

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 19 October 2012

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Professor P. Parkinson, Faculty of Law, University of Sydney.

The CHAIR — On behalf of the committee I welcome Professor Patrick Parkinson from the University of Sydney. Thank you so much for being with us today. There are just a few preliminaries I will go through before you give your presentation. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. Witnesses may be asked to return at a later date to give further evidence if need be. All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript. Please note that these proceedings are not being broadcast. Following your presentation the committee members will then have an opportunity to ask questions of you. I now call on you to give a brief presentation of 30 minutes or so, and then I will open it up to members, as I said, to ask questions. Thank you again for being before us.

Prof. PARKINSON — Thank you very much indeed for the invitation to come down from Sydney. As you may all know, I am a professor of law at the University of Sydney, and I have written quite widely on issues of child sexual abuse in churches. What I am trying to do today is to give you every assistance I can in terms of understanding the issues, particularly around churches. In my involvement with this issue, I have probably advised most churches around the country, certainly in New South Wales, over the years. I have had a particular involvement with the Catholic Church in reviewing *Towards Healing*. It probably helps to say that I am not a Catholic myself. I am an evangelical Christian. I think part of the reason I was asked to be involved with *Towards Healing* was precisely because I am not a Catholic and could therefore have more independence.

If I may, I would like to take you through the dot points that I have distributed. We do not have to, but as I reflected on how I could help you most, I thought this sort of overview might be useful for the committee.

First of all the prevalence of sexual abuse in churches: we know that there are huge issues with the Catholic Church — huge issues. There have been many, many priests jailed, many brothers jailed, and allegation after allegation is made. There are few allegations in other churches. There are some, and with colleagues I have done a study of the prevalence of abuse in the Anglican Church across Australia. I have looked more informally at what happens in other churches.

If you compare the statistics, I would say conservatively that there is six times as much abuse in the Catholic Church as all the other churches in Australia combined, and I would regard that as a conservative figure.

Let me give you an illustration or two of that. If you look at the Catholic Church's submission 'Facing the Truth', there were apparently 618 or 620 confirmed cases of sexual abuse in Victoria since 1996. In the study we did of the Anglican Church of Australia we found 191 cases across the country. Let us be clear that they are not entirely comparable statistics. Most of the Catholic Church cases are priests and brothers — there are some others. The Anglican Church study was of ministers, curates, youth workers and Sunday school teachers — a much wider range.

We did not capture the entirety of the country in the Anglican Church study. For various reasons in Adelaide we could only get about 75 per cent of cases. We think we got the great majority nationally. Three dioceses did not participate, one of them in Victoria. I am not saying we had a complete census, but it gives you some idea. We found 191 cases across the country, and that was of allegations; they were not substantiated necessarily.

In Victoria since 1996 we are looking at 620 or so cases. If you look at just Melbourne, there were 331 cases since 1996, according to the Archdiocese of Melbourne. I looked up the figures for my study of the Anglican Church and there were 44 allegations of abuse within the Anglican diocese of Melbourne which fitted within the criteria of our study, which was essentially priests, ministers, youth workers and Sunday school teachers; pastoral roles — that was our definition. You can see the difference between 331 and 44. It bears out the sorts of figures I am talking about.

Archbishop Hart referred to 60 priests in his pastoral letter of 1 July 2010 of the archdiocese of Melbourne, who are substantiated offenders against children. We found 78 across the country against whom allegations were made in the Anglican Church. It gives you a sense of the scale of the problem. Putting that into perspective, first of all the Catholic Church is the largest denomination in Australia, but it is also one in which priests and religious have been involved in schools and orphanages. We do not find Anglican or Baptist ministers teaching very commonly in schools. We do not have whole schools run by religious brothers et cetera outside of the Catholic Church. Putting things into perspective the Catholic Church is the largest Church, and it has also had a

great deal of involvement in school work and orphanages, children's homes and so on. Even still, the levels of abuse in the Catholic Church are strikingly out of proportion with any other church, and that is the reality. We could spend probably hours talking about why that is so. There are a lot of theories, but I will leave that for the moment and just state as a proposition that when you are looking at abuse in churches, by far and away the largest problem is the Catholic Church. I do not say that in any partisan way; I am just giving the research evidence. That is so all over the world from what I have seen.

The second thing to say is that we have come a long way. I wrote a book called *Child Sexual Abuse and the Churches* in 1997, and it was almost the first book published in the English-speaking world to deal with abuse beyond the Catholic Church. There had been a few counselling books and so on before that. I was particularly anxious to explain the problems across the whole Christian community and not just to talk about the Catholic Church. I wrote at that stage that children were less likely to be protected in churches than almost any other group in society. I did not mean by that, that children were more likely to be abused but that they were less likely to be protected if they disclosed abuse. There is a whole range of reasons, which I dealt with in the book: the fact that there is a tendency to trust adults, people you have known a long time; a policy of forgiveness, which has been a big issue in churches; and the issue of protecting the institution. There is a whole range of reasons.

The reality is that we have come light years on from 1997. Most churches — I think all churches — have radically changed their attitudes to all of this. I hope my book played a small part in that. There were other things that played a much larger part: the Wood royal commission in New South Wales was very important, and generally an awareness that this was a problem not just for the Catholic Church. I remember talking to a Uniting Church minister in the mid-1990s. She was a prominent figure working with issues of abuse, and they were in the vanguard of dealing with sexual harassment issues amongst adults. I said, 'But what about children?'. She said, 'We don't have a problem with child sexual abuse in our church'. That was the attitude back then. I do not think anybody would say that now. It is important to emphasise that all churches now, including the Catholic Church, are very much safer places than they were. We have, in my view, come a long way, but there is a long way to go.

Regarding the terms of reference that you have, it seems to me that firstly, you have been given an enormously difficult task with which I sympathise, but there is also a lot of ambiguity in what is meant by the church's response to the criminal abuse of children. I fear that you may be a bit overwhelmed with all sorts of different ideas and different tracks unless one can differentiate more clearly what sorts of response we are talking about and, therefore, look at what problems you are trying to solve at the end of the day when you come to write your report and what problems it is within your jurisdiction to solve in terms of Parliament and government.

I will take you very briefly through four forms of response. First of all there are prevention processes. These are measures taken to ensure as far as possible that people working with children are suitable to do so. I think that is largely outside your terms of reference, but not entirely so. One of the things we have done quite usefully in New South Wales with our working-with-children checks — and I know you have a similar thing — is to have a register not only of criminal convictions but of all disciplinary procedures in organisations where there has been substantiated abuse of children. So whenever anybody wants to work with children in New South Wales in an employment context you have a register there, not just of police records but of all apprehended violence orders, restraining orders relating to children and any situation where any organisation is working with children and has sacked somebody for alleged child abuse — that is on the register. They have a legal duty to provide that. Although working-with-children checks are a little bit out of the definition of 'response', I think there is a connection there that is important because if we can get better information, we can have better preventative work.

Secondly, there are child protection processes, and by that I mean situations where a child now discloses abuse or makes statements which might indicate the child has been abused. There are very good models around the country in schools and everywhere else on how one trains teachers and others to deal with a situation where a child may be disclosing that something pretty bad has happened to them. They are called child protection processes because they are about contemporary events where ordinarily one would expect the police to be involved, child protection services to be informed and events to take their course from there. When we talk about mandatory reporting, and this was in the tail end of the discussion with Chris Goddard, we are typically talking about contemporary child protection processes — that is, situations where there is now a question of whether somebody should report what has happened, to which the answer is obviously yes.

The third type of response, which is what a lot of your submissions are on, I suspect — certainly ‘Facing the truth’ spends most of its time on it — is what I call restorative justice processes. Child protection processes and prevention strategies are about today’s problems and today’s children. An enormous amount of what has been in the press and what the controversy is about are yesterday’s problems — that is, children who were abused sometimes 30, 40, or 50 years ago have often not disclosed until their adult lives. In our Anglican Church study we found that the average length of time between boys being abused and boys disclosing was 25 years.

This is consistent with all my experience in this field — that there is often that time lag. What you are dealing with is not in response to the victim at least — the situation of a child who now needs protection; rather, you are dealing with a situation where there are compensatory issues and restorative justice issues for that adult who has often experienced the most terrible life since that time.

Towards Healing and the Melbourne Response are predominantly restorative justice programs or processes dealing with historic abuse. It does not mean that you would not use Towards Healing for a contemporary case, but it is primarily meant to be about historic abuse and yesterday’s problems. But of course yesterday’s problems are today’s problems because to the extent that somebody is still in ministry, then you have a child protection issue now. Some of these men have died and some of them have dementia, and they have long since gone beyond the stage at which they have any connection with children. But some of them are in ministry still and some of them may be bishops still, so you cannot just say it is about restorative justice only; you have to say, ‘What is going to happen to these men’ — and it is always men — ‘in light of what has now come out, perhaps 25 years later?’. That is where the police issues and disciplinary issues come in, which is the fourth kind of response.

Already, perhaps, in the discussion and in some of the submissions, these things may be getting mixed up as to what sort of response we are talking about and what it has meant to be doing it as a response to criminal child abuse. If I could briefly touch on those four — and we will get to Towards Healing - the Melbourne Response I know much less about — prevention and child protection processes are critical, of course, but I think that across the country we are probably reasonably good at that. I do not know specifically about Victoria or specifically about the churches. Every diocese in the Anglican and Catholic systems is a law unto itself. They are autonomous regions, although there may be some central guidelines and documents and so on. In the other churches — the Baptist and Uniting Church — you tend to find clustering around states. So NSW/ACT would be one cluster of the Baptist Church, and there would be a Victorian Baptist Church, I think, but there would not be a national approach.

So what you see around prevention and child protection procedures dealing with today’s children is a variety of models. I could not give you a road map of all the different things out there, but we have a lot of expertise now — a lot of Christians working in the child protection system — and so there is really no excuse for churches not to have pretty good training and pretty good models for contemporary child protection. The one thing I would say is that it can be easy to think that you are protecting children when actually what you are doing is protecting the insurance company. A lot of church processes around child protection are, in my view paper driven — and I am sure it is not just churches; I am sure that state bodies and education bodies have a similar thing ..

I remember very well seeing the first iteration of the policy of the Baptist Church in New South Wales — I go to a Baptist Church — and there were endless forms and form filling. If you wanted to help out in the crèche, you had to fill in this form and make declarations that you had not been fiddling with children and all sorts of things. But at the end of the day Granny Smith is not the problem, and she is not the problem in the creche. So you put an enormous amount of effort into what is a lot of paperwork around very low risk situations. The message I have given is: worry about the youth group, because that is where the risk is. The risk in Sunday School is actually very minimal, but the risk in youth groups is enormous. So I have talked in the past about environmentally sustainable child protection, and what I mean by that is that you have a large number of volunteers working in churches, in Christian organisations and in faith-based organisations generally — you have Sunday schools, youth groups, parish church organisations running camps, programs during the week and a whole range of things — and volunteers come and go. It is the nature of things.

What happens is that if you create a very large structure around form filling and referees and so on, everybody is very enthusiastic for two years, and then the effort is not sustainable. One of my emphases in this area is, firstly, to focus on the youth group. But secondly, the best protection for children is adequate training and

awareness and also codes of conduct which say, 'You are not to be alone with children. You do you not give children lifts'. Some of it is quite restrictive, but the point is that if you have a decent code of conduct, if somebody crosses those boundaries, warning lights should flash. It does not necessarily mean anything is wrong, but at least those boundaries, even if they are a little bit tightly drawn, first of all warn people off and, secondly, give you an early warning signal that this youth leader is constantly finding opportunities to be alone with teenage girls or teenage boys in contravention of the guidelines. So codes of conduct, training and these sorts of things are much better than a lot of form filling. That is all I would want to say on that.

Are there still some dangerous organisations? Yes. Wherever a church or an organisation is more concerned with its own protection than the protection of children then we must say it is a dangerous organisation, and in my submission you may have seen that I focussed in particular on one religious order. But there are others, and I think there are enormous dangers as long as the culture of cover-up continues. I would like to speak a little more about that submission at the end, but only briefly, but let me say there are dangerous organisations still.

Back in 1997 I suggested in my book that the churches which were most evangelical, in a sense, also had a real vulnerability because people would believe that if you are born again, if you know Jesus, if you have given your life to Christ — whatever language we want to use — somehow you are immune from abusing children. Well, you are not. Christ did not just die for little sins, as I put it in my book. The fact that you may be a deeply committed Christian does not mean you may not have a strong propensity to abuse children, and that was a message which I think evangelicals needed to hear, that they were not immune from this. I would like to think that message is now in 2012 quite widely understood. I may be wrong, but I think it is.

Which brings me, if I may, to the third issue, on restorative justice processes and some of the major questions that you have asked. It is important at this point to give the Catholic Church in this country a great deal of credit. There are very, very few churches — pretty much none — who have compensation processes of any kind. Maybe no others need to. In 1996 with the Melbourne Response and in 1996 with Towards Healing the Catholic Church did take a very genuine step to try to do something about these adults, coming forward 25 to 30 years later, who had suffered terrible things as children, and to make amends.

There are people of enormous courage and enormous conviction involved with this. Bishop Geoffrey Robinson was the main inspiration for Towards Healing. He has said publicly, so I can say this, that he was a victim of child sexual abuse himself. He showed extraordinary commitment and dedication, and he led others to do so as well. Sister Angela Ryan, with whom I have worked closely over many years on these issues, I see as somebody who has shown amazing courage and dedication in dealing with these issues. Towards Healing was a genuine response of caring for victims.

I was first approached to be involved in about 1999. Bishop Geoffrey Robinson rang me up — we did not know each other — and he asked me would I review Towards Healing. They had promised that they would do so. They had promised that they would let it run for three or four years, and then they would have an independent review of it, and I was asked to do that. I well remember the letter I got from him following up that phone call. It said, 'We guarantee that we will accept every single recommendation you make, unless we have grave reason not to, in which case we will discuss that with you first'.

What organisation sets up an inquiry and agrees in advance that it will accept every recommendation? It really was an extraordinary level of commitment. I said to Geoffrey on the phone, 'Who is your audience for this? Is it the victims or the bishops?'. He said, 'The victims'. It is important to record that, because Geoffrey and many, many others have been absolutely committed to cutting out the cancer in the church, and Towards Healing was a genuine response to that. What it was doing was following restorative justice models — in essence a victims' compensation scheme like we have at the state level. We have a state victims' compensation scheme. You can apply as a victim of crime to get an ex gratia payment from the government. In a sense that is all Towards Healing was meant to be — an ex gratia victims' compensation scheme. The Melbourne Response is pretty similar. It used some of the ideas of restorative justice.

I have talked at great length with many, many victims of child sexual abuse, generally and in churches. One of the things which is most obvious is that what they want is the truth. They want the truth to come out. The process of truth telling, the process of the church acknowledging them, listening to them, acknowledging their pain is extraordinarily important in healing. Towards Healing has been structured around that, the idea that once the church is satisfied that abuse has occurred, and obviously it needs to be, then there is a facilitated meeting

with the bishop or the religious leader in which apologies are offered and acknowledgements are made of the suffering, and then the church can talk to the victim about how and what they can do from here. At its best it is a pastoral approach which works very well. It has also got lots of weaknesses.

Over time I have done two reviews of *Towards Healing*. I have tried to improve it as best I can. One of the problems that I encountered when I first looked at it in the first iteration in 1996 was that there was almost no independence. Each church authority, which is the term for the diocese or the religious order, is its own independent organisation. There is no hierarchy in the Catholic Church. There are all these different bodies, and the Vatican is the only superior authority to them. What was happening was that they would choose their own investigators. What I tried to build into the system was a little bit of independence.

As a result of these changes, the Directors of Professional Standards who operate in each state would control the process — getting the assessment done, liaising with the victim and so on and so forth. But at the end of the day the Diocese or the Order has to give its response. At that point the Director of Professional Standards' work ceases. They can only go so far in dealing with the process. At the end of the day, whether apologies are made, whether they are made sincerely, whether they are made compassionately, whether there is some reparation given, is up to each diocesan leader, each bishop, each religious order, leader, provincial, whatever. That is one of the weaknesses.

One of the other weaknesses of the whole thing is that it is only as good as the implementation of the procedures. I would like to tell you that the procedures are as good as they can be for a voluntary organisation dealing with these issues itself. There may be criticisms that you would make, and obviously they would be welcomed, but it is an internal victims' compensation scheme at the end of the day. It is only as good as its implementation. Sometimes it is not done at all well. Sometimes what it ostensibly a "Towards Healing" process is really just a negotiation between lawyers which ignores all the restorative justice aspects of the procedure. We could talk about the differences with the Melbourne Response — maybe I could just step over that for the moment; if you want me to, I will.

In terms of reporting to the police, can I draw your attention to 37.4 of *Towards Healing*, which says very clearly:

In the case of an alleged criminal offence, if the complainant does not want to take the matter to the police, all church personnel should nonetheless pass details of the complaint to the Director of Professional Standards, who should provide information to the police other than giving those details that could lead to the identification of the complainant.

It is in words of one syllable. It has been done in New South Wales for years — in every case the police are told who the offender is. If that is not so, then I have been misled. I understand it is in every case, and certainly it is meant to be so, according to the appropriate procedures. People are strongly encouraged in *Towards Healing* to go to the police. If you get evidence that it does not happen, then so be it, but it is certainly meant to happen.

That brings me then to the fourth point, which is where I have the most concerns. *Towards Healing* cannot only be a victims' compensation process. It has got to deal with the offenders — if they are alive still, if they have ministries still. You want the police to be involved. You want prosecutions to occur. From my research I know how few cases end up in a conviction in child sexual assault matters, and when it is a long time ago there are all sorts of reasons why you cannot get a conviction. So there needs to be in any organisation disciplinary processes which determine whether this person is fit to remain in that employment in a situation where the police have not pressed charges, the person has not gone to the police, the police do not feel there is enough evidence, they have dropped the case or the DPP has dropped the case — there are a whole range of scenarios out there. They cannot just leave them in ministry; they cannot leave them having access to children. The disciplinary aspect is obviously critical to child protection — to today's child protection.

That is where I have the most concerns because if you look, for example, at what has emerged in the media, with cases like Father F, who was the subject of the *Four Corners* story, there are priests, former priests, wandering around our community and nobody except the Catholic Church knows their history. These are serious issues.

'Facing the Truth' gives a lot of information, but it actually gives no information whatsoever that I could find about what happened to the offenders. Archbishop Hart tells us, and we have no reason to doubt him, that he has acted on every recommendation of the independent commissioner. What we do not know is what those

recommendations were and how they were acted upon. We do not know how many of the alleged offenders were dead at the time of the investigation, how many have died since or how many were still in ministry. We know nothing about the alleged offenders, and we need to. If I could trust that none of these men were anywhere near children anymore, then I would be pleased, but I cannot.

I guess that brings me to the rift I had with the Catholic Church over these issues. When I was asked to review *Towards Healing* in 2009 and 2010, I came across some cases which worried me deeply with one religious order. They worried me deeply because they were cases which had all arisen since 1996, 1996 being the watershed because *Towards Healing* was published then, and it contains significant promises to the Australian people about how the church will respond to these things. One of the things it says is that those who have abused their power will not be given back the power that they earlier have abused. Even from what I had read — from the submissions and some documents which were given to me in the course of those submissions — I could see that there were priests who had never had the power taken away. Settlements had been made with victims, and they continued in ministry, in two cases in Samoa and in another case in Rome.

In the case of the man who went to Rome, in fairness, he has always denied the offences and the accuser died, but one of the issues, which I deal with at great length in my submission, is that the police wanted to interview him. At that stage Father Murdoch, who was the Provincial of the Salesians, did his best to bring that man back from Rome to face the police and asked him to face his accusers. The no. 2 leader in the worldwide Salesians, one of the largest orders in the world and one of the most powerful Church organisations in the world, said, ‘Why don’t we just move him to another province, another part of the world, where he will be out of reach of the police?’. You will see from *Four Corners* the letter in which Father Murdoch documents exactly that. That no. 2 man is now the Bishop of Ghent in Belgium.

I said, ‘This must be dealt with’. With *Towards Healing* the Catholic Church relied on my reputation, my independence and the work I have done to say, ‘Yes, we have got people other than Catholics who are involved in this’. A condition of that for me was that they had to deal with this. I recommended strongly that there should be a public inquiry. I recommended that the government of Victoria be invited to establish a public inquiry. They were very, very anxious about that. We agreed that we would first refer those concerns to the Salesians. I wrote a five-page letter, which you are most welcome to have, in May 2009 setting out those concerns and saying, ‘My preference is for a public inquiry, but the first step is at least for the Salesians to give a response’.

There were lots of delays, but eventually Father Moloney, who was then the provincial of the Salesians, gave a very long response, an eight-page letter with 12 attachments, revealing all sorts of documents from his files. I said, ‘That satisfies me somewhat’, because I had been concerned that there may have been criminal offences committed by the leaders of the order, ‘but there still needs to be a public accounting for this’. Eventually we agreed that on the basis of the documents they provided I would write a report. It is now attached as an appendix to the submission.

The story from then is the story of a contemporary cover-up. The Salesians have been described by one of America’s leading experts as the most unrepentant and defiant order he has ever come across. Indeed on the issue of sexual abuse, I would absolutely endorse that. I would say they are not only unrepentant and defiant, they are untruthful. The lies which were told, the cover-ups, the attempts made to suppress my report, were breathtaking. And Father Moloney, who is apparently a well-known theologian, was absolutely at the centre of that, telling untruths which were in my view completely slanderous. There was a campaign of vilification and misinformation. Take the journalist who exposed all of this in Samoa many years earlier: the rumours were spread that he had himself been convicted of sexual abuse. I have no idea what has been said about me, nor do I care. But my rift with the church on these issues was because at the end of the day they wanted to protect the Salesians and not protect children.

Is this ancient history? I would like to think it is largely so, and I want to say again how many people have made a real effort to cut this cancer out of the church, but I am afraid that the cover-ups go to the highest levels. At the end of the day I wrote to Archbishop Wilson, who was then the chair of the Catholic Bishops Conference, and said, ‘I’m going to go public on this unless you act’. Two months later he had not responded.

These are very serious issues. May I just say how we might go from here, how we can rebuild trust and give you at least a few ideas? First of all, I think there has to be a complete account of all offenders and alleged offenders against children. I think that somehow, in some way, we need to have all those names out — all the Father Fs,

all the Father Kleps, whether they are in Samoa, Rome, wherever they are, Father Klep being one of the men in Samoa.

My suggestion would be, and it is a very serious one, that there should be a national 12-month amnesty. It might need to be done by legislation — every state and territory — but there should be a 12-month amnesty on prosecutions for perverting the course of justice, misprision of felony, or, in New South Wales, the statutory equivalent, in which time the Church would be asked to provide complete and full information on all known offenders, alive and dead. That might be something for the Standing Committee of Attorneys-General. I think the most important thing that everybody is calling for is that the truth will come out — all files open, no secrets, and information to a national commission of some kind with all documents being made available to the relevant police force.

I think that there then needs to be the resignations of everybody responsible for the cover-ups. I think the church cannot recover from this crisis unless there is a clean slate and, for the people who have covered up, even if they thought they were doing the right thing at the time, getting them out of the church. I think they have to go, and some of them are still in positions of highest leadership in the church today. Then there should be independent audits of diocesan and religious institute responses in the future.

I could talk about other churches — I am happy to — but maybe that is enough for the moment.

The CHAIR — Professor Parkinson, thank you very much for the extremely comprehensive overview you have given us in the short time we have given you. There may be an opportunity at a later time to come back and clarify some more points, but in the interests of time I will hand over to Frank McGuire to ask the first question. If I could ask members to keep their questions very succinct so we can get through.

Mr McGuire — Thank you, Professor. If you want to pass on any further documentation, we are a fact-gathering inquiry, so if you want to do that, I think that would be something we would certainly look at. You described both the Catholic Church and Anglican Church as being a law unto themselves. Could you actually give us a little bit more information on the organisation and cultural issues that pose barriers to effectively handling child abuse allegations, what needs to be improved in this regard and any examples of good practice? Also, if you could just elaborate more on the proposition you put about a culture of cover-up that ends up protecting insurance companies, and if you could unpack all of those issues as simply as you can.

Prof. Parkinson — Let me try. Let me explain what I meant by ‘a law unto themselves’. I do not mean that necessarily in a negative way. What I meant is that people often think of the Catholic Church as a hierarchy because it is a church with such a strong sense of authority. It is actually not. Somebody once described it to me as like a flotilla of vessels scattered across the Pacific Ocean. Each diocesan bishop has authority, and total authority, within the diocese; they are not subject to archbishops. There is not a regional structure with a South Pacific head of the Catholic Church who could give people orders as to what they should do in their diocese.

Each religious order is a law unto itself too in the sense that it is subject to the international leadership of the Order. An order might have branches in Ireland, in South America or in Australia. There will be an international head of the order, but that is where the hierarchy is.

This is a structure which might be okay for a medieval small state; it is simply not a structure which operates very sensibly for the worldwide church.

The Anglican Church is a little bit similar because there is an episcopal structure, so each diocesan bishop is in charge of their diocese. The Anglicans have things called metropolitans; the archbishops are metropolitans. They have a little bit more influence over their area, but broadly speaking the buck stops with the bishop. That is what I meant.

In terms of the Catholic Church there is another dimension to being a law unto themselves, and that is because of canon law. I think one of the cultural issues with the Catholic Church is that it is weakly committed to obedience to state law because it has its own legal system: canon law. If you look at the issues of sexual abuse around the world — if you look at the Irish inquiries as a good example of this — you get steps taken in Ireland to deal with those issues, but they get countermanded by the Vatican, and that is where the real law lies. The real authority lies in the Vatican and the Pope. That structure of an international church with hierarchy and law and disciplinary procedures in canon law means that somehow things are dealt with internally as a culture rather

than through the state as a culture, and I do not think that is true of the Anglican Church. Does that answer that? I know you had a lot of other questions there.

Mr McGuire — Just quickly on the insurance companies, you said that part of the culture tends to the result that you are actually protecting insurance companies.

Prof. Parkinson — Look, the insurance companies are very important in all of this, and that is not a criticism. Towards Healing, for example, operates very significantly on insurance companies who are willing to make these ex gratia payments in return for a deed of release. To a significant extent what they are willing to pay is actually what the bishop actually is willing to offer, and that is a reality which would be there in any other walk of life; I am not critical of that. My comment about being protective of insurance companies was about prevention procedures — working-with-children checks, application forms to work in a creche — which are all driven by looking as if you are protecting children and which are actually ineffective in protecting children but create a paper trail saying, ‘We did all these things with all these forms’. That is what I meant there.

Mr O’Brien — Thank you, and it may help clarify my next question too, because partly in your submission you referred to the terms of reference. As I take the terms of reference in relation to the very important issue of prevention, I hear what you are saying in relation to the importance of those issues, but I take everything you said to be squarely within the terms of reference of this inquiry. I would just like you to read that and think about that, particularly reference 3, which says:

whether changes to law or to practices, policies and protocols in such organisations are required to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of child abuse.

It is very important to us that we are capturing the issue. Now how it is dealt with, with the protocols of this committee and the work with the Victorian police, the government and obviously other jurisdictions and, if need be, whatever the Vatican does in response, or individual dioceses and members, I need to be sure that you are comfortable that the terms of reference encapsulate all the issues you have brought to light, including those obviously very important, serious matters you have raised in your written submissions.

Prof. Parkinson — Thank you very much for that clarification. Yes, of course they do. The point about talking in terms of those four — prevention procedures, child protection procedures, restorative justice procedures and disciplinary procedures — is that you may get all sorts of ideas for what could change, but unless one is clear about exactly where they fit into that structure it could all just be an overwhelming body of material to absorb. But if I may suggest that if you were to work through things in terms of those four categories, it might help organise recommendations at the end of the day.

Mr O’Brien — If I could just follow up briefly, one issue that has already emerged since the terms of reference have been identified and the church has responded to the Cummins inquiry earlier this year has been an acceptance by the church that they now at least accept a form of mandatory reporting.

Prof. Parkinson — Yes.

Mr O’Brien — That may not be the complete picture, but I would like your thoughts on the importance of that, particularly in relation to this I think vexed question that still exists between the church and the police, at least, as to victims choosing not to report crimes.

Prof. Parkinson — Yes, these are very important issues indeed. There is the Melbourne Response and there is Towards Healing, and there may be quite different patterns that you see as you examine the evidence on those issues. I have read the police submission, and it does raise I think some very concerning issues about the letters appended to that submission, which appeared to show the commissioner giving legal advice on the likelihood of a prosecution being successful, which I found worrying. No doubt he will give his own response to that.

My view is that mandatory reporting of religious personnel is going to be a helpful way forward, and as you can see in Towards Healing it already is mandatory in a sense that they are meant to tell the police the names of every alleged offender. The compromise is if the victim does not want to have his or her name go forward — we are usually talking about adults who are mature — then that will not be disclosed. But the advantage of doing it is that the police may then get two, three, four cases in a cluster and then be able to go back to the Director of Professional Standards and say, ‘Look, we don’t know the name of victim, but would you go back

to her or him and say, “There are now three others willing to come forward?” There is strength in numbers with prosecutions.

Mr O’BRIEN — The role of identifying the perpetrator as well.

Prof. PARKINSON — That is exactly right. So what mandatory is meant to mean in Towards Healing is to identify the perpetrator or the alleged perpetrator of the abuse. With mandatory reporting I did hear what Chris Goddard said and I would like to reiterate it. If you are going to have a mandatory reporting law, you have to follow up on it. In New South Wales — I have not followed this recently — there was a stage at which there had only been one prosecution in memory, so the laws are on the books but they are not enforced. And although most people obey the law voluntarily, it has got to be part of the police mandate to enforce this.

Mr O’BRIEN — Thank you for your work. Obviously there will be further follow-ups on all the materials. That would be appreciated.

Ms HALFPENNY — You raise the idea that there is the past and dealing with the past and what has occurred, as well as prevention and making sure things do not happen again. The police when they came in were talking about — and you have also mentioned — the idea that all documents should be handed over so they can be fully looked at and everything can be gone through and it will be open and honest. The police were saying that those documents, accounts of allegations, might actually inform the future as well as to how the processes and how prevention could occur.

Prof. PARKINSON — Yes.

Ms HALFPENNY — In your dealings with the different churches and investigating, to your knowledge are their documents all there? Are they intact? Have they been kept properly? Are any missing, deliberately or otherwise?

Prof. PARKINSON — Nobody has seen them, is the answer. When we looked at the Anglican Church documents essentially what happened was we were invited to do this and to track every case since 1990. The reality is that for the earlier ones often the documentation was very sparse, because it was really from 1997–1998 onwards that the Church got its act together — the Wood royal commission in New South Wales is quite important in that — and you will see pretty good investigation and management of cases from about 1998 to 2000 onwards. They have appointed a Director of Professional Standards in Sydney now, and in most dioceses of the Anglican Church, but the records in the past were quite sparse.

In terms of the Catholic Church, even the Director of Professional Standards may not know, because he or she manages the process of investigation and assessment but then it is up to the Order or the diocese as to what happens from there in terms of compensation and then in terms of what happens to the offender. So those files will be with each church authority. I certainly have not seen them.

Mrs COOTE — Professor Parkinson, thank you very much indeed. There is extremely interesting information in that. Can I just tease out a bit about the comparison between the Anglican Church and the Catholic Church? You spoke about the parishes and the extent of the Catholic Church’s engagement with children through schools, through orphanages et cetera, which was much greater than the extent of any of the other religious organisations. Can we go somewhere to find out how that relates to what the population was at the time and whether that in fact was a fair comparison? Because quite frankly if there were 600 and they had a much greater proportion of children engaged with them, then we have to make quite certain that we are comparing apples with apples. Is there somewhere we can go to get that detail specifically? I would be very keen to know.

The other part of it was that in the procedures of the Anglican Church versus those of the Catholic Church — and you have led us to believe that the Catholic organisation is quite chaotic in its reporting mechanisms — are there better processes in the Anglican Church for, firstly, education and training, and then evaluating and monitoring any of the procedures that they have got?

Just as an aside, I know that the Jewish community has recently produced a rabbinical council guide to sexual abuse and domestic violence, which has an evaluation process in it, I believe. I am keen to know whether you have seen that as an element of the Anglican Church versus the Catholic Church.

Prof. PARKINSON — Let me, if I may, deal with the first issue. What I was saying is most of the 620 cases which are there in 'Facing the Truth' are cases of abuse by clergy or religious brothers. My point was that in the Catholic tradition religious brothers often ran schools. In the Protestant traditions you would not find ministers running schools often. If you are looking at clergy and religious as the accused, then there is a big difference there.

Mrs COOTE — Could I just interrupt you there. If that is the case, and following that logic, given the fact that we do not have so many brothers now running Catholic schools, are we going to see a decrease in that amount of abuse along the lines of the Anglican Church?

Prof. PARKINSON — Undoubtedly so. The sorts of problems which I think are very, very serious in some of these religious orders, which are closed, protective and may find it very difficult to cope with allegations of abuse against their men, are diminishing problems because these orders are dying out. In terms of your question about the national picture, no, it is an impressionistic thing I have given you that obviously the Catholic Church is the largest denomination by adherents. I think that can be shown through census-type data. And we know that every Catholic parish has a primary school, so there is a very large system there. But rigorous data, no, I think it is difficult to get. We looked at this with the Anglican Church study. Could we say how many allegations were made against ministers in the country as a whole? There was just no national picture in the Anglican Church of how many parishes and ministers there were and so on. We had a very small budget and we gave up on that.

Mrs COOTE — But the processes that the Anglican Church had, in your opinion, were more rigorous or their training was better or their evaluation was better than that of the Catholic Church. How does that compare in your view?

Prof. PARKINSON — I do not know that I said that. What I said was that the Catholic Church problems were very much greater. The Anglican Church has done a huge amount in the last few years. Garth Blake, a senior counsel in Sydney, has driven this very successfully. One thing they have is a national register, and so all those clergy against whom allegations have been made are on a national register. I think that is one very significant thing. Faithfulness in Service is their code of conduct around ministries and is being nationally rolled out.

In terms of compensation programs, you would have to give the Catholic Church the credit for having done that from 1996. The Anglican Church began to develop it in a few places. Sydney now has a formal compensation scheme, and so does Tasmania and so does Adelaide. But they are the only three dioceses which have — and Grafton has, I gather, a limited one.

Mrs COOTE — In your view it would be a good thing if the Catholic Church had a register such as that of the Anglican Church?

Prof. PARKINSON — I think one of the steps forward that I would invite you to consider is that we move towards at least a Victoria-wide register across all organisations of the kind that I described in New South Wales. But I would like to see a national register as well. The significance of this is enormous for the non-Catholic churches. One of the worst offenders in the history of the Anglican Church was a man who may have had more than 100 teenage victims. I have certainly interviewed three myself. Nobody knows quite how many he had. It was one of those classic things in the 70s and 80s. He was moved around and eventually thrown out of the Anglican Diocese of Sydney. He then moved down to the Anglican Diocese of Canberra and continued his operations. When he was thrown out of that, he moved into the Baptist Church. He was a man who was never charged and never convicted. He died recently. If we had a national register, which was beyond individual churches, then that movement between churches, which is very common, would be much harder to do.

Mr WAKELING — Thank you, Professor, for your presentation today, plus the information you provided to us. It was most informative. I am interested in talking from a legislative perspective and to build on some of the comments made by Mr O'Brien. We have had presentations made to us in regard to mandatory reporting, which you talked about. But there has also been an opportunity for us to look at the 'concealing a serious indictable offence' provisions in New South Wales — section 316 of the Crimes Act, which you would be aware of. I would like your views on whether or not we should be looking at provisions such as those, and also

on whether there are any other legislative changes that you would specifically say we should be identifying in regard to those types of issues.

Prof. PARKINSON — Two comments. First of all, nobody understands what section 316 means in New South Wales. That is a problem, because it is just not clear enough, to people who might be affected by it, what it means to cover up an offence. If you were going down that route, I think you would need to be very, very clear about what it is that constitutes an offence. The nature of criminal law is that it must be clear in advance to people what it is that they will be breaking if they take a course of action. That is my first comment.

My second comment would be they cannot be retrospective; criminal law should never be retrospective. We should only be punished for what we know is a crime at the time that we commit it. To the extent that it is a response to past cover-ups, I think it is 20 years too late.

My third comment would be that my sense of it is that people really want the truth to come out. That is the fundamental issue. There are people who will want bishops and others to be thrown in jail and so on and so forth. Maybe that is justice which needs to be carried out. But at the end of the day I think what people most want is to be able to draw a line in the sand and say, 'We know everything and we can move on' — a truth and reconciliation approach. My view would be that rather than coming up with new offences, which may not or in any event could not capture past events, my proposal for an amnesty for a limited period may be the better pathway to truth and reconciliation than the pathway you have talked about.

Mr WAKELING — For future offences, is it worth us considering a formal legislative provision to deal with these exact issues?

Prof. PARKINSON — I think there is. Ireland has, as you may know, recently legislated along those lines. But what I would counsel is that it needs to be really clear as to what it is that is being prohibited. And of course it cannot just be churches, it has to be across the community.

Mr WAKELING — We would appreciate any feedback or any information you can provide on that.

Prof PARKINSON — May I say that this is not just about the churches. The issues around child sexual abuse in ethnic minority communities are huge, absolutely huge, and we simply do not know how big that problem is.

The CHAIR — Thank you, Professor Parkinson. On behalf of the committee I thank you again for coming before us this afternoon. We do appreciate it, and your evidence has been most helpful.

Prof PARKINSON — Thank you.

Witness withdrew.