan bishop could grant faculties to a religious priest to officiate at a particular wedding, for example, but if this religious priest wanted general faculties to function, then the Major Superior had to propose him to receive general faculties. Local ordinaries were obliged not to give faculties to religious priests unless they had been presented to receive them by their own religious superior:

*Canon 874 §2. Local Ordinaries shall not grant jurisdiction for the hearing of confessions habitually to religious who are not presented by their own Superior; but for those who are presented by their own Superior, it shall not be denied except for grave cause, with due regard for the prescription of canon 877.*

The Sacred Congregation for the Clergy, on 25 March 1980, promulgated ‘Directive Norms for Cooperation Among Local Churches and for a Better Distribution of the Clergy’.<sup>13</sup> This document required a diocese receiving clergy from another diocese or religious institute to have an agreement with the originating diocese and religious institute. If these directive norms were implemented, then bishops and superiors where clergy originated would know where they were and would be able to warn a diocesan bishop about problems. Unfortunately, the directive norms were often ignored.

The 1917 Code required diocesan bishops and religious superiors not to grant faculties to priests unless they were proven to be sufficiently knowledgeable and suitable to minister:

*Canon 877 §1. Neither local Ordinaries or religious Superiors are to grant permission or jurisdiction for the hearing of confessions except to those who are shown to be suitable by examination, unless it concerns a priest whose theological learning is demonstrated in another way.*

*§2. If, after the granting of jurisdiction, they prudently doubt whether the one approved by them continues to be a suitable priest, [the latter] can be put through a new test of doctrine, even if it concerns a pastor or canon penitentiary.<sup>14</sup>*

*Canon 970. The faculty to hear confessions is not to be granted to presbyters unless they are found to be qualified by means of an examination or their qualifications are evident from another source.*

*Canon 971. The local ordinary is not to grant the faculty to hear confessions habitually to a presbyter, even one who has a domicile or quasi-domicile in his jurisdiction, without first consulting with his ordinary, if possible.<sup>15</sup>*

According to canons 1050–1052 of the 1983 Code, before ordination, a priest is to have correct doctrine, piety, moral suitability and sufficient physical and mental health.<sup>16</sup> These canons are a guide as to whether a religious priest or priest from another diocese should be granted faculties. The above canons concerning basic checks and references have not always been observed.

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13. O’Connor, J., (ed.). (1982). *Canon Law Digest*, 9, Society of Jesus Chicago Province, Mundelein, Illinois, 760–788.

14. *Codex iuris Canonici*, Pii X Pontificis Maximi iussu digestus, Benedict Papae XV auctoritate promulgatus, praefatione Petri Card. Gasparri et indice analytico-alphabetico auctus, Romae, Typis polyglottis Vaticanis, 1917; Peters, E N., (English trans.) *The 1917 Pio-Benedictine Code of Canon Law*, Ignatius Press, San Francisco, 2001. Hereafter, the translation of the canons of the 1917 Code will be from this source.

15. John Paul II, *Codex Iuris Canonici*, AAS 75/2 (1983). English translation of the 1983 Code in *The Code of Canon Law*, Latin-English Edition, Canon Law Society of America, Washington, DC, 1983. Hereafter, the translation of the canons of the 1983 Code will be from this source.

16. Canon 1051. The following prescripts regarding the investigation about the qualities required in the one to be ordained are to be observed:

1. there is to be a testimonial of the rector of the seminary or house of formation about the qualities required to receive the order, that is, about the sound doctrine of the candidate, his genuine piety, good morals, and aptitude to exercise the ministry, as well as, after a properly executed inquiry, about his state of physical and psychic health;
2. in order to conduct the investigation properly, the diocesan bishop or major superior can employ other means which seem useful to him according to the circumstances of time and place, such as testimonial letters, public announcements, or other sources of information.

Canon 1052 §1. For a bishop conferring ordination by his own right to proceed to the ordination, he must be sure that the documents mentioned in canon 1050 are at hand and that, after the investigation has been conducted according to the norm of law, positive arguments have proven the suitability of the candidate.

## Penalties concerning age and pornography

Canon 1395 of the 1983 Code currently states:

*§1. A cleric living in concubinage, other than in the case mentioned in canon 1394, and a cleric who continues in some other external sin against the sixth commandment of the Decalogue which causes scandal, is to be punished with suspension. To this, other penalties can be progressively added if after a warning he persists in the offence, until eventually he can be dismissed from the clerical state.*

*§2. A cleric who has offended in other ways against the sixth commandment of the Decalogue, if the offence was committed by force, or by threats, or in public, or with a minor under the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.*

The Australian Royal Commission into Institutional Responses to Child Sexual Abuse demonstrated that within the Catholic Church perpetrators of sexual abuse, 37 percent were non-ordained religious (32 percent were religious brothers and 5 percent were religious sisters), 30 percent were priests, and 29 percent were laypeople. In my view, since a significant proportion of offenders are laypeople, additional paragraphs need to be added to canon 1395:

*§. A person who sexually abuses a person under age 18 or who acquires or holds or distributes pornographic images of minors below the age of eighteen years is to be punished with automatic excommunication and an offending cleric is to be dismissed from the clerical state.*

*§. A person who enjoys imperfect use of reason is equiparated with a minor in this paragraph.*

## Imposition of penalties

The present law allows wide discretion for a bishop or judge to decide not to impose a penalty. Book VI of the 1983 Code concerning penalties has been under review since 2011, but the review has not been completed.

In 2012, a new paragraph was proposed for canon 1344, so that the law specified that an Ordinary could not defer imposing a penalty in cases causing public scandal or when a cleric has been denounced by the person the cleric injured:

*Canon 1344 §2. It is not permitted, however, to defer the imposition of the penalty, if it concerns an offence from which public scandal has arisen or when it has been denounced by the injured party.<sup>17</sup>*

## The pontifical secret

As stated by the Royal Commission, it is clear that there is confusion about who is bound by the pontifical secret. The pontifical secret does not prohibit victims going to the police. Pope Benedict XVI said victims should go to the police. I believe there needs to be a paragraph in a canon such as canon 1362 eliminating any confusion or misunderstanding about this:

*§3. Without prejudice to the seal of the sacrament of penance, the prescriptions of civil law regarding the reporting of crimes of sexual abuse to the designated civil authority must always be followed. The pontifical secret does not apply to victims of sexual abuse.*

Canon law must be clear that, apart from the seal of confession, civil laws concerning reporting of sexual abuse must always be followed. Everyone also needs to be clear about what is and is not covered by the seal of confession, and there is too much misunderstanding about this.

## Prescription

Prescription extinguishes a canonical criminal action to impose or declare a penalty after the prescription time expires. This means the cause of a criminal action is deemed no longer to exist. Canon 1362 of the 1983 Code provides that prescription generally extinguishes a canonical criminal action after three years, but actions arising from the delicts mentioned in canons 1394, 1395 (offences against the sixth commandment), 1397 and 1398, have a prescription of five years.

Charles Scicluna, when Promotor of Justice at the Congregation for the Doctrine of the Faith, stated that with the promulgation of *Sacramentorum sanctitatis tutela* in 2001, 'for the first time in history, a time limit has been imposed, after which the *action criminalis* is extinguished for those delicts

17. Gordon Read translation of 2012 draft of proposed changes to Book VI, Sanctions of the 1983 Code.

(i.e. those reserved to the Congregation for the Doctrine of the Faith).<sup>18</sup> Kozlowski is also of the opinion that prescription of canon 1362 did not apply to clerical offences against the sixth commandment with a minor when the 1983 code went into effect.<sup>19</sup> (It is apparent that both Scicluna and Kozlowski support the opinion that, when the 1983 Code was promulgated, the instruction *Crimen sollicitationis* of 1922, revised 1962, which reserved child sexual abuse cases to the Holy Office, later the Congregation for the Doctrine of the Faith, remained in force.)

The Australian Royal Commission has demonstrated that minors take on average over 30 years to complain about being sexually abused.<sup>20</sup> Sexual abuse is a heinous crime that does enormous damage to the victims. Therefore, the Catholic Church needs to revert to previous law so that there is no prescription for cases of sexual abuse involving clerics, religious brothers and sisters. It needs to be explicitly stated in canon 1362 that there is no prescription for crimes of sexual abuse of minors.

### **Sexual abuse of a minor needs to be an irregularity for ministry**

One way that the church has tried to ensure that the dignity of sacred orders is protected is by having law and regulations concerning irregularities. Irregularities help to protect the faithful from scandal when the history of a cleric is brought to light. They help protect the faithful from hurt that occurs when an abuser is ordained. The church has always had law concerning irregularities. Saint Paul forbade the ordination of anyone who had been married more than once. He told Timothy that *'deacons be the husband of one wife'* (1 Tim 3, 12); while *'a bishop must be ... the husband of one wife'* (1 Tim 3, 2). Cappello defines 'an irregularity as a perpetual impediment, established by ecclesiastical law out of reverence of the divine ministry, prohibiting primarily the reception of order, and secondarily the exercise of orders received.' All irregularities are ecclesiastical laws.

The causes of irregularities are crimes or physical and psychological issues. There are no excusing circumstances for irregularities. Even if the ordinand is unaware that he has an irregularity, he is still bound by the irregularity when he learns that he has incurred it. Irregularities are in that sense very different to crimes. Ignorance of a crime results in one not receiving the penalty. Irregularities forbid the celebration of sacraments.

Canon 1041 of the 1983 Code states:

*The following persons are irregular for the reception of orders:*

- 1° one who suffers from any form of insanity, or from any other psychological infirmity, because of which he is, after experts have been consulted, judged incapable of properly fulfilling the ministry;*
- 2° one who has committed the offence of apostasy, heresy or schism;*
- 3° one who has attempted marriage, even a civil marriage, either while himself prevented from entering marriage whether by an existing marriage bond or by a sacred order or by a public and perpetual vow of chastity, or with a woman who is validly married or is obliged by the same vow;*
- 4° one who has committed wilful homicide, or one who has actually procured an abortion, and all who have positively cooperated;*
- 5° one who has gravely and maliciously mutilated himself or another, or who has attempted suicide;*
- 6° one who has carried out an act of order which is reserved to those in the order of the episcopate or priesthood, while himself either not possessing that order or being barred from its exercise by some canonical penalty, declared or imposed.*

An irregularity can occur without any fault of the ordinand (e.g. insanity or amentia). The other irregularities, however, are the result of a crime and are governed by penal law, including canon 1321. A crime is 'an external and morally imputable violation of a law to which a canonical sanction is attached.'

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18. Scicluna, C. (2004, 25–26 March). 'The Procedure and Praxis of the Congregation for the Doctrine of the Faith Regarding *Graviora Delicta*,' in Dugan, P., (ed.) (2005). *The Penal Process and the Protection of Rights in Canon Law – Proceedings of a conference held at the Pontifical University of the Holy Cross Rome, March 25–26, 2004*, Wilson & Lafleur, Montreal, 239; quoted in Kozlowski, J C, Op. (2015). Understanding the *Ius Vigen*s of the Mandatory Dismissal Process, *The Jurist*, 75(2), 422.

19. Kozlowski, J C, Op. (2015). Understanding the *Ius Vigen*s of the Mandatory Dismissal Process, *The Jurist*, 75(2), 422.

20. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Volume 16, Book 2*, Commonwealth of Australia, 518, [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_16\\_religious\\_institutions\\_book\\_1.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_1.pdf)



In other words, to receive a penalty a person must have gravely sinned. Not all grave sins are crimes, but grave sins that seriously affect the individual or the church community are sometimes classified by the church also to be crimes. Crimes are considered to be opposed to everything the church stands for. The Ten Commandments guide the faithful about the content of grave matter.

Canon 1044 of the 1983 Code states:

*§1. The following are irregular for the exercise of orders already received:*

- 1° one who, while bound by an irregularity for the reception of orders, unlawfully received orders;*
- 2° one who committed the offence mentioned in canon 1041 n.2, if the offence is public;*
- 3° one who committed any of the offences mentioned in canon 1041 nn. 3, 4, 5, 6.*

*§2. The following are impeded from the exercise of orders:*

- 1° one who, while bound by an impediment to the reception of orders, unlawfully received orders;*
- 2° one who suffers from insanity or from some other psychological infirmity mentioned in canon 1041 No. 1, until such time as the Ordinary, having consulted an expert, has allowed the exercise of the order in question.*

A cleric who is ordained with an irregularity and a cleric who incurs an irregularity are irregular for the exercise of orders. This means that an insane cleric; a married priest; a cleric holding an office forbidden to a cleric; a cleric guilty publicly of apostasy, heresy or schism; a cleric attempting an invalid marriage; a cleric guilty of voluntary homicide, abortion or cooperation in an abortion; a cleric guilty of mutilation or attempted suicide; and a cleric attempting an act of orders when incapable or prohibited from doing so, cannot exercise ministry.

When a man is ordained with an irregularity, the ordination is valid but illegitimate. When such a cleric attempts to exercise the orders received, his celebrations of the sacraments are valid but illegitimate. This means that the effect of the irregularity is similar to that of a priest being suspended as far as the celebration of the eucharist is concerned.

Some bishops have played down the seriousness of sexual abuse cases. If sexual abuse of minors was classified as an irregularity, it would be more difficult to overlook it. For example, there are priests that have had affairs and the woman has had an abortion. If the priest opposed her having the abortion, he does not incur the irregularity in canon 1041, no. 4. However, if he encouraged or pressured the woman to have the abortion, he incurs the irregularity. Therefore, even if the bishop is prepared to let him continue in ministry, the fact of the irregularity remains, and a dispensation is required from the Holy See.

The same would apply to an abusive cleric if abuse of minors was an irregularity. It would not matter if the cause of the sexual abuse was a severe psychological problem. The fact that sexual abuse had occurred would mean that the man could not be ordained and could not function as a priest. Anyone who abuses someone under age 18 is not fit to be a priest.

Law has an educational role. It also sets minimum standards for a whole variety of matters. These include capacity to act. It is important that the Church delivers the message that it is doing everything it can to prevent and stop sexual abuse of minors. Irregularities are not silver bullets solving all the problems and issues in relation to unsuitable people being ordained or exercising ministry. Rather, irregularities represent minimum standards concerning the qualities of those to be ordained or exercising ministry. Since an irregularity prevents someone being ordained and prevents someone already ordained from functioning as a priest, making 'sexual abuse of a minor' an irregularity would be a significant step forward.

## **Selection of bishops**

The Royal Commission recommended changes in the process for the criteria and the selection of bishops:

*Recommendation 16.8: In the interests of child safety and improved institutional responses to child sexual abuse, the Australian Catholic Bishops Conference should request the Holy See to:*

- a. Publish criteria for the selection of bishops, including relating to the promotion of child safety*
- b. Establish a transparent process for appointing bishops which includes the direct participation of laypeople.<sup>21</sup>*

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21. Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report, Recommendations*, [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_recommendations.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf). See also Appendix 3, Royal Commission Recommendations Directed to Religious Institutions.



Recent scandals in Chile, Australia, the United States with Cardinal McCarrick, and elsewhere have demonstrated problems in relation to the selection of bishops. The bishops in one country seem to learn little from elsewhere. Because bishops have failed to act all over the world, it is apparent that there are issues with the selection of bishops. Rik Torfs makes some excellent suggestions in his paper for the Health and Integrity conference about the personal qualities required in episcopal candidates.

American canonist James Coriden suggests for the process for selection:

- A greater initial involvement of the diocesan church in assessing its needs and the qualities desired in a new bishop; the diocesan pastoral council could be the focus of this prayerful effort.
- Continued engagement of the metropolitan and other bishops of the province in the suggestion of candidates
- Greater involvement of the conference of bishops in evaluating candidates and selecting the three names to be forwarded to the Congregation for Bishops in Rome.
- A reduced role for the papal nuncio; he should continue as an adviser to the conference in the selection process and a conduit for transmitting the candidates' names to Rome, but not have the ability to make changes to the choices made by the conference. The participation of the Conference of Bishops (or a committee thereof) and the nuncio should help to overcome local prejudices, like those of ethnic or lingual groups or a majority neglect of minorities.<sup>22</sup>

### **Synodality at the level of the universal church**

The Royal Commission made some recommendations that apply at the level of the universal Church:

- Changes in canon law including that all canonical crimes relating to child sexual abuse should apply to all church personnel (16.9, a, b – see Appendix 1), child pornography (16.9, c), secrecy (16.10), the 'pastoral approach' (16.11), and prescription (16.12).
- The Royal Commission recommended that a diagnosis of paedophilia should not affect prosecution or imposition of a penalty (16.13).
- The Royal Commission stated that canon law should be amended to give effect to dismissal of clergy (16.14).
- The Royal Commission recommended that the Holy See should be requested to publish decisions on disciplinary matters relating to child abuse in a timely manner and to amend canon law concerning destruction of documents relating to canonical criminal cases (16.16).

### **Synodality at the national level of the bishops' conference**

The Royal Commission made many recommendations that apply at the level of the bishops' conference, including that:

- The Australian Catholic Bishops Conference should conduct a national review of governance and management structures of dioceses and parishes (16.7).
- The establishment of a national tribunal for canonical disciplinary cases against clergy (16.15).
- A national register of clergy and candidates for seminaries and religious institutes who are considered unsuitable by a diocese or religious institute (16.58).
- The Australian Catholic Bishops Conference and all Catholic religious institutes in Australia should review and continually improve processes for screening, supervision and ongoing formation of candidates (16.20).
- The Australian Catholic Bishops Conference and Catholic Religious Australia should have a national protocol for screening candidates (16.21).
- The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a mechanism for a broad range of expertise to be involved in decisions in relation to admission of individual seminarians and religious (16.22).
- The Australian Catholic Bishops Conference should review and revise the Programme for Priestly Formation, and religious institutes should revise their documents (16.23).
- The Australian Catholic Bishops Conference and Catholic Religious Australia should develop and maintain national standards for professional development, supervision and performance appraisals (16.25).

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22. Coriden, J. (2017). *The Holy Spirit and an Evolving Church*, Orbis Books, New York, 175–176.

There are obvious advantages with these suggestions so there is a pooling of knowledge and expertise, as well as standardisation of procedures across the country.

### **Synodality between diocesan bishops and local churches**

The Royal Commission made many recommendations that apply within dioceses and which have implications for relationships between diocesan bishops and religious institutes, including:

- Recommendations for psychological testing of all candidates to determine their suitability for ministry and working with children (16.42).
- Recommendations for targeted screening, training and supervision of religious ministers and workers from overseas (16.26).
- Recommendations for all religious institution to have regular in-service training and professional development for best practices and approaches to child safety (16.47).
- Each major institution and religious institute is to make an annual report to the National Office for Child Safety through five consecutive annual reports (17.3).

### **Reference checks for priests**

Immigration departments in countries all around the world require a police-check on immigrants. However, for church ministry purposes, much more than a check on convictions should be required. A bishop, or a religious superior, needs to always check carefully the suitability of a priest or a religious coming into their diocese or province. There should be a standard testimonial/reference required in each case. A standard testimonial could be like this:

*I, [diocesan bishop/Provincial/Major Superior], have carefully reviewed our personnel files, records of complaints concerning clergy and all other records that we maintain. I have consulted with the Professional Standards Office, members of [my College of Consultors/our Council] concerning this reference and its contents. Based on these inquiries and on my own personal knowledge of him, I attest and declare that:*

1. *He is a priest in good standing in the Catholic Church and has faculties now.*
2. *He is a priest of good moral character and reputation.*
3. *He is qualified and suitable to serve as a priest.*
4. *He has never lost faculties, been suspended or otherwise canonically disciplined.*
5. *He has never been investigated by a professional standards body, and no criminal charges have ever been brought against him.*
6. *He has never been accused of misbehaviour and nothing in his background that would indicate he might engage in sexual behaviour inconsistent with clerical celibacy.*
7. *He has nothing in his background that would indicate that he has or might deal with children or teenagers in an inappropriate manner.*
8. *He has nothing in his background that would raise the suspicion of financial impropriety nor has any accusation of such ever been brought against him.*
9. *He does not and never has had any alcohol, gambling or substance abuse problem.*
10. *He does not and never has had any emotional or mental health problems and is not on any related medication.*
11. *He has never been involved in any incident, which would adversely affect the exercise of his priestly ministry. Therefore, I recommend Rev. [Name] to Ordinaries so that he may have faculties to exercise sacred ministry.*

*Given at [Place], [Date], [Bishop/Major Superior]*

This type of reference requires a bishop or major superior to involve key consultative groups in the process and allows for more 'institutional' knowledge and wisdom about individuals.

## Removal of faculties of priests to minister

A bishop can remove the faculties<sup>23</sup> of a priest who has faculties in a diocese. Correct procedures must be followed in either an administrative or penal process. Bishops have often failed to remove faculties from priests when serious questions about their suitability have arisen.

## Checks on seminarians and priests coming into a diocese

After Vatican II, the number of seminarians and religious decreased. Consequently, the standards for acceptance dropped to maintain the numbers. This has led to many unsuitable people being ordained or professed.

Selection of seminarians and religious novices is critical. About 35 years ago, a new bishop in New Zealand criticised a recently ordained graduate of the seminary when speaking to the rector, Monsignor Tom Liddy. Monsignor Liddy replied: 'The seminary sends back to you what you sent to the seminary.' Seminaries and houses of formation cannot work miracles.

Bishops and religious superiors need to be more careful about accepting seminarians and religious who have been dismissed or asked to leave other seminaries or religious institutes. Only in exceptional cases should someone be accepted who has previously been in another seminary or religious institute. Canon law on this matter needs to be carefully followed or it is an 'omission' on the part of the superior or superior or the bishop. Canon law requires the bishop or major superior to consult and get a report from the previous seminary rector or religious superior. Unfortunately, this law has not always been observed.

Making the process for acceptance of seminarians and overseas priests part of a government audit/check on compliance for child safety would force bishops to be accountable, and to follow correct procedures carefully.

I believe the policy requiring checks on foreign seminarians and the granting of faculties to priests from overseas must have the approval of the Bishops' Conference. It is also my view that, before accepting each foreign seminarian or priest, a diocesan bishop should have the consent of his college of consultors. Canon law should be changed so that these approvals and consents would be needed for the validity of the actions, in accordance with canon 127:

*§1. When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or the advice of some college or group of persons, the college or group must be convened in accordance with canon 166, unless, if there is question of seeking advice only, particular or proper law provides otherwise. For the validity of the act, it is required that the consent be obtained of an absolute majority of those present, or that the advice of all be sought.*

*§2 When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or advice of certain persons as individuals:*

*1° if consent is required, the Superior's act is invalid if the Superior does not seek the consent of those persons, or acts against the vote of all or any of them;*

*2° if advice is required, the Superior's act is invalid if the Superior does not hear those persons. The Superior is not in any way bound to accept their vote, even if it is unanimous; nevertheless, without what is, in his or her judgement, an overriding reason, the Superior is not to act against their vote, especially if it is a unanimous one.*

*§3 All whose consent or advice is required are obliged to give their opinions sincerely. If the seriousness of the matter requires it, they are obliged carefully to maintain secrecy, and the Superior can insist on this obligation.*

The personnel of the seminary are responsible for the formation of seminarians. There have been many instances of bishops ordaining priests against the recommendations of the rector and seminary staff. I would recommend that canon law be changed so that a bishop cannot ordain a priest against the recommendation of the seminary staff and rector.

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23. Daly, B. (2017). Canon 1336: What processes must the diocesan bishop follow to remove the faculties of a Priest?, *Roman Replies and CLSA Advisory Opinions 2017*, Canon Law Society of America, Washington, DC, 87–95.

## Conclusion

The Catholic Church needs the active involvement of all its members to be truly Catholic, apostolic and able to evangelise. Openness to their inclusion in decision making would significantly improve the quality of decisions. Each baptised Catholic, whether a layperson, a religious, or ordained, has an obligation and responsibility to use their gifts and talents in a positive and constructive way in the mission and work of the Church. This active involvement and participation will go a long way towards the renewal of structures demanded by pastoral conversion, and to eliminating abuses and bad ministerial behaviour. Everything possible needs to be done to prevent paedophiles being ordained or exercising ministry.

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# The Australian bishops and canon law

Ian Waters

## Episcopal governance

Over the last century in the Catholic Church in Australia, episcopal governance has been usually by executive decree and ignoring the consultative mechanisms (synods and councils) provided for in canon law. The last diocesan synod in my diocese of Melbourne occurred in 1916, the last provincial council of the Province of Melbourne was in 1907, and the last national council for Australia was in 1937. There is no diocesan pastoral council in Melbourne. Anecdotal evidence suggests that in many Australian dioceses, where canon law mandates consultation (for example, the bishop is supposed to hear the diocesan consultors and/or the diocesan finance committee on occasion), the episcopal decree has been drawn up before the consultation, with the consultation being done by telephone rather than by the mandated meeting which requires discussion and debate.

## The seal of confession

In relation to the seal of confession, the Royal Commission recommended (Recommendation 16.26) that the Australian Catholic Bishops Conference should consult with the Holy See, and make public any advice received, in order to clarify whether information received from a child during the sacrament of reconciliation that they have been sexually abused is covered by the seal of confession.

The seal of confession embraces only the sins of a penitent confessed during an administration of the sacrament of penance. Other confidential conversations such as spiritual direction or counselling, whether in a confessional or elsewhere, are not under the seal of the sacrament of penance (the seal of confession). Certainly, a child revealing to a priest in a confessional the sin of another is not confessing his/her own sin, and that revelation is certainly not covered by the seal. The confessor, in my opinion, should urge the child to report the matter; and if the priest chose to report the matter, whether accompanying the child or on his own initiative, he would not break the seal, as he would not be reporting a confessed sin.

## Bishops consulting

It seems to be presumed by many that all Australian bishops are well versed in canon law, that they consult frequently about it, and that many of their past decisions have involved canonical legislation. In fact, at present only two of the current 41 Australian bishops have a licentiate in canon law and none at present has a doctorate in canon law. In general, their decisions have been motivated by principles other than canonical ones. For many of the bishops, their attitude in addressing recent challenges and crises has been, 'Keep canon law out of this!'

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**Very Rev Professor Ian Waters** was ordained a priest for the Archdiocese of Melbourne in 1970. Ian is a senior fellow of Catholic Theological College in the University of Divinity and a member of the Department of Moral Theology and Canon Law, where he has lectured in canon law since 1991. Ian holds the degrees of Master of Church Administration from the Catholic University of America, Licentiate in Canon Law from St Paul University, Ottawa, Master of Canon Law from St Paul University, Ottawa, Doctor of Canon Law from St Paul University, Ottawa, and PhD in Canon Law from the University of Ottawa. He is the only canonist to have been promoted to the academic rank of professor in an Australian university. Ian is a past president of the Canon Law Society of Australia and New Zealand.





# Implications for ministry

*In the main, formal and structured accountability processes are lacking and have never been significant ... Blend this culture with a high stress ministry in which dual relationships are commonplace; the fact that many clergy and religious operate in isolation from one another and from support structures; confusion regarding contemporary identity, meaning and purpose of ministry; an inadequate formation for some; inadequate psychosexual development in some, and you have a potent mixture for potential professional boundary violations.*

Dr Gerardine Robinson, clinical psychologist,  
statement to the Royal Commission, Case Study 50

*Ordained ministers may be judged as faithfully carrying out the commission or mandate they received, if those to whom they have been sent judge that the mandate has been achieved. In this model ... evaluation is not an optional extra, but rather an essential dimension of the commission itself.*

Janiene Wilson, clinical psychologist and lecturer on human development  
and pastoral counselling, Catholic Institute of Sydney

## Keynote paper

# Implications for ministry

Janiene Wilson

### Introduction

I have been asked to address some of the implications for Catholic ministry of the child sexual abuse crisis. This is obviously a huge area to consider in a brief paper, so I will confine myself to outlining what I consider to be the most important areas of concern that I believe require attention.

My credentials are, firstly, becoming a Catholic in the late 1970s, when I encountered personally the truth of the Gospel, then working at the Sydney Archdiocesan seminary for 10 years from the mid-1990s to 2004, teaching seminarians and laity at the Catholic Institute of Sydney for the last 26 years, and working with priests, brothers and religious as a clinical psychologist for the last 20 years.

The current child sexual abuse crisis troubles me deeply, but not only because I am surprised or shocked at the extent of the sexual dysfunction that has been uncovered – that, of course, is truly devastating. I am troubled because the problem of sexual dysfunction amongst Catholic clergy has been known about for ages by both clergy and laity. However, the ability to see and evaluate that dysfunction, which was right before the gaze of many – hiding in plain sight – had been conditioned out of many of those who possessed the authority to intervene. There has been only a diminished ability by those in authority to sense that something very wrong was happening and to respond accordingly.

I want to focus on what has been hiding in plain sight. I will address four issues:

1. seminary formation
2. models of priesthood
3. selection and screening of individuals for ministry training
4. supervision.

When I began work in 1992 as a young Catholic psychologist at the Sydney archdiocesan seminary, St Patrick's College Manly, I noticed that there was no program to address formation for a celibate commitment. In my first six months at Manly, I received many confidences from students which indicated that all wasn't well with how they were travelling personally, especially in areas of sexual attraction and orientation. However, there was a reluctance on the part of students to tell any of the clergy staff, because this sort of problem might not be tolerated and the student might be kicked out. So, gradually tiring of all these de facto confidences, I dared to approach the Archbishop of Sydney at the time, Cardinal Edward Clancy, about the possibility of a program of psychological literacy, which would include a component on celibacy. His response was an impatient and dismissive one: 'Young woman, if people like you would stop talking about this, it would cease to be a problem'. I was left in no doubt where I stood. I hasten to add that, over the next ten years, Cardinal Clancy and I got to know each other well, although he never could remember my name, and when I left the seminary, we parted as friends.

However, his response to me has been emblematic of a particular and deeply held disposition influencing clergy formation, based on a faulty anthropology which has held sway for many generations. This is only now starting to give way, because it has simply been so humanly destructive of so many good people.

### Faulty anthropology

My experience of working therapeutically with so many clergy and religious over many years, has shown me that this faulty anthropology has underpinned most of what has passed for spiritual formation for ministry in the Catholic Church.

Let me clarify what I mean by 'faulty anthropology'. I am using this term to refer to a purely theological understanding of the human person, across time and culture, drawn entirely from scripture and tradition, without reference to any of the sciences. It has been handed down for generations and continues to 'inform' ministerial formation processes. The psychological sciences are starting to provide

valuable information those processes, but this still meets resistance in many quarters. For instance, the extent of the knowledge about the emotions that content some seminaries, seems to begin and end with St Thomas Aquinas!

The Redemptorist Mater seminary in Chester Hill, Sydney, and Vianney College in Wagga have, as I understand, no psychologically-informed formation program, although I understand that psychological assessment is now utilised in both seminaries for aspiring candidates. I think the Royal Commission is at least partly responsible for this concession to contemporary scientifically-informed knowledge and practice.

Now, back to this faulty anthropology. It appears to me to be based on the following assumptions, which all stem from the long-standing dualistic perception of the human person as body versus spirit:

1. Human sexuality and a priestly vocation are mutually exclusive, or at the very least, in a problematic relationship.
2. Human sexual desire can be contained or suppressed by an ecclesially-inspired, idealised ego structure, and sheer effort of the will.
3. Young men at their sexual peak in their early 20s can make an election for consecrated celibacy without, in many instances, being encouraged to undergo the path to radical self-knowledge that this entails.
4. The rational faculties are dominant and the place from which all behaviour should emanate.
5. Emotions are to be distrusted or damned with faint praise. The human psychological reality, the subjective world of thought, feeling and meaning making is problematic and best ignored. As we noted, Thomas Aquinas had the last valuable word to say on emotions.
6. Goodness and rationality are co-extensive.
7. Consciences can be formed, in the absence of consciously undergoing the primary human experiences of guilt, shame and wrongdoing, by simply following the rules.
8. Psychological wisdom and knowledge is a secular discipline which, at best, is regarded as an optional extra in priestly formation.

What has been overlooked by these assumptions is that the primary place of God's revelation is human experience and that all theology is based initially on the experience of the one theologising (it is either that or it is nit picking the work of others who have gone before). And that human experience includes an experience of the body, sex and sexuality, which the tradition of priestly formation tends to treat as unimportant.

### **Formation for ordained ministry**

To understand what needs to happen to improve ministerial outcomes in the Catholic tradition, we must begin with an examination of training for ministry. This may have some application to ministerial formation in other denominations, but I am not familiar with processes other than those within the Catholic Church.

In 1983, the Cistercian abbot, Andre Louf, wrote a paper entitled *Humility and Obedience in Monastic Tradition*.<sup>1</sup> I found this when I was searching for guidance for my seminary formation work. Louf writes that the young aspirant to the monastic life often comes to formation with a deep and personal desire for a relationship with God and a need to grow into the truth of who he is through experiencing that desire. What Louf writes is true, I believe, of all religious formation.

Louf uses the Gospel parable of the publican and the Pharisee as a paradigm for the sort of spiritual formation that should underpin and inform priestly ministry. What is needed is for the young man to encounter within himself the truth of his own human limitations, and within those limitations the need for God's mercy and love. This is a disposition of true humility, which is an abiding principle in the Judaeo-Christian tradition. Humility is essentially that disposition which orients an individual to the God-given reality of things and his/her place within that reality. It is intimately connected with the formation of conscience.

However, according to Louf, what frequently happens in formation is that this foundational relationship with God is compromised by the need the young man has for the approval of those who will judge him as worthy of profession into a religious order or ordination to priesthood. Instead of his conscience

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1. Louf, A. (1983). *Humility and Obedience in Monastic Tradition*, *Cistercian Studies Quarterly*, 18(4), 261–282.

being formed in true humility, the young man has his conscience replaced by an ecclesial form of the superego. He then internalises the norms of that ecclesial legitimating authority. Those norms can easily foster a clericalism and privileged specialness, and a fearful refusal to think outside or beyond what the legitimating authority deems acceptable. This can lead to a diminishing of individual energy and conviction and, quite frankly, a deforming and compromising of the individual's sense of vocation into compliance with someone else's ideal. I have witnessed students enter the seminary with energy and personality and leave after seven years, angry, blunted and diminished. Sometimes, it appears that they are more concerned with maintaining church stability than sensitivity to human pain and suffering.

In my observation, young men present for formation with a mixed, inchoate but often fervent impulse to move in the direction of a total gift of self to the God they have come to sense as their foundational reality. That their starting point comprises mixed motivations, is frequently obvious to all but the young men themselves. It is the task of formation for ministry to enable those mixed motives to surface and be brought into consciousness, and eventually to be owned by the young man in formation. However, a subtle distortion is likely to occur, and instead of conscience being formed, the young man begins to respond to the subtle pressures that will enable him to find acceptance and approval by the ecclesial authorities which are responsible for his progress towards priesthood.

I was originally employed by the Sydney archdiocesan seminary to supervise seminarians' pastoral work and to teach pastoral counselling skills to those same students. In the late 1990s, those skills were seen to be a necessary part of priestly formation. However, over the years, the number of seminarians taking my courses has dwindled to one or two per year, and they are taken as electives. There was a period in the early 2000s, when students were expressly forbidden to take my courses. In my opinion, there is still wariness and resistance amongst students to embrace the wisdom of the behavioural sciences. (It would be interesting to speculate about the forces that are influencing the students in this regard.) I think this is partly due to the operation of the clerical superego, but these days, such resistance borders on wilful ignorance. I recently provided a number of seminary students in my class with some psychological information to help them understand the psychodynamics underpinning scrupulosity. The students were engaged by the material, even expressed gratitude, but also expressed the fear that they might now become liberals!

Of course, it is the case that clergy are rightly wary of any reduction of their spiritual ministry to merely the provision of psychological counselling or assistance, or of priestly formation proceeding only along the lines of psychological development. There have been some unhelpful applications of the behavioural sciences since Vatican II, which have rather arrogantly attempted to denigrate the theological view of the human person within the Catholic tradition, to replace it with a more humanistic model, and to style religious faith as a long-lasting neurosis. However, the wrong use of a source of information cannot negate its right use. It has seemed to me over the years that before, during, and after their seminary formation, most priests experience a tension between the ideal of celibate priesthood to which they aspire and the realities of their psychological maturity. As the research of Luigi Rulla and others has shown, those entering priesthood or religious life bring with them the normal human conflicts between a variety of conscious and unconscious, positive and defensive, motivations. A sound programme of psychologically informed human formation should give candidates the opportunity to explore and understand their motivations and to grow in emotional freedom. And they should feel safe to do so.

In the current climate, however, where psychological insights tend to be distrusted, this is a terrifying prospect for many seminarians. Typically, the pursuit of their spiritual ideal is – to a greater or lesser extent – a defence mechanism against unresolved psycho-sexual and affective immaturity. There is a fear that any exploration of conscious and unconscious motivations will undermine the religious vocation. Whereas, of course, growth in emotional freedom will in fact enhance one's religious commitment. The seminarian may then be enabled to move from a defensive to a positive motivation for his adoption of vowed celibacy. An education in the theology and spirituality of priestly celibacy is no substitute for the psycho-sexual maturity and emotional freedom required for living a healthy priestly life. And it is an obvious fact that sexual maturity will not be attained in seven years of training in a seminary!

Celibacy must be a deeply personal, hard-won adjustment, owned by an individual. If it is authentic, it is their experiential connection to the reality they call God. It must be a personal quest of spiritual relationship and religious reality based on an unflinching self-knowledge and acceptance of radical truth about one's innermost desires. As a form of sexual orientation, celibacy requires the hard work of self-



knowledge, but the result is evidenced in an interior freedom and integration that unites the person's individuality and their ministry. Current formation does not, and cannot, encourage this level of personal exploration.

A further word here on the impact on psycho-sexually premature development of a celibate commitment. It has been my observation that, in such instances, the intensity of young male sexual energy does not have the opportunity to be tempered, modulated, and humanised in relationship. Where this energy is experienced in the service of loving another, it is less likely to be split off into a solipsistic disposition towards the other. In such instances, sexual behaviour results in a partner being treated impersonally and without empathy and in the service of managing sexual energy which has become troubling.

## Competing models of priesthood after Vatican II

The kind of formation for ministry that exists in seminaries is to a great degree shaped and influenced by the models of priestly ministry that currently prevail. Let's now look at these models of priesthood. In doing so, I would like to reference an article by Rev Anthony Gooley published in the *Australasian Catholic Record* in January 2018.<sup>2</sup> Anthony Gooley is a permanent deacon within the Brisbane Catholic Archdiocese. He suggests that what we are dealing with at the moment is a lack of reception of the vision for ordained ministry as set out at the second Vatican Council. As a result, aspects of ordained ministry are out of step with our current ecclesial reality. He suggests that there are three aspects of the theology of holy orders that can be elicited from Vatican II which are worth considering but are yet to impact upon the prevailing model of ordained ministry in the Catholic Church. These are:

- that the church's ecclesiology must be one of communion
- the concept of a descending theology of holy orders
- a renewed understanding of ordained ministry as oriented toward building up the church for mission.

I will now try to summarise Gooley's thoughts on each of these points.

### Ecclesiology of communion

Any consideration of ministry in the church, says Gooley, must begin with a consideration of the nature of the *ecclesia*. If it is, indeed, one of communion, as set forth by Vatican II, then this communion must precede and provide the context for ministry. Gooley says that ministry lost its ecclesial foundation in the period prior to Vatican II, and drifted towards becoming primarily a path towards personal holiness for the person entering the priesthood or religious life; ministry became a phenomenon above, and not within, the *ecclesia*. Now, it is true that there is a shift in such a direction in subsections of the *ecclesia*, such as the Neocatechumenal Way and Opus Dei, but I would contend that these communities do not represent the wider *ecclesia*.

A communion ecclesiology permits us to recognise that the baptised are called together into fellowship with each other in the life of the Trinity. Communion and mission are intimately linked. If mission is not grounded in communion, it remains at the level of mere activity and lacks evangelical witness.

All ministries must, therefore, be ministries in communion. Therefore, ordination like all the other sacraments is an ecclesial act, and the grace received is for the life of the church. This grace of the sacrament of ordination is for the building up of the communion of the church. Prior to Vatican II, much emphasis was placed on the ontological change that was said to be brought about in the person of the priest. This almost completely obscured the teaching that baptism too brings about ontological change. To say that a sacrament effects an ontological change in a person, is to identify that change in the depths of the person and in who he or she is. Such a change affects the person's relationships with others, and, in particular, with the ecclesial communion. Those who are baptised enter into the life of the Trinity by being incorporated into the Body of Christ, and become a new creation. Likewise, the grace of ordination affects who a person is, and hence how he is related to others, namely as one now ordered to service within the community.

However, the personal and the communal dimensions of ordination within the ecclesial communion have become separated in our understanding. What has come to be emphasised is the personal dimension. Ordination has become a personal gift, a path to personal holiness, and to personal power and authority, rather than something profoundly ecclesial and an expression of the deep bonds of the mystery that is the communion in which the whole church participates.

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2. Gooley, A. (2018, January). A theology not received, a practice out of time, *Australasian Catholic Record*, 95(1), 35–50.

Ministry has traditionally been something done to a passive laity, and we now have a two-tiered model of ministry. Ministry is identified with clergy, and the laity for the most part are passive recipients. Yes, there are pockets within the church where the laity is welcomed into co-leadership, but these are the exception not the rule, no matter what some current ecclesialogists try to tell us.

### **Descending/servant theology of priesthood**

Since the thirteenth century and up until Vat II, ordination to the priesthood was the pinnacle of holy orders. A man rose up through the ranks as he made his way in the seminary through seven steps that culminated in the priesthood. These stages are still represented in some of the stained glass windows in the Sydney archdiocesan seminary chapel. This *cursus honorum*, or 'course of honours', had been in place since the 10<sup>th</sup> century. It involved four minor orders and three major orders. First came tonsure, followed by the minor orders of porter, reader, exorcist and acolyte. The major orders were subdeacon, deacon and priest. It was only in 1972 that the minor orders were renamed *ministries*, and only reader and acolyte were retained. The major orders were reduced to that of diaconate and priesthood. The bishop was not the pinnacle of this *cursus honorum* and does not appear in the sequence. Priesthood was the highest rank because, according to a long tradition exemplified by both Abelard and Aquinas, priesthood involves the power to consecrate the elements of bread and wine at the Eucharist and the Eucharist makes the church. And no power is greater than that which makes the church. This is clearly an ascending theology of holy orders. A man ascends from the lower to the higher rank, reaching the pinnacle of priesthood and accumulating power as he does so.

Gooley writes that Vatican II gave the church a new way to think of ministry, as 'descending'. Perhaps a less confusing term might be as 'a model of service'. Ministry is the work of Christ made present through the Holy Spirit. This ministry comes down from the church through the Holy Spirit in the ordination rite and is received by the church as a gift from Christ in the Holy Spirit. This descending model is developed in the Dogmatic Constitution on the Church, *Lumen Gentium*,<sup>3</sup> and the Decree Concerning the Pastoral Office of Bishops, *Christus Dominus*.<sup>4</sup>

### **A renewed understanding**

The grace of the sacrament of ordination is therefore not understood as primarily directed to the one ordained, and as a special gift that only he possesses, but rather as a grace which is directed *through* the one ordained *for* the good of the church. The ordained minister is engaged in a work of the Holy Spirit, constituting and forming the communion of the church for mission, of which he himself is a part. Vatican II was the first council to teach that episcopal ordination was a sacrament. Becoming a priest is not about ascending to a position of power and prestige, but about allowing oneself to descend to a place of service in imitation of Jesus, who came to serve and not to be served. This is why the path of humility, and the psychological dynamics of repentance and self-knowledge explained by Louf, are critical to priestly formation. (We might also think here of the Rule of St Benedict in which the monk 'ascends' by 'descending' the steps of humility.)

Gooley then states, provocatively, that this descending model provides a basis for the evaluation of the effectiveness of those who have received the commission to build up the church in communion and mission. Ordained ministers may be judged as faithfully carrying out the commission or mandate they received, if those to whom they have been sent judge that the mandate has been achieved. In this model, says Gooley, evaluation is not an optional extra, but rather an essential dimension of the commission itself.

Now, lest we be tempted to think that this model exists simply within the optimistic imagination of a few academics, I came across an interesting example of the recognition of this descending model of ministry in a report about the ordination to the transitional diaconate of a young man, Anthony Vesorio Coloma, in the Diocese of Maitland Newcastle in late June of this year. In his homily, the Bishop of the Diocese, Bishop Bill Wright, pointed out that: 'Anthony is being ordained not into the clergy, but for the people of this community who have come to know him.' To Anthony he said:

*You've had a longish journey – it's a life story – also a story of a calling and a leading and assent. It's important to maintain that sense that we have been chosen by God.*

3. See Vatican Council II, Dogmatic Constitution on the Church, *Lumen Gentium*, 1964, s24–29, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19641121\\_lumen-gentium\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html)

4. See Vatican Council II, Decree Concerning the Pastoral Office of Bishops in the Church, *Christus Dominus*, 1965, s18–20, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decree\\_19651028\\_christus-dominus\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_christus-dominus_en.html)

*You are God's man – but not in the sense that 'It's me and God'. You must strive to be a person of communion – and you will always be a deacon, even though, please God, you will be ordained priest shortly.*<sup>5</sup>

This, I believe, is an example of what Gooley is talking about. I hope that I have done Gooley justice. His article is, as I have said, provocative and well worth thinking through.

What it will take for the reception of a descending/servant model of priesthood to replace the current model is not clear. The Royal Commission shake-up will go some way towards it, but it will also take the concerted awareness of individuals – ordained and lay alike – who are committed to the truth of the Gospel, to allow further change to occur. For it seems that, in general, the Catholic imagination still has this privileged view of the priest as someone set apart with special powers. This has resulted in two polarised responses. Firstly, there are those Catholics who no longer buy into it this model, and who now denigrate priesthood. The current crisis has reinforced their disillusionment. Secondly, there are those who staunchly maintain a focus on the special charism that attends the ordained as one set apart and imbued with supernatural uniqueness.

### **Screening and selection of candidates for ministry**

Let's now address selection and screening of candidates for seminary formation. This process is obviously going to be affected by the prevailing ascending model of priesthood. Let us keep Andre Louf's perspective in mind here. I believe the implications of the ascending model of priesthood for selection and assessment are threefold:

Firstly, the prospective candidate is at pains to indicate that there is nothing wrong with him, at least nothing wrong that a deep belief in God's vocational call can't overcome. In this instance, any early and unresolved sexual abuse or psychological trauma may result in a young man believing that his personal worth can only be obtained by continually striving to be good, doing better, and forgetting self in the service of others and their needs.

Secondly, the young male aspirant, in their 20s, confesses a belief that he is able to forgo the fulfillment of committed spousal sexual love and the joy of children, and often does so with great conviction, but without the psychological resources to weigh up the consequences realistically and in a personal way.

Thirdly, the young male who is same-sex attracted will firmly keep the closet door shut and bolted, and attempt to forget the closet exists, only to have it flung open later when the real demands of life in middle age force him to reach into the reality of his own existence for ballast. This often happens at others' expense and with disastrous consequences for all concerned. I believe that, in dealing with this issue, the church is at its most confounded pastorally, because it is clear that the Catholic priesthood has within its ranks many, many good pastors who are gay. In 2005, the Vatican Congregation for Catholic Education issued an instruction, approved by Pope Benedict XVI, solemnly entitled 'Concerning the Criteria for the Discernment of Vocations with Regard to Persons with Homosexual Tendencies in view of their Admission to the Seminary and to Holy Orders'.<sup>6</sup> It directed that men with a homosexual disposition should not be admitted to seminary formation and should not be priests. This statement of 13 years ago was apparently ratified by the current pope in 2016.<sup>7</sup>

Unfortunately, the original statement was largely influenced by the work of priest-psychologist Mgr Tony Anatrella, who apparently is himself gay, and who has recently been accused of sexually abusing seminarians who came to him for psychological assistance. Whether the charges are true is yet to be determined; however, it is the case that, in 2015, Mgr Anatrella, when addressing a group of newly ordained bishops, said that bishops were under no obligation to report matters of child sexual abuse to

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5. Edstein, T. (2018, 26 June). Bless and sanctify this chosen man, *mnnnews.today*, <http://mnnnews.today/your-diocese/2018/32033-bless-and-sanctify-this-chosen-man/>

6. Vatican Congregation for Catholic Education, Instruction Concerning the Criteria for the Discernment of Vocations with regard to Persons with Homosexual Tendencies in view of their Admission to the Seminary and to Holy Orders, 2005, [http://www.vatican.va/roman\\_curia/congregations/ccatheduc/documents/rc\\_con\\_ccatheduc\\_doc\\_20051104\\_istruzione\\_en.html](http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20051104_istruzione_en.html)

7. See Vatican Congregation for the Clergy, The Gift of the Priestly Vocation, *Ratio Fundamentalis Institutionis Sacerdotalis*, *L'Osservatore Romano*, Vatican City, 8 December 2016, <http://www.clerus.va/content/dam/clerus/Ratio%20Fundamentalis/The%20Gift%20of%20the%20Priestly%20Vocation.pdf>

the police, and that this was a matter to be left to victims and their families.<sup>8</sup> So, for the last 13 years it would appear that the legitimating authority requires that the closet door be shut tight and firmly bolted. And that legitimating authority knows very well where the closet is.

Honest conversations about an individual's sexual orientation are thus now truncated, and tend to be replaced by language which is now pious and outdated. Phrases like 'the church is a spotless bride', and 'the church is pure, and I decide to be pure and chaste to serve her', have begun to creep into seminarians' discourse. Far from indicating that the individual is delusional, it illustrates what Louf said 35 years ago: the individual will be prevented from owning his own humanity and finding within it a need for Christ, and will replace it with an idealised self-structure that may survive in the rarified atmosphere of the seminary but will be no solid base from which to minister in the fragmented ecclesiological environment that is the Catholic Church today.

In my experience of seminary formation in the early 21<sup>st</sup> century, young men who were homosexual were invited to own their sexual disposition, and although this was initially awkward, an atmosphere of honesty and sheer humanity began to be inculcated. Those in authority were endeavouring to leave behind the deformation of their own seminary days, and although uncertain at times how to shepherd a new openness and acceptance, at least then it became possible to have an honest conversation with a seminarian about his lived experience, even if it was one-to-one and behind closed doors.

Now, the question must be asked at this stage: How has this faulty anthropology, this incomplete, lopsided seminary formation and ascending model of priesthood contributed to child sexual abuse, abuse of power, and the breaking of personal and professional boundaries? The answer is intuitively obvious at one level, but extremely difficult to accurately articulate. I will have a go. In doing so, I will leave aside those isolated incidences of psychopathic personality disorder, which occur throughout the general population, and within and outside the church.

It seems that the priestly formation system, built on an anthropology that sees sex as problematic at best and sinful at worst, has been dehumanising and deforming of the humanity of individual men. This was particularly so around the mid-20<sup>th</sup> century. Richard Sipe, in his book *Sex, Priests and Power*, indicates that a young man acquires power as a reward when he joins a system that promotes at least the appearance of sexual continence. Power is the compensation for living a life that is without physical affection, sexual intimacy or parenthood.<sup>9</sup>

I also believe that, in some instances, there is such stark sexual immaturity and undeveloped personal awareness that some sort of sexual acting out is almost inevitable. The individual splits off an awareness of what he is doing to achieve a primitive level of psychological homeostasis. No mature thought is involved and the acting out can involve another who has less personal power, be that a child, a woman, or in some cases other men who do not pose a personal threat. Where a young man has not been treated with respect or had his humanity validated, either in his family of origin or in seminary formation, it can be difficult to esteem the individuality of the other. Occasionally, the sexual abuse suffered by a young man can be acted out when he is a priest with power. Sometimes, in less thoughtful individuals, discouraged or shamed sexual exploration of early adolescence may underpin and issue forth in rage which is then unleashed sexually on a weaker human being. And often, those good men, like my friend Cardinal Clancy, may have conformed to that faulty anthropology, because to do so was, in their minds, to do the right thing by God.

## Supervision

It was no surprise to me that one of the recommendations that came from the Royal Commission into Institutional Responses to Child Sexual Abuse was that all people in religious and pastoral ministry should undertake mandatory professional/pastoral supervision.<sup>10</sup> My experience of working with clergy over

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8. See Hoyeau, C. (2018, 5 July). French priest-therapist removed from ministry for alleged sexual abuse, *La Croix International*, <https://international.la-croix.com/news/french-priest-therapist-removed-from-ministry-for-alleged-sexual-abuse/7980>; Mickens, R. (2018, 6 July). The pope is officially on 'staycation', but he can't stop working, *La Croix International*, <https://international.la-croix.com/news/the-pope-is-officially-on-staycation-but-he-can-t-stop-working/8004>; Alison, J. (2018, 1 August). Homosexuality among the clergy: caught in a trap of dishonesty, *The Tablet*, <https://www.thetablet.co.uk/features/2/14068/homosexuality-among-the-clergy-caught-in-a-trap-of-dishonesty>

9. See Sipe, A W R. (1995). *Sex, Priests and Power: The Anatomy of a Crisis*, Brunner Routledge, New York.

10. Recommendations 16.25 and 16.45. See Appendix 3, Royal Commission Recommendations Directed to Religious Institutions.



many years has told me that this is a long overdue initiative. However, I later recalled a faint sense of unease that instituting this project might not be as easy as it at first seemed. Subsequent discussions with various stakeholders confirmed that faint unease. Some ordained clergy have welcomed the recommendation. However, several priests and religious have commented to me that they can't see how this will work, because 'Who can supervise a priest except a bishop, or perhaps another senior priest, at best?' I found this opinion interesting. Given that clerical paedophilia happened under episcopal supervision, there is clearly something amiss in the current accountability structure. The model of ordained ministry inherent in these comments is that of Gooley's ascending model.

If priesthood is to find its identity within the ecclesial reality that is best described as a mystery of *communion*, then it is within this *communion* that supervision should be offered (by those who have been determined suitable to offer it), as a support and enhancement that further strengthens the priest to carry out his mandate of building up the church. What might constitute such supervision? While, at first glance, this might seem rather obvious to some, it seems that supervision of persons in religious and pastoral ministry cannot be merely an imposition of the kind of professional supervision that is availed of by behavioural science professionals. What does it mean to offer supervision within a descending theology of priesthood? Is the supervisor also required to participate in a theological understanding of *communion*? Is such supervision to be considered a ministry? Addressing these questions is clearly outside the scope of this paper.

However, I would like to reference the document, *Integrity in Ministry*, which emerged out of a 29 November 2002 statement by the Australian Catholic Bishops Conference. Here, the bishops write that they are concerned 'to respond adequately to issues of sexual abuse within the Church', and make a commitment to 'renew our resolve to follow agreed procedures' by accepting 'the need for accountability and consistency in all that we do' and to 'propose that the National Committee for Professional Standards continue to assess and refine these procedures'.<sup>11</sup> This document led to the production of a code of conduct for people in ministry in Catholic Church, *Integrity in Ministry* (2004, reprinted 2010). Section 4 of this document clearly sets out what it is proposed that clergy are required to do to maintain accountability. Section 4.1 provides that they should do this by:

- keeping abreast of literature in the area of pastoral care
- attending seminars/in-services related to pastoral care
- reflecting regularly on one's pastoral practice with a competent supervisor or colleague
- ongoing development of one's knowledge and understanding of scripture, church tradition and teaching
- remaining updated in the social sciences and disciplines that contribute to pastoral skill.<sup>12</sup>

Section 4.2 recommends that clergy and religious should develop and maintain the professional skills their particular ministry or way of life requires, through:

- regularly undertaking appropriate professional development
- keeping up-to-date with the literature and developments relevant to their ministry
- active membership of relevant professional associations.<sup>13</sup>

Clearly, the Royal Commission's recommendations are not without precedent. That these suggestions did not make much impact upon the prevailing model of ordained ministry prior to the Royal Commission, is really not surprising and surely reinforces Gooley's depiction of an ascending model of priesthood as largely prevailing.

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11. A message from the Australian Catholic Bishops Conference to the Catholic people of Australia, <https://www.catholic.org.au/documents/493-a-message-from-the-australian-catholic-bishops-conference-to-the-catholic-people-of-australia-1/file>

12. *Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia*, National Committee of Professional Standards, 2004, reprinted 2010, s4.1, <https://www.catholic.org.au/documents/1344-integrity-in-ministry-2010-1/file>

13. *ibid*, s4.2



## Conclusion

The lay theologian, Rosemary Haughton has written that the most effective way of getting a religious group of people to think theologically is for something to happen to them that contradicts, or at least seems to contradict, their religious beliefs.<sup>14</sup> She cites the example of the Babylonian exile of the Jews, chronicled in the Old Testament, as one such contradiction. The Jews had always assumed that they had constant protection as God's chosen people. Then, after a time of exile and captivity and via the patronage of a gentile king, Cyrus of Persia, it became possible for them to return to their homeland. As a result, there was a significant change in the religious thought of the people and their leaders that gave rise to much of post-exilic theology. This can be described simply as a broadening of the notion of God's will and plan. The Jews could now think of their own destiny as a key part of something much greater than their own national prosperity and significance. This change was a spiritual and theological deepening without which the full revelation of God's plan in Jesus would have been meaningless. It happened because a disastrous experience enforced it.

I wonder if it is not too much of a stretch to see the Royal Commission and its findings as one such disastrous and contradictory experience that must cause a re evaluation of our theology of ministry today. We, as members of a church, may be forced to look in a new direction and notice different things, and maybe thereby create an atmosphere in which it becomes possible for new patterns to appear between clergy and laity and for complementary forms of ministry to emerge, and within which the Holy Spirit can do its work.

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14. Haughton, R. (1972). *The Theology of Experience*, Newman Press, New York.

# Supervision reframed: an offer of pastoral care by the church and a spiritual discipline for the practitioner

Alan Niven

## Initial reflections

My purpose is not so much to outline the practical processes and dynamics of pastoral supervision (see Appendix 3), as to engage the pastoral, theological and ecclesial themes that support a rationale for supervision as expressive of our conference themes – health and integrity. Before doing so, I will outline my concerns.

First concern: In other caring professions, if I were addressing senior and experienced practitioners, or those responsible for formation and training, they would be completely familiar with most of the supporting principles and rationale behind supervision in their profession, whether it concerned (a) initial supervision methodology and practice geared to formation in education and training contexts, or (b) ongoing supervision for professional purposes. This familiarity with supervision principles and best practice is rarely true in church contexts, and certainly is not true for many senior church leaders who we assume are also ‘practitioners of ministry’ but have never experienced supervision. I am concerned that recent responses to anticipated and actual Royal Commission findings and recommendations have a tonality of ‘damage control’ in a context of ‘crisis and threat’. I am also concerned that supervision may end up, formationally and educationally, at the bottom end of adult learning processes, and that it will not be truly integrated with our overall mission practice, contextual theology, and spiritual formation for ministry. David Leary highlights this in a paper proposing a University of Divinity Centre for Health and Integrity in Church and Ministry:

*This means devising ways to rebuild from the ground up: a healthier education in pastoral theology and practice for priests and ministers; better pre-service training; positive mentoring and support; greater transparency and accountability; ongoing mentoring and pastoral supervision throughout the working life of pastoral workers, ministers, leaders and priests.*<sup>1</sup>

This reflects existing documents of the Australian Catholic Bishops Conference. In her paper for the conference, Janiene Wilson has indicated that *Integrity in Ministry* emerged out of a statement made on 29 November 2002 by the Australian Catholic Bishops Conference. The bishops stated that they were concerned ‘to respond adequately to the issue of sexual abuse within the Church’, and made a commitment to ‘renew our resolve to follow our agreed procedures’ by accepting ‘the need for accountability and consistency in all that we do’, and by proposing ‘that the National Committee for Professional Standards continue to assess and refine these procedures’.<sup>2</sup> This document led in 2004 to *Integrity in Ministry*. Section 4.1 of *Integrity in Ministry* clearly sets out that Catholic clergy and religious are required to maintain accountability by:

- keeping abreast of literature in the area of pastoral care
- attending seminars/in-services related to pastoral care
- reflecting regularly on one’s pastoral practice with a competent supervisor or colleague
- ongoing development of one’s knowledge and understanding of scripture, church tradition and teaching
- remaining updated in the social sciences and disciplines that contribute to pastoral skill.<sup>3</sup>

1. Leary, D. (2016–2017). *Discussion Paper: Establishing a Centre for Health and Integrity in Church and Ministry: A Collaborative Research, Teaching and Practice Unit within a University*.

2. A message from the Australian Catholic Bishops Conference to the Catholic people of Australia, <https://www.catholic.org.au/documents/493-a-message-from-the-australian-catholic-bishops-conference-to-the-catholic-people-of-australia-1/file>

3. National Committee of Professional Standards. (2004). *Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy and Religious in Australia*, reprinted 2010, s4.1, <https://www.catholic.org.au/documents/1344-integrity-in-ministry-2010-1/file>

Section 4.2 recommends regularly undertaking appropriate professional development.<sup>4</sup>

This is primary, secondary and tertiary pastoral care. But has it been done, and have supervisors been trained?

Second concern: In parallel with undertaking parish ministry, I began teaching part-time in pastoral and ministry studies at Stirling Theological College in 1980, and full-time from 1994 until 2016. For all those years, I taught (first hour, first lecture) that for church members, clergy and lay, and any others in the scope of our care, that:

- Primary pastoral care is expressed and embodied by a culture of honesty and transparency, awareness of power complexity, gender respect, cultural sensitivity, good communication, and conflict resolution.
- Secondary pastoral care rests on the availability and promotion of books and studies, sermons/homilies, special liturgies and theological reflections on life skills, experiences and challenges; then, on the provision of educational experiences addressing everything from marriage enrichment and parenting to stress and depression. All this, within a frame of discipleship, spiritual maturing and faith development.
- Tertiary pastoral care uses counselling and therapeutic referral/intervention, issue-specific support groups (e.g. bereavement or addictions), and crisis intervention such as refuges or Crisis Assessment and Treatment (CAT) teams.

I am concerned that, for all denominations, the ‘professional supervision response’ to the Royal Commission will be a tertiary care response, marginally resourced and unsupported by a formational, educational and spiritually mature reflective framework.

Third concern: Teaching pastoral and ministry formation has been a richly ecumenical experience. When teaching, there were typically students from six to eight traditions present at lectures, including non-MCD/University of Divinity students.<sup>5</sup> Over 20 years, my supervisees have come from seven different traditions, none from my own, which is a personal policy. In our Graduate Certificate of Supervision, one particular cohort had six different Christian traditions represented, plus a woman rabbi and a Hindu priest, with a Buddhist head of pastoral care ‘thinking about it’. My concern is that the church will:

- not address this issue ecumenically or use multidisciplinary wisdom, thus creating huge challenges (and consequent fragmentation) of people-resources and educational programs
- engender impoverished spirituality through limited theological reflection, and impoverished learning due to minimal diversity in multi-context reflective practice
- not engage collegially and strategically with supervisors in other caring professions, accrediting bodies like the Australasian Association of Supervision, the Clinical Pastoral Education sector, and elsewhere.

Again, from David Leary:

*The task of repair and renewal after rupture cannot be undertaken alone, in a ‘silo’ approach, within a single community of believers. It is beyond doubt that the many complex tasks to be undertaken cannot be done without the input of individuals and disciplines from outside the faith community and its academic institutions.*<sup>6</sup>

This task of repair after rupture includes supervision – supervision training, supervision delivery, and supervision research.

## Introduction

Let’s forget about the Royal Commission for a moment. How long has this supervision agenda been before us? Pastoral theologian John Patton suggests that the ministry of pastoral supervision, ‘as related to Christ’s own oversight and shepherding, seems to have been taking place in the life of the Church since

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4. *ibid*, s4.2

5. The Melbourne College of Divinity (MCD) was founded in 1910 by an Act of the Victorian Parliament. The MCD became the University of Divinity in 2012, following the approval of the Victorian Parliament in 2011.

6. Leary, D. Discussion Paper: Establishing a Centre for Health and Integrity in Church and Ministry.

near its beginning', and he explores a number of biblical texts in support of his argument. There's no time to explore this today. However, what he has to say could almost be a summary of my own concerns in this paper:

*Pastoral supervision may no longer be thought of as only a specialized interest and competence of certain chaplains certified to conduct clinical pastoral education. It is a central concern of the Church. Seminaries in attempting to develop genuinely professional degree programs are searching for and attempting to train competent pastoral supervisors ... In the [March 1971 issue of] The Journal of Pastoral Care, Mark Rouch describes an effort to develop appropriate means of supervision and consultation for young pastors [priests and ministers] three to five years out of seminary. Another denomination has experimented with seminars for bishops, priests and deacons which offer training in supervision and in being supervised. The concern with supervision and consultation is widespread.<sup>7</sup>*

This is almost half a century ago! What has been the cost of neglect since then? Recently, ABC journalist Julia Baird has exposed several layers of domestic and family violence within the church. Her 2018 University of Divinity Graduation Address highlights the need to pay attention. She said:

*As poet Mary Oliver wrote: 'The first, the wildest and the wisest thing I know: [is that] that the soul exists and is built entirely out of attentiveness.' Iris Murdoch said paying attention is a moral act; it is also a spiritual act. For Christians, it is a responsibility and a discipline, especially in a world of distraction ... attention is a rare and precious commodity ...*

*Vigilantes of grace would be people who, even if leadership has failed, can model love and keep an eye out for danger. For many decades, we have failed to observe and be vigilant. There is much work to do, much grinding, important work lies ahead. Some will be done one heartbeat at a time, in your parish, your street, your home. And grace will always leak through the cracks.<sup>8</sup>*

I believe that one of those graces will be growth and maturity through supervision. My purpose statement – the key message that I want to leave with people at this conference, church leaders, and my students – follows below:

*Effective supervision for those in ministry settings, embodies: individual responsibility; collegial responsibility; ecclesial responsibility. I will propose that: (a) the development of a culture of supervision-awareness, (b) training for supervision, for supervisors and supervisees, and (c) the provision of supervisory structures, from initial formation to professional practice, exemplify the very best of what has traditionally been recognised as pastoral care, where the 'individual and systems' (both ecclesial and other) and spiritual care coincide.*

*The provision of skilful, trained, and accredited supervision for ministers, priests, pastoral/spiritual carers and chaplains can best be seen as an act of thoughtful, responsible, compassionate and practical pastoral care – not just as an instrument of compliance, legal constraint and duty. (We must go beyond the Royal Commission in spirit – pastorally and theologically.)*

*I am suggesting that supervision should be reframed consistently by accrediting church bodies, not just as an exercise in accountability and compliance (essential), but also as a ministry of pastoral care and compassion and as a spiritual discipline to be embraced by the practitioner. This is the 'ought' of appropriateness, not the 'ought' of obligation.*

*How supervision is framed, theologically and pastorally, by accreditation bodies and practitioners, is (a) critical for acceptance, reception, effectiveness and sustainability, and (b) essential if supervision is to be an authentic experience of spiritual growth and maturing. It must be offered within a culture and framework of primary, secondary and tertiary pastoral care.*

It should be noted that throughout this paper I will be interchanging or paralleling the terms 'pastoral care' and 'pastoral supervision' – not to swallow up one in the other, or even remotely to assume they are one and the same thing, but rather to set up a dialogue as to how the one is expressive of, or complements, the other. When I use 'pastoral care', I will never assume pastoral counselling, which is a separate, distinct and valuable discipline within the suite of pastoral care support that the church offers.

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7. Patton, J. H. (1971, September). Editorial: Pastoral Supervision – a Ministry of the Church, *Journal of Pastoral Care and Counselling*, XXV(3), 145. See also Rouch, M. A. (1971, March). Young pastors pilot project: an experiment in continuing education for ministry, *Journal of Pastoral Care and Counselling*, XXV(1), 3–11, emphasis added.

8. Baird, J. (2018, 16 March). Vigilantes of Grace, Graduation Address, University of Divinity, <https://www.divinity.edu.au/wp-content/uploads/2018/03/2018-03-16-Graduation-Address-Julia-Baird.pdf>

## Supervision as an example of pastoral care

I am therefore proposing a theological frame for supervision that resonates with the essential elements of pastoral care. In 1964, William A Clebsch and Charles R Jaekle published a theological, historical and ecclesial meta-review of almost 2000 years of pastoral care by the church, in which they revealed a number of themes that in earlier days were seen as normative and essential activities for any pastor, minister or priest as they engaged with people or systems.<sup>9</sup> Those classic 19 centuries of historical themes were: *guiding, healing, sustaining, reconciling*. Following Howard Clinebell and other in the 1960s and 70s, *nurturing* also emerged, thanks to feminist and liberation theology. Acts of pastoral care were also directed towards *empowering and advocacy*, both individual and systemic.<sup>10</sup>

In the 1970s and 80s, pastoral care re-emerged as a place where religious belief, tradition, faith practice and service meet contemporary experience, questions and action, and conduct a dialogue which is mutually enriching, intellectually critical and practically transforming. This dialogue (in the context of a pastoral encounter) could be at a bedside, in a school, hospital, home, workplace, or ... within a supervisory setting.

I like Stephen Pattison's phrase 'humanity in mission', which he *almost* equates with pastoral care:

*You can't have too much humanity in mission – that is the message of the incarnation. And pastoral care [ministry supervision] is one of the places where the humanising vision of Christianity comes into sharp and practical focus. We need the actuality and reflective opportunities that pastoral care [ministry supervision] provides if we are to avoid becoming thoughtless institutional entrepreneurs. Might I therefore suggest that it is once again time to rediscover pastoral care [ministry supervision] and its significance for the contemporary world and church?<sup>11</sup>*

In the 1980s, in one of my earliest encounters with the literature of field education and pastoral supervision, Kenneth Pohly set the parameters for supervision within a ministry frame that is 'collegial, mutual, holistic and inclusive', arguing that:

*... to speak of supervision as a way of doing ministry, is to declare that supervision is both integral to and formative for ministry. There has been a tendency, at least in practice if not also in theory, to see it as something external to ministry, occurring somewhere outside of ministry and in control of it. Much of the baggage that is brought to supervision is the fear that some person or institution 'out there' is in charge. I am suggesting, rather, that there is a particular kind of supervision that is ministry. Theologically this kind of supervision can be described as being relational, covenantal, incarnational and grace-full.<sup>12</sup>*

Note that this was written *thirty years ago* – echoing writing from the 1970s. I wish to go inside Pohly's broad ministry frame and identify a particular aspect of ministry, namely, the classic discipline of pastoral care. In healthcare and chaplaincy practice, I might prefer the idea of 'spiritual care', but given today's brief (church, clergy, church workers, theology), I believe it is appropriate to use 'pastoral care'. There are many practitioners (now often viewed as 'allied health practitioners') representing the church in community care agencies, aged care, hospices, hospitals, etc., who have come under local/contextual supervisory and professional requirements for many years. They are mostly covered by workplace expectations and reporting, just as volume 16 of the Royal Commission's final report now indicates for the church.<sup>13</sup>

Wearing my 'qualitative researcher' hat, I used basic data analysis techniques<sup>14</sup> to distil key words and phrases describing supervision essentials that appeared in some core samples from five decades – almost 40 years of supervision literature. Seven of the 30 or so texts are referenced below with representative 'key terms'. They range from dedicated supervised field education texts to multi-disciplinary clinical supervision, and I have preferred more recent examples. Of course, this was not an exhaustive list, but one where some items embraced or included others that we might normally expect to see. Emerging themes can help us define supervision and perhaps shape best practice.

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9. See Clebsch, W A., and CR Jaekle, C R. (1964). *Pastoral Care in Historical Perspective: An Essay with Exhibits*, Harper and Row, New York.

10. See Clinebell, H. (1984). *Basic Types of Pastoral Care and Counselling*, SCM Press, London.

11. Pattison, S. (2008). Is Pastoral Care Dead in a Mission-led Church?, *Practical Theology*, 1(1), 7–10 at 9.

12. KH Pohly, K H. (1988). The Distinctiveness of Ministry Supervision, *Journal of Supervision and Training in Ministry*, 10, 114–130 at 125.

13. See Recommendations 16.5 (directed to the Anglican Church), 16.25 (directed to the Catholic Church), and 16.45 (directed to all religious institutions in Australia).

14. See Patton, M Q. (2016). *Qualitative Research and Evaluation Methods*, Sage, Thousand Oaks, Ca., 541–552.



Consider these words and phrases:

*Extended, intentional relationship ('journey metaphor'); mutual agreement; story; theological reflection/critical reflection; concrete practice; contextual awareness; case study; culture and contextuality; knowledge of the human sciences; personal growth and integration; contextually integrating and reconciling inner and outer worlds; nurturing spirituality and spiritual identity; community; self-care/self-compassion; whole person; spiritual care and guidance; formational; soul care.*<sup>15</sup>

I then blended these themes with Pohly's key terms – collegial, mutual, holistic, inclusive, relational, covenantal, incarnational and grace-full – to develop several themes and categories.<sup>16</sup> The emerging category that resonated most closely with these thematic prompts was classic and contemporary expressions of the discipline of pastoral care.<sup>17</sup> More specifically, Pamela Cooper-White's relational paradigm (*Use of Self in Pastoral Care and Counselling*) of internalised self-supervision by the pastoral carer echoes important themes in the supervision literature:

*... effective pastoral care includes giving close attention to one's own thoughts, feelings, fantasies and behaviours. This 'use of self' is not a matter of self-preoccupation, but, on the contrary, a healthy utilisation of one's own responses to enhance the quality of pastoral care. Appreciation of the complex, affect-laden nature of the intersubjective relationship between helper and helpee can deepen understanding, strengthen empathy and increase the mutuality of respect, even as it enhances the creation of a safe space with healthy boundaries.*<sup>18</sup>

If Cooper-White writes as a pastoral carer, Judy Rigby writes as a supervisor and helps me pinpoint the dynamics (and effectiveness) of self-reflexivity: 'If I know my sense of self, spiritual life, faith, hope and love, I am more likely to listen to the [supervisee's] worldview, hear their need, help them to sort out their feelings, values, hopes, and spiritual values.'<sup>19</sup> The supervisory dialogue, as in a pastoral care encounter, is cyclical and iterative as well as expressive of the guest-host motif where the roles can sometimes, with care, be interchangeable.

Resonance between pastoral care and supervision dynamics is common in pastoral care writings. Bruce Rumbold, who has 15 years' experience as a lecturer in pastoral care at Whitley College, Melbourne College of Divinity, and 15 years lecturing in pastoral, spiritual and palliative care at La Trobe University, identifies this common thread where elements of pastoral care and supervision dynamics intersect:

*Spiritual Care begins when we connect as people. It is about making space that people can use themselves. Sometimes making space means doing whatever we can to keep people in touch with places and things that are important to them. Sometimes it's making the space to listen to the stories as people review their lives and sort out 'the things that endure', the experiences and commitments that make them truly themselves. Sometimes it is making space for religious observance and ritual activity so that the place they now inhabit can be made holy.*<sup>20</sup>

Question: If clergy don't (or can't) actually do pastoral care in its classic form, will they be able to be supervised effectively?

The academic transcripts and formation/training notes for most seminarians and theological students are pretty much a 'pastoral studies-free zone'. I'm sure many have the heart, but maybe not the art or time for truly pastoral activities beyond the management of a few off-the-shelf resources for their people's souls.

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15. See Pohly, K H. (1977). *Pastoral Supervision*, The Institute of Religion, Houston, 42–51; Steere, D. (1989). *The Supervision of Pastoral Care*, John Knox Press, Westminster, 65–68; Seals, M., and Pyle, W. (1995). *Experiencing Ministry Supervision: A Field-Based Approach*, Academic Press, Boston, 8–17; Carroll, M. Supervision: Critical Reflection for Transformational Learning, Part 1, *The Clinical Supervisor*, 28(2), 210–220; Leach, J., and Paterson, M. (2010). *Pastoral Supervision: A Handbook*. SCM Press, London; Hawkins, P., and Shohet, R. (2012). *Supervision in the Helping Professions*, 4<sup>th</sup> edition, McGraw Hill, Open University Press, Berkshire, UK; Gardner, F. (2014). *Being Critically Reflective: Engaging in Holistic Practice*, Palgrave Macmillan, Basingstoke, UK, 51 ff; Falender, C and Shafranske, E. (2016). *Supervision Essentials for the Practice of Competency-Based Supervision*, American Psychological Association, Washington, DC.
  16. For more comprehensive meta-analysis, whole texts can be analysed using NVivo, just as we use this software to analyse the text of transcripts of interview.
  17. See Doehring, C. (2015). *The Practice of Pastoral Care: A Postmodern Approach*, Westminster JKP, Louisville, Ky.
  18. Cooper-White, P. (2004). *Shared Wisdom: Use of Self in Pastoral Care and Counselling*, Augsburg Fortress, Minneapolis, 128.
  19. Rigby, J. (2010). Reaching for the Realities in Rituals, *Australian Journal of Pastoral Care and Health*, 4(1), 14.
  20. Rumbold, B. (2002). *Spirituality and Palliative Care: Social and Pastoral Perspectives*, Oxford University Press, Melbourne, 21.

## Reframing supervision as an act of pastoral care

Here's the challenge: start early, educate, demystify the whole process of supervision. A minister had pulled an uncomprehending face at some basic teaching on supervision as essential for sustaining our ministry. I followed up with him and I finally got through to this former agricultural engineer with this quote.

*I am beginning to understand that life is not so much a search for answers, as it is a search for clearings. Clearings are the required stopping places in our lives when our lives get to be too much. A clearing is a place of shelter, peace, rest, safety, quiet and healing. It is a place where you can get your bearings, regroup, inspect the damage, fill out the estimate and make the repairs. It is a place where mid-course corrections are made – where you can change course, even start over. A clearing is a place where you can see what you couldn't see and hear what you couldn't hear.<sup>21</sup>*

Within supervision, 'sustaining' can be much more than just hanging on. It is the creation of new stories that give hope for tomorrow and maybe even 'starting over', an eschatological dimension of care.

Sustaining work goes deep. Supervision enables 'translat[ion] usefully into ways of locating how one's own hidden thinking (and choices about one's own thinking) helps influence professional practice'.<sup>22</sup> It is understood that supervision involves incremental work that needs time and seasons. But the sustaining, supportive nature of supervision has a vision of transformational learning, where:

*... supervisees critically reflect not just on their experience but the way they construct their experience, creating new mental maps or meaning-making frameworks that help interpret their experience, learn from it and go back to their work with new insights and new behaviours. This is supervision at its creative best and most courageous.<sup>23</sup>*

I truly desire that leaders and practitioners understand that supervision is one of the best theological and pastoral gifts on offer – perhaps even a sacred space in which to encounter God.

## Challenges to choosing/using pastoral supervision

Over the past decade, I have asked more than 50 people in ministry: 'You say you don't have supervision – why is that?' In answer to that question, I have received a variety of responses, which I have summarised as follows (added in brackets, is my hypothetical interpretation of the operative church context that is likely to be informing each response):

- 'Never really considered it ...' (Lack of formation; uninformed culture; systemic neglect)
- Confidentiality confused with confession ... (Inadequate education. Wrong focus)
- Ignore the signs until we fall over ... (Culture of 'burnout acceptance'. No self-awareness. Minimal systemic care)
- Programmed to keep going 'no matter what' ... (Theology of sacrifice. Abusive ecclesial models. Personality issues)
- Value boundaries but do not give priority ... (Lack of accountability. No vision of self-care. Too tired to discern!)
- 'Costs too much; don't have time ...' (Lack of formation in supervision; no culture of systemic support)
- 'There are not enough (good) supervisors ...' (Culture unaware and unprepared. Ecclesial/systemic priorities elsewhere. Isolation)
- And the very sad 'Tried it once ...'.

Not one saw supervision as a form of pastoral care, spiritual discipline or invitation to theological reflection!

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21. Yaconelli, M. (1995, Jan/Feb). Clearings, *The Door*, 5, <http://www.clearingonthelake.com/files/yaconelliarticle.pdf>

22. Fook, J., and Gardner, F. (2007). *Practising Critical Reflection: A Resource Handbook*, McGraw-Hill Education, UK, 70.

23. Carroll, J. (2010). Supervision: Critical Reflection for Transformational Learning (Part 2), *The Clinical Supervisor*, 29(1), 1–29 at 17, <https://tandfonline.com/doi/pdf/10.1080/07325221003730301>

Emmanuel Lartey summarises core pastoral care themes that clearly reinforce this resonance with supervision practice. For Lartey, pastoral care, (and I would say, supervision):

- is an expression of human concern through activities designed to bring wholeness and healing in a variety of modes as expressed by Jesus in John 10:10 ('... life abundant')
- happens when carers can recognise transcendence leading to exploration of the spiritual dimensions of life
- happens when the motivation is love ('we love because God first loved us')
- aims at prevention, fostering and advocacy (the prophetic edge of social justice).<sup>24</sup>

In practical care mode, pastoral care 'primers' by Robert Wicks and Thomas Rodgerson (1999), John Patton (2005), and Carrie Doehring (2015) all identify the following aspects of practice that extend beyond the expected and basic listening skills:<sup>25</sup>

- Care (supervision) concerns whole people in physical, emotional, social and spiritual aspects (Lk 4:16–21).
- Care (supervision) is mutual – we care cooperatively for each other, offer welcome on the journey, and express hospitality in our learning together (Gal 6:1–5; Romans 12:13).
- Care (supervision) depends as much upon who we are (integrated life, personality, spirituality, etc.) as on what we can do (Philippians 2:1–11).
- Care (supervision) invites us to reflect upon the meaning and purpose of our lives and behaviours (Matthew 5:1–12).
- Care (supervision) creates community in a variety of dimensions (John 13; John 21; John 15:11–17).

And from the perspective of that essential mode of care, the invitation to theological reflection, John Paver offers a classic theologically reflective framework for the working focus of pastoral supervision:

- the 'text' of faith experience and contextualised, systems-aware practice
- the 'text' of scripture and Christian tradition as related to the person's identity and spirituality both within and beyond their immediate ministry
- the 'text' of culture and the context/events/process of ministry.<sup>26</sup>

Paver's discussion of the role of theological reflection suggests that pastoral conversation as a mode of supervision fits well with pastoral practice and style. He cites Mary Boys, for whom all forms of ministry must have clear pastoral dimensions and even her teaching, 'is more than mere transmission of knowledge [and] involves entering into unfamiliar worlds – not only of texts that present radically different perspectives, but also of hearts and minds and of those whom we meet in the classroom'.<sup>27</sup> Pastorally, each person is a new text for us (whether counselee, supervisee or student), but the common thread of theological reflection takes seriously:

- an experience of life: an event, story or narrative
- an experience of work or ministry: an event, story or narrative
- an issue in ministry: justice, suffering, inculturation
- a vision of ministry: a personal mission statement.<sup>28</sup>

### **Pastoral supervision as a theological discipline?**

Again, consider the thematic resonance with the following from practical theologian, Professor Daniel Louw, Professor of Pastoral Care and Counselling (retired) in the Faculty of Theology at the University of Stellenbosch, South Africa, a member of the International Academy of Practical Theology, and former president of the International Council of Pastoral Care and Counselling.

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24. Lartey, E Y. (2003). *In Living Colour: An Intercultural Approach to Pastoral Care and Counselling*, Cassell, London. For contextual and cultural discussion, see also Lartey, E Y. (2006). *Pastoral Theology in an Intercultural World*, Epworth, Peterborough UK.

25. See Wicks, R., and Rodgerson, T. (1998). *Companions in Hope: The Art of Christian caring*, Paulist Press, New York; Patton, J. (2005). *Pastoral care: An Essential Guide*, Abingdon Press, Nashville; Doehring, C. (2015). *The Practice of Pastoral Care: A Postmodern Approach*, Westminster/JKP, Louisville, Ky.

26. Paver, J. (2006). *Theological Reflection and Education for Ministry*, Ashgate Publishing, Aldershot UK, 33–79.

27. Boys, M C. (1999). Engaged Pedagogy-Dialogue and Critical reflection, *Teaching Theology and Religion*, 2(1), 129–136 at 130.

28. McAlpin, K. (2009). *Ministry that Transforms: A Contemplative Process of Theological Reflection*, Liturgical Press, Collegeville, Minnesota, 114.

On his faculty webpage, Louw outlined his approach to teaching pastoral care, as follows:

*Pastoral Care is viewed as a theological discipline. Within the framework of the traditional understanding of pastoral care as cura animarum (care of the human soul), we endeavour to develop Pastoral Theology as a healing enterprise, which focuses on care from the perspective of salvation. Pastoral Care is faith care applied as life care. The main objective is to help people towards a meaningful life with the aid of an appropriate understanding of God and God's presence. [In the context of life, work and discipleship] the following important existential issues should be addressed:*

- *Our anxiety around rejection, isolation and death – hence the human quest for intimacy and acceptance.*
- *Guilt, and guilt feelings – hence the human quest for liberation and freedom.*
- *Despair and doubt – hence the human quest for hope and a meaningful future.*<sup>29</sup>

This indicates that there can also be a healing aspect to the pastoral supervision function, whereby a representative Christian person facilitates another's path towards restoration to a condition of wholeness, a restoration that also achieves a new level of spiritual insight and wellbeing. The wholeness that pastoral healing seeks to achieve is not simple restoration of prior circumstances, physical or otherwise, but integration with deeper spiritual insight than was previously experienced. In this sense, supervision fits well with the pastoral theological enterprise.

Within pastoral care, both parties are changed as degrees of mutuality build community in a covenantal context that also embraces the presence of Christ in their midst, a liminal space often deemed sacred. Felicity Kelcourse conceives of supervision as 'soul care' within a 'spirituality of integrity', suggesting that critical reflection is essential for both supervisor and supervisee. She writes that all of us carry wounded places (loaded with assumptions and expectations) that:

*... continue to suffer from not being seen, known, heard, or respected in the ways we needed to feel whole. The transformative hope of [supervision] is that these wounds will be recognised, explored, and understood by both supervisor and supervisee, soothed by reparative experiences, and healed to a manageable degree over time.*<sup>30</sup>

For practitioners and supervisors alike, these wounded places sit right alongside 'the values from which they wanted to operate ... [and] their values were in conflict with what they had felt or done'.<sup>31</sup> Critical reflection works to identify hidden dimensions of self or values, spoken and unspoken, and aims to explore how our practice or actions, beliefs and assumptions need to change or be affirmed to fit with our desired assumptions and beliefs. Although clearly not intended to be a therapeutic process, it is still potentially a healing process. As Peter Hawkins and Robin Shohet describe it, this also extends to include parishioners or clients:

*Supervision can be a very important part of taking care of oneself and staying open to new learning, as well as an indispensable part of the person's ongoing self-development. We have found that when we have been able to accept our own vulnerability and not defend against it, it has a valuable experience both for us and our clients [parishioners]. The realization that they could be healing us, as much as the other way around, has been very important both in their relationship with us and their growth. It is another reminder that we are servants of the process.*<sup>32</sup>

Finally, the Royal Commission, in its recommendations in Volume 16, speaks of mandatory 'professional/pastoral supervision'. The fairly clear implication is that the Royal Commission wants the supervisors themselves to be professional. And yet, the fact is that most supervisors are currently under-trained and unaccredited.

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29. See [http://academic.sun.ac.za/theology/Profiles/louw\\_profile.htm](http://academic.sun.ac.za/theology/Profiles/louw_profile.htm) (accessed 20 November 2018)

30. Kelcourse, F. (2013). Supervision as Soul-Care: A Spirituality of Integrity, *Reflective Practice: Formation and Supervision in Ministry*, 33, 154–168 at 159 (online), <http://journals.sfu.ca/rpfs/index.php/rpfs/article/viewFile/273/272>

31. Gardner, F. (2014). *Being Critically Reflective: Engaging in Holistic Practice*, Palgrave Macmillan, Basingstoke UK, 5

32. Hawkins, P., and Shohet, R. (2012). *Supervision in the Helping Professions*, 4<sup>th</sup> edition, McGraw Hill/Open University Press, Berkshire, UK, 15.



From the Australasian Association of Supervision (AAOS) website:

*Supervision interrupts practice. It wakes us up to what we are doing. When we are alive to what we are doing, we wake up to what is, instead of falling asleep in the comfort stories of our clinical routines and daily practice. The supervisory voice acts as an irritator interrupting repetitive stories (comfort stories) and facilitating the creation of new stories.*<sup>33</sup>

Sustaining is a key pastoral practice. It consists of helping any person with complex or perhaps even threatening challenges (psychological, spiritual, emotional or physical), to endure and to transcend a given circumstance, rather than sink into old 'comforting' or survival behaviours. Turning back the clock, or restoration to a former psychological, spiritual, emotional or physical state, is not realistic and sometimes recovery from illness, struggle, or condition is either impossible or so remote as to seem improbable. The sustaining work goes beyond simple survival in the face of complex, harmful, or challenging experiences, by reaching toward spiritual growth through endurance and faithfulness.

As noted earlier, within pastoral supervision, 'sustaining' is much more than just hanging on, it is the creation of new stories that give hope for tomorrow, an eschatological dimension of care. A supervisory session might 'translate usefully into ways of locating how one's own hidden thinking (and choices about one's own thinking) helps influence professional practice'.<sup>34</sup> Supervision involves incremental work that needs time and seasons, but the sustaining, supportive nature of supervision has a vision of transformational learning. This reflects our earlier note:

*Supervisees critically reflect not just on their experience but the way they construct their experience, creating new mental maps or meaning-making frameworks that help interpret their experience, learn from it and go back to their work with new insights and new behaviours. This is supervision at its creative best and most courageous.*<sup>35</sup>

Question: Where will the Supervisors come from?

Five hours before the Titanic left on her doomed maiden voyage, civil servant Maurice Clarke inspected the liner for lifeboats and safety equipment. He made handwritten notes at the time in which he clearly stated that the vessel did not have enough lifeboats. But he wrote that if he had made the recommendation official, his job would have been threatened, as the Titanic's owners had pressured his superiors into giving the fated ship the all clear.

I wonder if we even have *one* life raft for the numbers we are considering. Supervisors are few in number, often represent an ageing demographic, and already have more than enough supervisees. How will more be trained and where will this training be offered?

Currently, the minimum level of training required for supervisors, entails:

- a pre-requisite of five years' experience in a relevant field
- a record of 50 hours face-to-face training in professional supervision
- evidence of supervision practice of 200 hours
- evaluation reports from trainers/supervisors of the person plus their own self-evaluation while under training.

Where can professional pastoral supervisors train?

- St Mark's National Theological Centre, Canberra (Charles Sturt University): Grad Cert Professional Supervision (Clinical/Pastoral), delivered in various states and via Ridley College and Alphacrucis College.
- University of Divinity: Grad Cert and Grad Diploma in Supervision, delivered via Jesuit College of Spirituality and Stirling Theological College
- Transforming Practices, Sydney
- Clinical Pastoral Education (CPE) programs
- Multi-disciplinary sources (which may not address spirituality and theological reflection).

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33. <http://www.supervision.org.au/what-is-supervision> See also Ryan, S. (2004). *Vital Practice*, Sea Change Publications, Portland.

34. Fook, J., and Gardner, F. (2007). *Practising Critical Reflection: A Resource Handbook*, McGraw-Hill Education, UK, 70.

35. Carroll, M. (2010). Supervision: Critical Reflection for Transformational Learning (Part 2), *The Clinical Supervisor*, 29(1), 1–19 at 17.



Special note: Beware the false hope of cross-disciplinary hybrid pastoral supervision. In my view, it is not respectful or wise as a matter of policy to suggest that spiritual direction be used as a response to the need for 'professional pastoral supervision'. Is it, perhaps, a helpful short-term, stop-gap response if we're desperate? Even then, I think not – but where is the research on this?

Question: We're supposed to be teaching all this, but what about research?

Remember, in terms of the number of available supervisors, and where and how hundreds of different faith groups across Australia are meant to find them in order to comply with the Royal Commission's recommendations – do we have even one life raft?

Theological colleges are key partners in theological and pastoral formation of practitioners. The church would probably not survive without theological education, pastoral/spiritual formation, and pastoral supervision in some format (but which may not necessarily be provided by and through theological colleges!) Theological colleges join in this task with the people of our own traditions, other colleges or CPE providers, various stakeholders and peak bodies, and of course those who we serve and minister with (they are probably our best teachers!).

Over the years, I have observed that most churches and colleges still significantly underfund what informs the practice and sustainability of ministry. Will we also neglect to do research on what is essential and now apparently mandated?

In relation to the need for research, I would make the following observations:

- We are obviously moving into the development of courses in pastoral supervision – an evolutionary process. I believe education must be ecumenical and closely allied to research. The teaching-research nexus will be critical over the next five to ten years. What are the statistics regarding our supply of existing (many ageing) supervisors, a cohort that will inevitably shrink (dead, demented, or retired for the third time!).
- Remember that the church is already doing some good work in the area of pastoral supervision. Firstly, let's use appreciative inquiry to evaluate and improve existing work; secondly, let's set up *culturally and demographically diverse* pilots that reflect our ministry profiles and demographics, to help us understand where we need to go.
- In my view, we should piggy-back on the work of our colleagues in healthcare, as they have faced the challenge of evidence-based practice. Their knowledge and skills in research will be transferable to teaching and it will be a good bridge between domains of service.
- Good mixed methods research will enable the voices of those on the ground – supervisors and supervisees – to be heard. This will help us avoid the danger of top-down ('Here's the program, get with it!') planning and implementation.

## Conclusion

In this paper, I have only touched on two of the seven (that's another paper) elements of good, effective pastoral care that can also become the key elements of effective supervision. For now, I am deeply conscious of the huge deficit in our duty of care, from numerous angles, which has been a reality historically and maybe (notwithstanding the shock behind why we're here today) also in the future. I hope not. For these three conference days, we are in some small way the stewards, guardians and 'honourers' of the horrific stories that have prompted this conference. We have listened and we have heard. These are past tense verbs. Necessary words, but limited. They begin the story of the new, and perhaps, as Julia Baird has suggested, we will continue to pay attention and become 'vigilantes of grace'.

Part of my childhood was spent in Newtonards, Belfast. Not quite Syria, but I thought it would never end. In my bible I have a cutting from *The Age* showing Ian Paisley sitting down with Sinn Fein. I conclude this paper with a reflection from Northern Ireland, a poem by Liam Mac Uistin, *We Saw a Vision*:

*In the darkness of despair we saw a vision of hope. So we lit a light of hope and it was not extinguished. In the despair of discouragement we saw a vision of strength, so we planted the tree of courage and it blossomed. In the winter of imprisonment and entrapment we saw a vision of freedom. So we melted the snow of lethargy, and the river of resurrection flowed from it. We sent our vision aswimming like a swan on the river. The vision became a reality. Winter became Summer. Imprisonment became Freedom. And this, our children, we leave to you as your inheritance.*<sup>36</sup>

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36. Mac Uistin, L. (1995). *We Saw a Vision*, in Ward, H., and Wild, J. (1995). (eds.), *Human Rites: Worship Resources for an Age of Change*, Mowbray, London.

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# The problem with supervision

Peter Maher

I have been a Catholic priest of the Sydney Archdiocese for over 40 years and now work mainly as a pastoral supervisor and trainer of pastoral supervisors. Recently, the clergy of the Sydney Archdiocese met for three days without a single mention of pastoral or professional supervision, although I was pleased to see that spiritual direction was mentioned and the need for qualified spiritual directors noted. What's the problem?

The Royal Commission recommended to the Catholic Church that all people in religious or pastoral ministry undertake mandatory professional/pastoral supervision:

## **Recommendation 16.25**

*The Australian Catholic Bishops Conference and Catholic Religious Australia should develop and each diocese and religious institute should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, provincials, clergy, religious, and lay personnel):*

- a. *Undertake mandatory regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry, and child safety*
- b. *Undertake mandatory professional/pastoral supervision*
- c. *Undergo regular performance appraisals.*

## **Recommendation 16.45**

*Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, have professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry.*

This has been met with caution, even panic, in the Catholic Church in Australia for a number of reasons. In spite of professional/pastoral supervision being recommended in the church's own document on priestly formation, *Integrity in Ministry* (2004), it has barely been heard of in practice and thoroughly discouraged in some dioceses. So, its appearance as a Royal Commission recommendation, while not new or unexpected, has sent diocesan agencies responsible for initial and ongoing formation of clergy scurrying for information about what this means for clergy and pastoral carers, and how we can meet this need.

The first problem is understanding what professional/pastoral supervision is and what it is not. While dioceses have many competent qualified counsellors, spiritual directors and supervisors, some may struggle to see exactly what separates professional/pastoral supervision from other forms of support offered to people in religious and pastoral ministry.

The difference between clinical professional supervision and what the Royal Commission calls 'professional/pastoral supervision', is normally identified as 'theological reflection'. This goes to the heart of what causes some resistance and misunderstanding. Pastoral supervision must be professional in the sense that we need well-trained and accountable supervisors, but it is primarily a practice of care. If it remains a tool of compliance without being a place for hope, it may prove to be of little value to people in religious or pastoral ministry. The element of theological reflection is not about bringing biblical motifs into the discussion, it is about how we are motivated to find the energy for effective life-giving pastoral care in the face of difficulties and lack of hope.

Reflective practice is not primarily about competence or skills development. It is about reigniting the fire for care, born of a belief that God is present and hope is possible, and about discovering and exploring those contexts that place obstacles in the way of effective pastoral care. It is precisely this quality of reflective practice within an incarnational theology that can restore life into moments that disturb, confound and confuse people in ministry. Once we interpret and practice professional/pastoral supervision as the work of vision and hope, we are closer to it becoming an effective part of ministry that will be embraced by ministers as helpful to their practice and vocational identity.

Another problem is the perception that supervision is 'checking up' or 'oversight'. Professional/pastoral supervision is not 'checking up', but an act of compassion that promotes self-awareness and satisfaction in work. It is part of a suite of processes that make accountability a valued process for personal and professional practice. Professional/pastoral supervision allows supervisees to see things from a wider view (super-vision), or another angle, or with reflection that facilitates learning from experience, so that the supervisee is nurtured and encouraged. It ensures self-care and growth in vocational identity and good practice.

Some think the name 'professional supervision' is a barrier to implementation of this recommendation of the Royal Commission. Could it instead be called 'reflective practice on ministry', or something else? This is very much worth thinking about. However, in thinking about what to call it, we need to be clear about the various goals of the supports offered to pastoral carers so that the quality and meaning of each is respected. Professional/pastoral supervision is not to be confused with spiritual direction, therapeutic interventions, coaching or mentoring – which are helpful in understanding and embracing the minister's relationship with God, pathologies, or skills development, respectively, while pastoral supervisors are primarily facilitators of learning from experience and theological reflection. Another consideration on this point is the value of engaging in a process that is common to helping professions, thus making this form of accountability commensurate with the wider practice of accountability.

Priests are not used to being put under scrutiny, and a key fear is that they will not undertake supervision because it might 'expose' them. This is why professional/pastoral supervision needs to be a bounded space, which means confidential and external. So, external supervision is important – meaning that the supervisory partnership is a safe space in which the supervisee is able to share pastoral and vocational issues. It is important that supervisors are qualified and belong to their professional body. While familiarity with the context in which the supervisee works is essential, they don't need to be clergy or have experience in priestly work. Their competence lies in being trained as pastoral supervisors.

Another issue to be addressed is the implementation of a policy around supervision. To rush into implementing mandatory supervision has great risks of being counter-productive. Implementation must go slowly, lest the experience of supervision by clergy and pastoral carers is poor and this becomes a hurdle to people embracing supervision, or worse, it becomes a matter of ticking boxes (if I can say I have had six hours of supervision, that's another thing off the list). What we are asking for is a change in culture, and we know cultural change is a difficult thing to achieve. Where I think this cultural change needs to start, is with current trainees and seminarians, the hope being that through early experience of supervision, conducted in a way that respects the principles of good pastoral supervision, the students will so value pastoral supervision that they would not be without it in their ministry. This is a mammoth task in itself, as it requires good, well-trained external supervisors in sufficient numbers to offer choice to the supervisees. While we need to continue to move toward pastoral supervision as standard practice for all people in ministry, because it is a way of care for ministers, I am suggesting we begin changing the culture more effectively by working with those training for ministry.

This raises the issue of where are the trained qualified pastoral supervisors. Well, there are not many who can claim to have the qualifications and the ongoing accountability of belonging to a professional body like other professionals in such fields. Supervision needs to be conducted by a trained supervisor who understand pastoral supervision and belongs to an accrediting professional body. While having a cuppa with another clergy person or trusted colleague is of great benefit, it does not meet the criteria set out in *Integrity in Ministry* or by the Royal Commission. Of course, not every qualified pastoral supervisor who is a member of their professional body will be suited to every supervisee. Supervision is a learning partnership, and as in all partnerships, individual learners (supervisees) may need to look around for one who works them. But proper training and accreditation is a hallmark of professional accountability, something we cannot disregard given our record.

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# Further reflections

*[There is a] danger that the Royal Commission's recommendations will serve a restrictive function by seeming to define the acceptable limits of what may be asked of the church, thereby putting an end to the conversation. This would be not only ironic, but tragic. It is also surely not what the Royal Commission intended. Perhaps this is a hazard to be addressed in Australia, namely, the risk that if the Royal Commission's recommendations are taken as the agenda for change, the final report will be used to put a full stop to opening up further, more radical, possibilities.*

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# A statement on behalf of survivors and their supporters

Eric Hudson

In its consideration of the ongoing response of religious organisations in the aftermath of the Royal Commission, the Health and Integrity in Church and Ministry conference provided an opportunity for the experience of survivors to be brought to the foreground.

This is the fundamental challenge: for the voices of survivors to be heard.

During an extended morning tea period, the invitation was made for any survivors and their supporters who were present at the conference to join in a conversation and express their thoughts and concerns. While a number of survivors had already participated in the formal program of the conference and in some of the open discussion sessions, this meeting honored the survivors present by providing an opportunity for their voices to be heard during the final session as work commenced on preparation of a conference communiqué.

As often happens when survivors are given time and space and are invited to share their voices, a strong sense of support and collaboration emerged. What emerged too was a real sense of clarity about the most significant issues and concerns of survivors.

There were two very strongly made points.

Firstly, that the church needs to take responsibility for the lifelong care and support of all those whose lives have been harmed irreparably. This goes beyond the notion of 'redress' and is the church accepting responsibility and being accountable for its abuses and failures. Notions of a permanent health care card were mooted.

Secondly, there was very, very strong condemnation of ongoing denial of what members of the church have done. Facing up to the truth of past actions is not happening. Survivors continue to be doubted.

Further, current processes that require claimants/survivors to continually undergo psychiatric assessments and the like, reflect the reality that church processes do not represent trauma-informed practice. The church needs to closely examine all of its processes for responding to abuse in this light.

There was also strong concern expressed for those who have as yet been unable to come forward. What responsibility is the church taking for them, or for families where survivors have taken their own lives as a direct result of the abuse they experienced.

Concern was also expressed for the needs and ongoing care of those people who may be significantly marginalised in the church's processes. This is particularly relevant to the needs and care of our Aboriginal and Torres Strait Islander brothers and sisters and the responsibility of the church towards them.

The ongoing challenge for the church and all other organisations is to ensure that they truly understand the experiences of survivors and the lifelong impacts of the abuse. This will include a clear understanding of the nature and impact of the re-traumatisation experienced as survivors have interacted with the church. Survivors' voices must be central, must be heard, and must be responded to with heartfelt compassion and integrity.

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**Eric Hudson** is a master clinician with the Australian Association of Religions Counsellors and a therapist in private practice. He was Head Counsellor for the Royal Commission into Institutional Responses to Child Sexual Abuse. He provided counselling services throughout the Health and Integrity in Church and Ministry conference.

# Reflections from the Vice-Chancellor

Peter Sherlock

For the last twenty-five years, I have devoted most of my academic research and writing to the question of how human societies remember and how they forget. Most of this has focused on the commemoration of the dead through memorials, monuments and gravestones, and what these objects reveal about beliefs and fears of the societies that produced them. I was therefore jolted upright at the Health and Integrity Conference when Ellen Fanning, the facilitator, posed the question, 'Do we need a theology of remembering and forgetting?'. Could it be, I thought, that my own research might connect to the theological challenge of responding to the Royal Commission?

Remembering and forgetting are integral to reconciliation and peace. There are many good examples, from the Good Friday Agreement in Northern Ireland to the Truth and Reconciliation Commission in South Africa. There are also many challenges. My work on remembering the Reformation has shown that it is only in the last half-century that churches have been willing to remember Protestant and Catholic martyrs side by side, but that we are yet to deal with how to remember those who killed them. In Australia, we are gearing up again to remember the arrival of Captain Cook in 1770 and his claiming of this ancient land for the British crown, yet remain unable to recognise Aboriginal people and Torres Strait Islanders in the nation's constitution.

Remembering is vital to survivors of child sexual abuse to ensure that their voices are not silenced again. Many conference delegates commented on the significance of the Royal Commission in bringing to light the stories of victims and survivors of child sexual abuse, a role described as 'bearing witness'. A major concern was how these stories would continue to be told and heard in years to come. Suggestions included monuments, archives, and rituals so that these stories would ensure that this national tragedy would never occur again. But forgetting is critical, too. What happens if we forget not only the violence and abuse, but also the evil acts, the sins of omission, which caused them to happen? Do we need to remember perpetrators and bystanders, individual and institutional?

These ideas have stayed with me during and since the conference, as I heard, entered into, and have reflected on what took place. This participation called forth in me the need to bear witness, which requires a willingness to step into the experience of others, and to shoulder some of the burden of responsibility for what comes next.

Two major challenges emerged out of the conference. First is the need for the churches to be held to account until all of them comprehensively implement the 57 recommendations of the Royal Commission directed towards religious institutions.

It is too easy in any institution, including religious ones, to complete only part of a task, or for a recommendation to be enacted in only one part of an organisation. Excuses are easy; the resources are lacking, this recommendation doesn't apply to us, there are other pressing issues, our constitution doesn't permit us to do this. But in each case, the excuse is not good enough. If a church does not implement or only partially implements a recommendation, it needs to state clearly and publicly the reasons why. Neglect or ignorance will not do.

The churches must hold themselves to account publicly for their progress in implementing the recommendations, in a manner which goes beyond the requirements of the Royal Commission itself. Every church and religious order should prepare and publicly release a progress report on implementation annually, in addition to other reporting requirements. This will be especially important as public interest and government scrutiny decreases over the next few years. This might best be done liturgically, using the authentic ritual forms which shape Christian community life.

Second, the fundamental, distinctive challenge for the churches is theological. Child sexual abuse occurred in a range of institutions, religious and secular. In the case of the churches and religious, however, the theological foundations of governance structures and ministry practices contributed to repeated failures to prevent child abuse or to remove perpetrators.

The churches must therefore engage in profound theological reflection and reformation at the most fundamental levels. There can be no 'line in the sand' between the examination of Christian doctrine and practice, and the reforms required to prevent systemic child abuse recurring in the future. This is why the seal of the confessional has been contentious – regardless of the case for or against the practice, it is the symbolic 'line in the sand', especially for Roman Catholic Christians. Theological debate and theological practice needs to be characterised by humility and open to critical appraisal in the search for God's truth.

It is particularly challenging for the churches and for theologians like me to grasp that while theology is essential to the task of reform, theology alone is not sufficient for it. Other disciplines – law, ethics, psychology, anthropology – are vital. The good news evidenced by the Health and Integrity conference is that there are many experts able and willing to help. Moreover, this interdisciplinary, critical approach is more likely than not in my view to assist the churches to recover and return to authentic witness to scripture and tradition.

These two themes were accompanied by specific outcomes, raised by conference presenters and delegates, and included in the conference communiqué. The first two addressed those directly involved in abuse, and the second two provided the basis for culture change and renewal in the churches.

First was the creation and resourcing of a national healing journey in each church or religious order, led by trauma-informed practice and the wisdom and needs of survivors. Second was the need for ongoing research into the factors which enable or prevent child sexual abuse, research which must include attention to the treatment and supervision of perpetrators. Third was a comprehensive review of formation and education programs for clergy and pastoral workers across all churches, including the creation and analysis of data on the outcomes for graduates, church leaders and church members. What works? What is best practice? What needs to change? This is a task the University of Divinity hopes to begin in 2019 by bringing together those responsible for ministry formation and theological education from across our colleges and partner churches.

Related to this is the development of professional supervision relationships and requirements for clergy and pastoral workers. This might draw on the models used in other professions such as health, finance or education, and has the potential not only to identify and treat abusive behaviours, but also to improve the wellbeing of people in ministry.

Finally, the conference highlighted the need for theological research in the traditional area of ecclesiology, the study of the church, that address the harmful culture of clericalism identified by the Royal Commission. Ecclesiological thought has been at the heart of previous reforms in the history of Christianity ever since apostolic teams. How we understand the church, the Body of Christ and the mission of the people of God, is a powerful basis from which to reform structures, ministry and leadership, including the implementation of contemporary ethical standards of governance and transparency.

The ecclesiological task will include work on the theology of power and authority, and take account of the 'lived reality' of church structures rather than imaginary ideals. Such work should include attention to the presence and voices of children in the church, and should empower theologians to deliver practical outcomes for church and society.

The conference was intensive and challenging, full of grief, and yet also empowered by a resolve not only to ensure the recommendations of the Royal Commission are implemented, but also to bring about a conversion of hearts and minds in the churches such that all that we do and all that we are is focussed anew on love of God and love of neighbour, and the protection of children and vulnerable adults from harm.

This resolve has already impacted on the University of Divinity, through inclusion of a new goal in its Strategic Plan, simply called 'Responding to the Royal Commission'. Initial steps include examining the university's own culture and code of conduct, and taking up the call to review theological education and ministry formation practices.

I have also found my behaviour in my home, the Anglican Church, to have been altered by this experience. At the 2018 meeting of the Anglican Synod of the Diocese of Melbourne, I was prompted to ask a series of challenging questions and to intervene in legislative reforms, newly conscious of my responsibilities as a synod member, theologian, and Christian to leave no stone unturned or any corner left in darkness in the search for truth, justice, and accountability.

In contemplating these challenges – personal and institutional – I return again to that powerful question: do we need a theology of remembering and forgetting? And I am all at once nourished, stirred up, and awestruck by the knowledge that the church already has a theology of remembering and forgetting – a theology which speaks directly to us and to me in this moment, a theology summed up in Jesus’ words at the Last Supper and restated at the Lord’s Table week by week by Christians throughout the world: ‘Do this in remembrance of me’.

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**Professor Peter Sherlock** BA(Hons) MA DPhil is Vice-Chancellor of the University of Divinity. A cultural and religious historian with particular interests in early modern Europe and Australia, he is a graduate of the University of Melbourne and of the University of Oxford, where he held a Commonwealth Scholarship from 1997 to 2000. From 2004 to 2008 he was ARC Postdoctoral Fellow in the School of Historical and Philosophical Studies at the University of Melbourne, and from 2008 to 2012, he was Dean of the United Faculty of Theology in Parkville, Victoria. Professor Sherlock was appointed as inaugural Vice-Chancellor of the University of Divinity in 2012, and in 2016 his appointment was renewed for a further five-year term that commenced in January 2017.



# A visitor's view of the conference

Robert A Orsi

I was privileged to attend the Health and Integrity in Church and Ministry conference as a visitor from the United States. I am grateful to the organisers for making this possible. It was from the perspective of comparing the circumstances of the two countries with regard to the current crisis of Catholic clergy sexual abuse that I experienced the conference during my days in Melbourne and that I have been thinking about it since. I want to offer some reflections here on the crisis viewed through this double lens.

But first, a comment about the word 'crisis': I believe that 'crisis' is the wrong way to designate this moment of Catholic history, globally or locally, if what is meant by the term implies the exceptional, unforeseen or unforeseeable, or unusual nature either of the abuse or its cover-up. The American psychologist, Richard Sipe, a former Benedictine priest who spent his life studying the sexual behavior of Catholic priests, has written that on the evidence of his practice and research, no more than half of all Catholic priests at any time are faithful to their vow of celibacy. Priests have been sexually active since well before the modern era, as the repeated campaigns to reform the clergy indicate. From the 16th century forward, church authorities have taken a managerial attitude towards clerical sexuality, evidencing little sympathy for priests' victims. What we have been seeing over the past forty years or so, in other words, is the full disclosure at last of the everyday real life of Catholic institutions, including parishes, schools, orphanages, and mother and infant homes, and of the circumstances with which many Catholics have had to contend. To view the 'crisis' in this light gives added urgency to the imperative to change, but also underscores the difficulties of achieving it.

To take up the Australian-United States comparison, the big difference, of course, is the work of the Royal Commission into Institutional Responses to Child Sexual Abuse and its very comprehensive and clear final report. I was impressed throughout the conference by how this served as a lodestar for participants. While individual dioceses in the United States have been investigated by law enforcement, resulting in a series of grand jury reports, the effort has largely been local. Moreover, because district attorneys lack the Royal Commission's extraordinary subpoena powers, efforts at uncovering abuse and its coverup have been hampered by the determination of local ordinaries to resist disclosure and withhold documents. There is nothing like the comprehensive and independent overview the Royal Commission provides. The Royal Commission's twenty-one recommendations directed specifically to the Catholic Church in Australia for institutional change give Australian Catholics a clear and precise agenda for demanding transparency and accountability from church leaders. It is a fire to hold them to. I imagine Catholic officials in the US would evoke the separation of church and state to protest what they might see as an infringement on the church's autonomy; in this they would have the support of conservative Protestant allies. The likelihood of such resistance to government intervention is a reminder that whatever steps are urged in such public statements, and however valuable, in both countries it still requires people in the pews to step up and in no uncertain terms call for an end to everything in Catholic practice and doctrine that contributed to this horror. The Royal Commission or the Pennsylvania Grand Jury Report cannot substitute for this.

The question of doctrine arose at several points during the conference, most powerfully so in the insistence on the need for the church to officially recognise women as equal in the life of Catholic communities. This is to ask for more than a pragmatic change, of course; it means the church must abandon, at long last, certain moribund ontologies of gender. After all, Pope John Paul II spoke and wrote often about women's importance to the work of the church, but he did not mean by this what women who spoke up on the topic during the conference did! However, I think in the US there would have been a greater emphasis on including women's ordination in any conversation about the future status of women in the church. I wondered about the silence in Melbourne on this matter. Perhaps I am misremembering, but it seemed to me that conference participants were careful not to go this far. I am sure that there were many at the conference who felt as I do that anything short of this is not only inadequate from human rights and theological perspectives, but it would also ensure ongoing inequalities. I do not remember hearing much about this.

Was this not raised at the conference because the Royal Commission did not include it among its recommendations? If this is so, then this silence points to the danger that the Royal Commission's recommendations will serve a restrictive function by seeming to define the acceptable limits of what may be asked of the church, thereby putting an end to the conversation. This would be not only ironic, but tragic. It is also surely not what the Royal Commission intended. Perhaps this is a hazard to be addressed in Australia, namely, the risk that if the Royal Commission's recommendations are taken as *the* agenda for change, the final report will be used to put a full stop to opening up further, more radical, possibilities.

The Royal Commission does recommend, however, that the church consider instituting voluntary celibacy. I heard no consideration of this at the conference, let alone any suggestion that voluntary celibacy might be necessary for the health and integrity of the Church and its mission. I am aware that when celibacy is raised as a subject in the context of responding to clergy sexual abuse, the argument is always advanced that celibacy is no guarantee of anyone's sexual safety. True enough, but this misses the point. Voluntary celibacy may be – in my view, it is – a good in itself, not as a prophylactic measure to clerical sexual crimes and misbehaviors. That the married life was a positive good for priests was certainly Martin Luther's view in the sixteenth century. Celibacy as a sign of clerical superiority – and more, of their supernatural calling – has proven over and over throughout history and in recent times a blind for sexual activity that is supposed to not be happening but is. It also serves to maintain and authorise the hierarchy between ostensibly pure beings, on the one hand, and married men and women, on the other. In this context, despite all the well-meaning rhetoric, the married or sexually active laity become largely disempowered second class human beings in the church. My own research has shown me, moreover, that while not all priests are sexually active, the fact that many are creates an environment of complicity and entanglement among 'brother-priests.' The fact of mutual implication within this bind may be – and has been – manipulated by sexually abusive priests to get what they want. It makes of the priesthood a brotherhood of denial.

Finally, I noted the attention conference organisers and participants paid to Catholic churches in south and east Asia. It was clear that this had to do not merely with geographical proximity, but with a long history of engagements among Asian and Australian Catholics. Such consciousness of the universal church is not common among Catholics in the United States – strangely so, given the immigrant and migrant nature of American Catholicism. Conference participants attributed the fact that more has not been heard (yet) from Asian churches about clerical sexual abuse to a cultural uneasiness in these lands with talking about sexual matters in public. This may be, but I think such cultural generalisations obscure the role the Catholic Church itself has played in imposing silence on Catholics in Asia and elsewhere. What clearer expression of the church's demand for sexual silence is there than the prohibition on condom distribution in Asia and Africa at the height of the AIDS epidemic on these continents? It may be that there is more desire for openness among Asian and African Catholics than the conference appeared to allow. It also may be that Australian Catholics have a duty to encourage and support this openness.

Again, my gratitude for the invitation to join you in this important conversation. Thank you to the survivors who spoke with me, to the members of lay Catholic groups who told me about their work to effect change in the church, and to the gracious welcome I received from all the conference participants and organisers.

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**Robert A Orsi** is Grace Craddock Nagle Chair of Catholic Studies at Northwestern University. He received his PhD from Yale University in 1981, and has taught at Fordham University, Indiana University, Harvard Divinity School and Harvard University (where he was Chair of the Committee on the Study of Religion), before moving to Northwestern in 2008. In 2012, he was awarded the Charles Deering McCormick Professorship of Teaching Excellence. Professor Orsi is the author of many prize-winning books, among them *The Madonna of 115th Street: Faith and Community in Italian Harlem, 1880–1950* (2010), *Thank You, Saint Jude: Women's Devotions to the Patron Saint of Hopeless Causes* (1996), and *Between Heaven and Earth: The Religious Worlds People Make and the Scholars Who Study Them* (2005). He has held fellowships from the NEH and the Guggenheim Foundation and is a member of the American Academy of Arts and Sciences. His most recent books are *History and Presence* (2016), and *Catholics in the Vatican II Era: Local Histories of a Global Event*, edited with Kathleen Sprows Cummings and Timothy Matovina (2017). In 2016–2017, Professor Orsi was the Carl and Lily Pforzheimer Fellow at the Radcliffe Institute for Advanced Study. He is currently at work on a book about the religious and social consequences of Catholic clergy sexual abuse crisis over victim/survivors' lifetimes.



# Appendices

## Appendix I

# Conference Communiqué

Thursday 6 September, 2018

*‘For the Christian churches, we are at a tipping point. Recovery will depend on engaging in a thoroughgoing reform of theology, structures, governance, leadership and culture.’*

### Introduction

An ecumenical conversation on the task of rebuilding and renewal for Australian churches following the Royal Commission into Institutional Responses to Child Sexual Abuse was conducted at a University of Divinity-hosted conference on Health and Integrity in Church and Ministry from 27–29 August in Melbourne. The conference was the first ecumenical gathering of its kind to discuss the way forward for the churches in Australia.

The conference was sponsored by four leading Catholic religious institutes – the Franciscan Friars, the Passionists, the Redemptorists, and the Blessed Sacrament Fathers – along with the Catholic Diocese of Parramatta, Yarra Theological Union, Carroll & O’Dea Lawyers, Gilbert + Tobin Lawyers, and a number of private donors.

The conference featured fifty presenters and panellists drawn from Australia, New Zealand, Asia, Europe, and the United States, and was attended by approximately 270 delegates, including church members and leaders, academics, clergy and religious, ministers and church workers, survivors of child sexual abuse and their advocates, and groups advocating church reform.

### To the church and the Australian community

This communiqué is addressed to survivors of child sexual abuse in church institutions, to members of the Australian Christian churches, and to Australian church leaders, including the Australian Catholic Bishops Conference, Catholic Religious Australia, and the leadership of the National Council of Churches of Australia (NCC). Above all, this communiqué is an appeal to the whole Australian community, including all members of faith communities, because participants believe that health and integrity in ministry and the rebuilding and renewal of our churches should be of the utmost concern to all Australians, whatever their beliefs.

### A brief synopsis

The sessions discussed the following topics: the causes and dimensions of the tragedy; the collateral damage to ecclesial communities; the ongoing pastoral care needs of victims, their families, and affected communities; theological implications; implications for church governance and leadership; Church law; implications for ministry (including formation for ministry and professional supervision for those in ministry); the international and multicultural dimensions; and supervising the perpetrators.

The conference expressed its solidarity with the many thousands of men, women and children who had been directly and indirectly harmed, and strongly condemned ongoing denial by some church members of the truth of what has happened.

During the conference, delegates acknowledged and thanked survivors of child sexual abuse for their courage, resilience, and their testimony before the Royal Commission, and affirmed that they will continue to stand in solidarity with them. Conference delegates expressed sorrow for the many lives that have been lost due to child sexual abuse, and concern for all those who have not felt able to come forward with their own stories of abuse, and for those of our Aboriginal sisters and brothers who have been abused in church care.

The conference also acknowledged the brave truth-tellers, whistle-blowers, journalists and the media for their courageous role in bringing these criminal acts and their institutional cover-up to public attention and forcing Australian governments to act.



Describing the criminal sexual abuse of children by clergy, religious, and church personnel as a national tragedy, the conference resolved that it is essential for Australia's churches to fully implement all the Royal Commission's recommendations pertaining to them. But the conference also called for the churches to go beyond the minimum standards of implementation in the Royal Commission's recommendations, to undertake thoroughgoing reform of theology, ministry, governance and leadership, and in so doing to return to the teaching and example of Jesus Christ. Survivor Joan Isaacs told the conference that it was time for the churches to 'get back on the donkey'.

Opening the conference, the Vice-Chancellor of the University of Divinity, Professor Peter Sherlock, said the conference provided a focussed opportunity for the University to identify both immediate and longer term actions. One outcome will be the creation of a new goal in the University's Strategic Plan commencing immediately, to pursue the dual themes of health and integrity in church and ministry.

### **Where are we, and how did we get here?**

In his address, Emeritus Professor Des Cahill of RMIT University, told the conference that the Royal Commission's final report was the most thorough and credible report that has ever been produced on the sexual abuse of children in religious institutions. 'Due to the Royal Commission's unparalleled moral authority, Australian governments are moving quickly to implement its recommendations', Professor Cahill said.

Professor Cahill said that the image of religion had been severely damaged by the child sexual abuse crisis, and that the Royal Commission had demonstrated that many religious institutions were not in good shape. He described the Australian Catholic Church as 'a shipwreck' and described the performance of the Australian Catholic Bishops in taking almost nine months to formally respond to the Royal Commission as 'appalling and abysmal'. Professor Cahill said deep cultural change was needed in the churches, going beyond professional standards and child safety mechanisms. He argued that the Catholic Church would need to completely rethink the sacrament of reconciliation in light of the Royal Commission's findings, its theology and praxis of priesthood, and its theology of gender and sexuality. He also called for the conference to adopt a wider focus than child sexual abuse, to include the abuse of vulnerable adults, including seminarians, novices and the sexual assault of female religious by priests.

### **Collateral damage to ecclesial communities**

The conference heard that there is grief and pain everywhere throughout the Australian churches as a result of the criminal sexual abuse of children. Beyond the damage to the victims themselves, pain has also been caused to many of those who live and work inside the church.

Dr Megan Brock RSJ, Congregational Leader of the Sisters of St Joseph of Lochinvar, spoke of the 'post-Royal Commission feelings of exhaustion and numbness experienced by many of us', and the strain experienced by those whose task is was to deal with abuse cases and clean up the mess.

'I am aware that many individuals who work in religious and pastoral ministry, including priests, brothers, nuns, pastors, teachers and social workers, feel betrayed by their colleagues who perpetrated the abuse, and their colleagues who failed to respond with integrity and justice', Dr Brock said. 'Some will also be questioning the dysfunctional and sometimes abusive church structures within which they have had to live and work.' These included adult female and male religious who have themselves experienced sexual abuse in the church.

### **Theological implications**

In his keynote paper, Rev Professor Richard Lennan, an Australian priest who is Professor of Systematic Theology at Boston College in the United States, warned that any church that proved unwilling or unable to learn the lessons of the Royal Commission 'will disqualify itself from a continuing place in Australian society'.

Professor Lennan said the Royal Commission had brought distorted aspects of the Catholic Church's culture into relief. 'When the Royal Commission defined clericalism as the idealisation of the clergy, and by extension the idealisation of the Church, it was describing a form of idolatry', he said in his keynote paper. 'Idols cannot ever give life; they can only be a distortion of what God enables.'

'While taking up the specific recommendations of the Royal Commission will certainly help the church to become a more transparent and authentic body', Professor Lennan said, 'the renewal of integrity in

the church requires more than individual pieces of reform: it requires broad and deep cultural shifts in the church. To achieve this, it will be necessary for the Church to embrace an overarching approach to change.’

### **Governance and leadership**

The conference heard that, in many areas, the Christian churches lag behind secular society in providing ethical governance and leadership, and that the creation of healthier institutions lay in adopting governance models that are transparent, accountable, inclusive of all the People of God, and genuinely dialogical, participatory and collaborative.

Susan Pascoe AM, President and Chair of the Australian Council for International Development (ACFID) and Chair of the Community Directors Council, told the conference that although most of the churches have signed up to the National Redress Scheme and many have issued apologies to victims, to date there has been limited public recognition by the churches of the need for governance and cultural reform.

‘Abuse survivors, many of whose lives have been irretrievably damaged may take some convincing that genuine reform is on the way’, Ms Pascoe said. But Ms Pascoe said the voices calling for change in response to the child sexual abuse crisis have enormous power, and the Church was at a ‘tipping point’.

Noting that Basic Religious Charities are currently exempted from meeting the reporting obligations and governance standards of other charities and not-for-profit organisations under the 2013 *Australian Charities and Not-for-Profits Act*, Ms Pascoe said it was ‘reasonable to expect church bodies to operate on comparable, or equal governance standards as corporate, government and not-for-profit entities’. She said they should also be subject to the same, or a comparable, regulatory regime.

### **Canon law**

The conference heard that structural changes in Catholic canon law are ‘absolutely necessary’, although these should build on what is already positive in canon law. In his keynote paper on Catholic canon law, Professor Rik Torfs, Professor of Canon Law at the Catholic University of Leuven, Belgium, argued that the *1983 Code of Canon Law* still carries traces of an outdated ‘perfect society’ theology that is contributing to the survival of the culture of clericalism in the Church. These aspects include the view that the Church is self-sufficient and independent of the civil law (canon 22); the fundamental distinction between the clergy and the laity (canon 129); and the lack of separation of the powers of governance (legislative, executive and judicial), which are concentrated in the hands of the pope and diocesan bishops (canons 135, 331, 381). Professor Torfs also said it was of the utmost importance that canon law procedures were made more transparent and more accountable.

### **Ministry**

In relation to formation for Ministry, Janiene Wilson, who has taught seminarians and laity at the Catholic Institute of Sydney for 25 years and worked as a clinical psychologist with clergy and religious for 25 years, told the conference that Catholic seminary formation had been underpinned by a ‘faulty anthropology’, meaning ‘a purely theological understanding of the human person drawn entirely from scripture and tradition, without reference to science’. In the Catholic Church, Ms Wilson said, ‘Ministry has traditionally been something done to a passive laity, and now we have a two-tiered model of ministry. Ministry is identified with clergy, and the laity for the most part are passive recipients’. She called for a renewed understanding of ministry based in an ecclesiology of communion.

In relation to the Royal Commission’s recommendation that all persons in religious or pastoral ministry should receive mandatory pastoral/professional supervision, Dr Alan Niven of Stirling Theological College in the University of Divinity, expressed concern that the supervision response put in place by the churches could fail because of marginal resourcing and lack of cultural and strategic support. He argued that professional supervision needs to be re-framed. It is not something external to ministry, so much as a form of pastoral care for those in ministry, a theological discipline, and a form of ministry in its own right.

## Conference resolutions

1. We the People of God say 'NO' to child sexual abuse and to the institutional circumstances that led to its cover-up, and we demand the removal of any conditions that put children and vulnerable adults at risk.
2. The criminal sexual abuse of children in religious institutions has been a national and international tragedy. We hope for personal and community healing, we express solidarity with the victims of child sexual abuse, their families, and affected communities, and pledge to continue to learn from survivors and their advocates.
3. We affirm that the Royal Commission into Institutional Responses to Child Sexual Abuse has been a gift to the entire Australian community, including the churches, and that it presents the churches with a unique opportunity for revisioning and renewal. The churches share a common guilt and shame in relation to child sexual abuse. They must accept the Royal Commission's recommendations in full. But they must go beyond minimum standards of implementation, to embrace a thoroughgoing reformation of their theology, structures, governance, leadership and culture, and in so doing return to the teaching and example of Jesus Christ.
4. We affirm the profound importance of the Royal Commission for survivors of child sexual abuse and their families, as an event in the life of the Australian churches, as an event in the life of the Australian nation, and internationally. We thank the Royal Commission for exposing the truth about child sexual abuse in the churches and other Australian institutions, including the dimensions of what has occurred, and we condemn the ongoing denial by some church members of the truth of what has happened.
5. We affirm that as part of accepting responsibility for the immense damage they have caused, the churches must take responsibility for the lifelong care and support of all those whose lives have been harmed by child sexual abuse in church institutions. This goes beyond the notion of 'redress'. It is vitally important that locally-focussed healing services for victims, their families, and affected communities be supported and financed by the churches at the national level. Ongoing care should be based on the principles of trauma-informed practice, meaning that it should be holistic and survivor-informed. The churches should urgently review their processes for responding to ensure that victims are not re-traumatised when they seek support and redress from the Church.
6. Child sexual abuse is also an ongoing tragedy, including in church-run institutions internationally. We affirm that the Royal Commission presents Australia with a unique opportunity and responsibility to contribute through thought leadership, and church and government action, to international efforts to address the scourge of child sexual abuse and its institutional cover-up.
7. We affirm that the Church is in constant need of conversion and that theological reflection is essential to sustain the church in its mission and help free it from the distortions of the past. We call on all the churches to engage in a process of fundamental theological and interdisciplinary reflection about the causes and implications of the child sexual abuse crisis. We call for new theological approaches to the body, sexuality, gender and the child, that are informed by contemporary experience and scientific understandings.
8. We reject clericalism in all its forms. We note the intervention of Pope Francis (20 August 2018) in his *Letter to the People of God*, which states that: 'It is impossible to think of a conversion of our activity as a Church that does not include the active participation of all the members of God's People. Indeed, whenever we have tried to replace, or silence, or ignore, or reduce the People of God to small elites, we end up creating communities, projects, theological approaches, spiritualities and structures without roots, without memory, without faces, without bodies and ultimately, without lives.' We demand an end to those values in our church culture which are antithetical to the values of the Gospel, including the patterns of silencing and domination which have characterised so much of the response to child sexual abuse in our churches.

9. We affirm that any restoration of trust in the churches will be dependent on a commitment by our church leaders to contemporary ethical standards of good governance based on the principles of transparency, accountability and inclusivity. There can be no theological excuse for dysfunctional or unhealthy governance structures and practices. We call on the National Council of Churches of Australia, the Australian Catholic Bishops Conference, Catholic Religious Australia, and all Australian church members and leaders – national, diocesan, and local – to take concrete steps to create more participatory churches. It is essential that the laity in general, and women in particular, enjoy full equality in the Church, including in church governance.
10. Through the disaster of child sexual abuse crisis and the experience of the Royal Commission, the churches have been called to a renewed understanding of ministry. We therefore call on the churches to engage in theological and pastoral reflection and research, informed by the social sciences, into healthy and effective models of religious and pastoral ministry for the 21st century and best practice models of initial formation and ongoing support for persons in ministry.
11. We affirm the importance of increased funding by governments and churches for research into the sexual abuse of children and vulnerable adults. We recognise the benefits which will flow from the creation of specialised research institutes – centres of excellence – that will inform improved teaching and practice in governance and ministry. We call on each of the churches to consider providing seed funding to create an ecumenical centre for pastoral supervision under the auspices of the University of Divinity. The Centre would provide training, accreditation, professional development, and best practice professional/pastoral supervision. It is suggested that a steering group be established to work towards implementation of this proposal.
12. In order to protect children and communities, prevention of offending is essential. This must include adequate treatment and help for offenders, so they do not re-offend. We call for more research into the origins and underlying factors of child sex offending in order to maximise the future protection of children and vulnerable adults.
13. We call on all Australian churches to participate fully in the national apology to victims of institutional child sexual abuse on 22 October 2018.
14. We affirm the need for monuments, rituals and archives to preserve documents and record the voices of victims and their stories. The churches should also consider instituting a shared National Day of Remembrance and Bearing Witness, to be held perhaps on the anniversary of the release of the Royal Commission's report on 15 December 2017, to ensure that the testimony of victims and survivors of child sexual abuse continues to be heard, to be an occasion on which each church reports publicly on its progress in implementing the Royal Commission recommendations and what it has done by way of reforming its governance and culture to respond positively to this national tragedy, and also to be an occasion to celebrate those righteous truth-tellers who refused to keep silent about the abuse and those who have worked in the interests of victims and child safety.

## Conclusion

We give thanks to those religious leaders who attended the conference, including bishops and leaders of religious institutes. We affirm the power of conversation within and between churches that creates a respectful space for constructive action for reform in response to the child sexual abuse crisis.

We look forward to an even broader multi-faith conversation. We undertake to repeat this conference in some form, in solidarity with survivors, and to build on the interest groups and networks of church leaders, theologians and social scientists, researchers, practitioners and faithful which have been established and/or confirmed over three hope-filled days in Melbourne in August 2018.

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Professor Maria Harries AM, Emeritus Professor John Warhurst AO, Professor Peter Sherlock, Dr David Leary OFM, and Stephen Crittenden.

## Appendix 2

# What is supervision?

Alan Niven

### What does it look like?

Maybe we could call it 'Partnership in making a good ministry better'. It is not coaching, mentoring, pastoral counselling or spiritual direction/companioning (quite different modes of support by definition, training and practice) but can find a definition in the themes outlined below. Note: Ministry context and culture, the role of supervisee, and the profile of the supervisor can differ greatly, but these factors are essential.

I would guess that if the average person in ministry were asked to try and describe 'professional pastoral supervision', most or some of these factors might be omitted. Pastoral supervision is:

- a relationship between two or more practitioners who meet to consider the ministry of one or more of them in an intentional and disciplined way
- a regular, planned, intentional and bounded space in which a practitioner, skilled and trained in supervision (supervisor), meets with one or more other practitioners (supervisees) to look together at the supervisee's practice
- a relationship characterised by trust, confidentiality, support and openness that gives the supervisee freedom and safety to explore the issues arising in their work
- a spiritually rich experience that works within a framework of spiritual/theological understanding in dialogue with the supervisee's world view and work.

### What is 'ad hoc' supervision?

- Informal, 'ad hoc' or 'on the run' supervision happens with experienced individuals or colleagues as issues arise. It is not formalised (it may involve a corridor chat or a brief phone call) or even contracted but can be an important additional form of support. Collegial support and team culture depend on it, but it is not an adequate substitute for formal supervision.
- Research from other disciplines indicates that provision of formal supervision may be impeded by perceptions that informal or 'ad hoc' supervision equates with formal pastoral supervision. I am convinced that this happens in church and ministry settings where time pressure, lack of understanding, and myths about supervision conspire to degrade supervision awareness and motivation and may reduce it to 'blowing the froth off a cappuccino with a mate'.
- More positively, in other caring professions this could be called a 'reciprocal mentoring supervisory relationship' where a relationship of trust based on mutuality and equality 'recognises the wisdom, skills and knowledge of each person ... who comes to the relationship with respect and belief in what the other/s can offer them. Each person is both the supervisee and supervisor ... partners are catalysts for the continuous learning, both personal and professional, of their colleagues'.<sup>1</sup> This is the basis for good peer-supervision groups.

### So is there a good definition?

- At its simplest, supervision provides a safe forum where supervisees review and reflect on their work in order to do it better. Practitioners bring their actual work-practice to another person (individual supervision), or to a group (small group or team supervision), and with their help review what happened in their practice in order to learn from that experience. Ultimately, supervision contributes to better quality ministry or service and is an offer of compassion as part of a duty of care. It is best when not just framed as compliance or duty.
- In a relationship of trust and transparency, supervisees talk about their work and, through reflection and thoughtfulness, learn from it and return to do it differently.

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1. Patton, W., and McMahon, M. (2002). *Supervision in the Helping Professions: A Practical Approach*, Pearson, Australia, 43–44



## **Finally**

In ministry supervision the focus is primarily on the care and support of the supervisee, believing that if the supervisee is properly nurtured, up-skilled, educated, supported, challenged and cared for via the processes above then the ministry and all relationships (including with colleagues, family and friends) will benefit as a result. The supervisee is offered a space where their wellbeing, growth and development are taken seriously.

Now: where else does that happen for you? If someone made sure you had proper supervision is this therefore an act of compassion towards you?

If supervision offers a way of growing – in vocational identity, pastoral competence, self-awareness, balanced leadership, spiritual/theological reflection, quality of presence, accountability, response to challenge and mutual learning – why is there not a rush by churches and organisations to ensure this happens for their staff?

## Appendix 3

# Royal Commission Recommendations directed to religious institutions

### Recommendations to the Anglican Church

#### Recommendation 16.1

The Anglican Church of Australia should adopt a uniform episcopal standards framework that ensures that bishops and former bishops are accountable to an appropriate authority or body in relation to their response to complaints of child sexual abuse.

#### Recommendation 16.2

The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers:

- a. members of professional standards bodies
- b. members of diocesan councils (otherwise known as bishop-in-council or standing committee of synod)
- c. members of the Standing Committee of the General Synod
- d. chancellors and legal advisers for dioceses.

#### Recommendation 16.3

The Anglican Church of Australia should amend 'Being together' and any other statement of expectations or code of conduct for lay members of the Anglican Church to expressly refer to the importance of child safety.

#### Recommendation 16.4

The Anglican Church of Australia should develop a national approach to the selection, screening and training of candidates for ordination in the Anglican Church.

#### Recommendation 16.5

The Anglican Church of Australia should develop and each diocese should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, clergy, religious and lay personnel):

- a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry and child safety
- b. undertake mandatory professional/pastoral supervision
- c. undergo regular performance appraisals.

### Recommendations to the Catholic Church

#### Recommendation 16.6

The bishop of each Catholic Church diocese in Australia should ensure that parish priests are not the employers of principals and teachers in Catholic schools.

#### Recommendation 16.7

The Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women. This review should draw from the approaches to governance of Catholic health, community services and education agencies.

### **Recommendation 16.8**

In the interests of child safety and improved institutional responses to child sexual abuse, the Australian Catholic Bishops Conference should request the Holy See to:

- a. publish criteria for the selection of bishops, including relating to the promotion of child safety
- b. establish a transparent process for appointing bishops which includes the direct participation of lay people.

### **Recommendation 16.9**

The Australian Catholic Bishops Conference should request the Holy See to amend the 1983 Code of Canon Law to create a new canon or series of canons specifically relating to child sexual abuse, as follows:

- a. All delicts relating to child sexual abuse should be articulated as canonical crimes against the child, not as moral failings or as breaches of the 'special obligation' of clerics and religious to observe celibacy.
- b. All delicts relating to child sexual abuse should apply to any person holding a 'dignity, office or responsibility in the Church' regardless of whether they are ordained or not ordained.
- c. In relation to the acquisition, possession, or distribution of pornographic images, the delict (currently contained in Article 6 §2 1° of the revised 2010 norms attached to the motu proprio *Sacramentorum sanctitatis tutela*) should be amended to refer to minors under the age of 18, not minors under the age of 14.

### **Recommendation 16.10**

The Australian Catholic Bishops Conference should request the Holy See to amend canon law so that the pontifical secret does not apply to any aspect of allegations or canonical disciplinary processes relating to child sexual abuse.

### **Recommendation 16.11**

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to ensure that the 'pastoral approach' is not an essential precondition to the commencement of canonical action relating to child sexual abuse.

### **Recommendation 16.12**

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the time limit (prescription) for commencement of canonical actions relating to child sexual abuse. This amendment should apply retrospectively.

### **Recommendation 16.13**

The Australian Catholic Bishops Conference should request the Holy See to amend the 'imputability' test in canon law so that a diagnosis of paedophilia is not relevant to the prosecution of or penalty for a canonical offence relating to child sexual abuse.

### **Recommendation 16.14**

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to give effect to Recommendations 16.55 and 16.56.

### **Recommendation 16.15**

The Australian Catholic Bishops Conference and Catholic Religious Australia, in consultation with the Holy See, should consider establishing an Australian tribunal for trying canonical disciplinary cases against clergy, whose decisions could be appealed to the *Apostolic Signatura* in the usual way.

### **Recommendation 16.16**

The Australian Catholic Bishops Conference should request the Holy See to introduce measures to ensure that Vatican Congregations and canonical appeal courts always publish decisions in disciplinary matters relating to child sexual abuse, and provide written reasons for their decisions. Publication should occur in a timely manner. In some cases it may be appropriate to suppress information that might lead to the identification of a victim.

### **Recommendation 16.17**

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the requirement to destroy documents relating to canonical criminal cases in matters of morals, where the accused cleric has died or ten years have elapsed from the condemnatory sentence. In order to allow

for delayed disclosure of abuse by victims and to take account of the limitation periods for civil actions for child sexual abuse, the minimum requirement for retention of records in the secret archives should be at least 45 years.

**Recommendation 16.18**

The Australian Catholic Bishops Conference should request the Holy See to consider introducing voluntary celibacy for diocesan clergy.

**Recommendation 16.19**

All Catholic religious institutes in Australia, in consultation with their international leadership and the Holy See as required, should implement measures to address the risks of harm to children and the potential psychological and sexual dysfunction associated with a celibate rule of religious life. This should include consideration of whether and how existing models of religious life could be modified to facilitate alternative forms of association, shorter terms of celibate commitment, and/or voluntary celibacy (where that is consistent with the form of association that has been chosen).

**Recommendation 16.20**

In order to promote healthy lives for those who choose to be celibate, the Australian Catholic Bishops Conference and all Catholic religious institutes in Australia should further develop, regularly evaluate and continually improve, their processes for selecting, screening and training of candidates for the clergy and religious life, and their processes of ongoing formation, support and supervision of clergy and religious.

**Recommendation 16.21**

The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a national protocol for screening candidates before and during seminary or religious formation, as well as before ordination or the profession of religious vows.

**Recommendation 16.22**

The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a mechanism to ensure that diocesan bishops and religious superiors draw upon broad-ranging professional advice in their decision-making, including from staff from seminaries or houses of formation, psychologists, senior clergy and religious, and lay people, in relation to the admission of individuals to:

- a. seminaries and houses of religious formation
- b. ordination and/or profession of vows.

**Recommendation 16.23**

In relation to guideline documents for the formation of priests and religious:

- a. The Australian Catholic Bishops Conference should review and revise the *Ratio nationalis institutionis sacerdotalis: Programme for priestly formation* (current version December 2015), and all other guideline documents relating to the formation of priests, permanent deacons, and those in pastoral ministry, to explicitly address the issue of child sexual abuse by clergy and best practice in relation to its prevention.
- b. All Catholic religious institutes in Australia should review and revise their particular norms and guideline documents relating to the formation of priests, religious brothers, and religious sisters, to explicitly address the issue of child sexual abuse and best practice in relation to its prevention.

**Recommendation 16.24**

The Australian Catholic Bishops Conference and Catholic Religious Australia should conduct a national review of current models of initial formation to ensure that they promote pastoral effectiveness, (including in relation to child safety and pastoral responses to victims and survivors) and protect against the development of clericalist attitudes.

### **Recommendation 16.25**

The Australian Catholic Bishops Conference and Catholic Religious Australia should develop and each diocese and religious institute should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, provincials, clergy, religious, and lay personnel):

- a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry, and child safety
- b. undertake mandatory professional/pastoral supervision
- c. undergo regular performance appraisals.

### **Recommendation 16.26**

The Australian Catholic Bishops Conference should consult with the Holy See, and make public any advice received, in order to clarify whether:

- a. information received from a child during the sacrament of reconciliation that they have been sexually abused is covered by the seal of confession
- b. if a person confesses during the sacrament of reconciliation to perpetrating child sexual abuse, absolution can and should be withheld until they report themselves to civil authorities.

## **Recommendations to the Jehovah's Witness organisation**

### **Recommendation 16.27**

The Jehovah's Witness organisation should abandon its application of the two-witness rule in cases involving complaints of child sexual abuse.

### **Recommendation 16.28**

The Jehovah's Witness organisation should revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse.

### **Recommendation 16.29**

The Jehovah's Witness organisation should no longer require its members to shun those who disassociate from the organisation in cases where the reason for disassociation is related to a person being a victim of child sexual abuse.

## **Recommendations to Jewish institutions**

### **Recommendation 16.30**

All Jewish institutions in Australia should ensure that their complaint handling policies explicitly state that the *halachic* concepts of *mesirah*, *moser* and *loshon horo* do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities.

## **Recommendations to all religious institutions in Australia**

### **Recommendation 16.31**

All institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children, should implement the 10 Child Safe Standards identified by the Royal Commission.

### **Recommendation 16.32**

Religious organisations should adopt the Royal Commission's 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions.

### **Recommendation 16.33**

Religious organisations should drive a consistent approach to the implementation of the Royal Commission's 10 Child Safe Standards in each of their affiliated institutions.

### **Recommendation 16.34**

Religious organisations should work closely with relevant state and territory oversight bodies to support the implementation of and compliance with the Royal Commission's 10 Child Safe Standards in each of their affiliated institutions.



**Recommendation 16.35**

Religious institutions in highly regulated sectors, such as schools and out-of-home care service providers, should report their compliance with the Royal Commission's 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated.

**Recommendation 16.36**

Consistent with Child Safe Standard 1, each religious institution in Australia should ensure that its religious leaders are provided with leadership training both pre- and post-appointment, including in relation to the promotion of child safety.

**Recommendation 16.37**

Consistent with Child Safe Standard 1, leaders of religious institutions should ensure that there are mechanisms through which they receive advice from individuals with relevant professional expertise on all matters relating to child sexual abuse and child safety. This should include in relation to prevention, policies and procedures and complaint handling. These mechanisms should facilitate advice from people with a variety of professional backgrounds and include lay men and women.

**Recommendation 16.38**

Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.

**Recommendation 16.39**

Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.

**Recommendation 16.40**

Consistent with Child Safe Standard 2, wherever a religious institution has children in its care, those children should be provided with age-appropriate prevention education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Prevention education in religious institutions should specifically address the power and status of people in religious ministry and educate children that no one has a right to invade their privacy and make them feel unsafe.

**Recommendation 16.41**

Consistent with Child Safe Standard 3, each religious institution should make provision for family and community involvement by publishing all policies relevant to child safety on its website, providing opportunities for comment on its approach to child safety, and seeking periodic feedback about the effectiveness of its approach to child safety.

**Recommendation 16.42**

Consistent with Child Safe Standard 5, each religious institution should require that candidates for religious ministry undergo external psychological testing, including psychosexual assessment, for the purposes of determining their suitability to be a person in religious ministry and to undertake work involving children.

**Recommendation 16.43**

Each religious institution should ensure that candidates for religious ministry undertake minimum training on child safety and related matters, including training that:

- a. equips candidates with an understanding of the Royal Commission's 10 Child Safe Standards
- b. educates candidates on:
  - i. professional responsibility and boundaries, ethics in ministry and child safety
  - ii. policies regarding appropriate responses to allegations or complaints of child sexual abuse, and how to implement these policies
  - iii. how to work with children, including childhood development
  - iv. identifying and understanding the nature, indicators and impacts of child sexual abuse.

**Recommendation 16.44**

Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, are subject to effective management and oversight and undertake annual performance appraisals.

**Recommendation 16.45**

Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, have professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry.

**Recommendation 16.46**

Religious institutions which receive people from overseas to work in religious or pastoral ministry, or otherwise within their institution, should have targeted programs for the screening, initial training and professional supervision and development of those people. These programs should include material covering professional responsibility and boundaries, ethics in ministry and child safety.

**Recommendation 16.47**

Consistent with Child Safe Standard 7, each religious institution should require that all people in religious or pastoral ministry, including religious leaders, undertake regular training on the institution's child safe policies and procedures. They should also be provided with opportunities for external training on best practice approaches to child safety.

**Recommendation 16.48**

Religious institutions which have a rite of religious confession for children should implement a policy that requires the rite only be conducted in an open space within the clear line of sight of another adult. The policy should specify that, if another adult is not available, the rite of religious confession for the child should not be performed.

**Recommendation 16.49**

Codes of conduct in religious institutions should explicitly and equally apply to people in religious ministry and to lay people.

**Recommendation 16.50**

Consistent with Child Safe Standard 7, each religious institution should require all people in religious ministry, leaders, members of boards, councils and other governing bodies, employees, relevant contractors and volunteers to undergo initial and periodic training on its code of conduct. This training should include:

- a. what kinds of allegations or complaints relating to child sexual abuse should be reported and to whom
- b. identifying inappropriate behaviour which may be a precursor to abuse, including grooming
- c. recognising physical and behavioural indicators of child sexual abuse
- d. that all complaints relating to child sexual abuse must be taken seriously, regardless of the perceived severity of the behaviour.

**Recommendation 16.51**

All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.

**Recommendation 16.52**

All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

**Recommendation 16.53**

The standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*.

**Recommendation 16.54**

Religious institutions should apply the same standards for investigating complaints of child sexual abuse whether or not the subject of the complaint is a person in religious ministry.

**Recommendation 16.55**

Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.

**Recommendation 16.56**

Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

- a. in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious
- b. in the case of Anglican clergy, be deposed from holy orders
- c. in the case of Uniting Church ministers, have his or her recognition as a minister withdrawn
- d. in the case of an ordained person in any other religious denomination that has a concept of ordination, holy orders and/or vows, be dismissed, deposed or otherwise effectively have their religious status removed.

**Recommendation 16.57**

Where a religious institution becomes aware that any person attending any of its religious services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, the religious institution should:

- a. assess the level of risk posed to children by that perpetrator's ongoing involvement in the religious community
- b. take appropriate steps to manage that risk.

**Recommendation 16.58**

Each religious organisation should consider establishing a national register which records limited but sufficient information to assist affiliated institutions identify and respond to any risks to children that may be posed by people in religious or pastoral ministry.