

Inquiry into Handling of Child Abuse by Religious and Other Non-Government Organisations

Parliament of Victoria

Submission

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My professional background

I am a Professor of Law at the University of Sydney and have had a long-standing involvement in the protection of children. I chaired a review of child protection legislation in NSW in the 1990s that led to the enactment of the Children and Young Persons (Care and Protection) Act 1998. I have written a book on child sexual abuse in church communities, *Child Sexual Abuse and the Churches*, the second edition of which was published in 2003. With Prof. Kim Oates and Amanda Jayakody, I have also conducted a study of sexual abuse allegations in the Anglican Church of Australia. This is publicly available.¹

Over the years, I have advised most churches on child protection issues, including the Catholic Church. I have also been involved in family law issues, chairing the federal government's Family Law Council between 2004 and 2007, and a review of the Child Support Scheme which reported in 2005 and led to major changes in the child support system in 2008.

My involvement with Towards Healing

Responsibility for *Towards Healing* rests with the National Committee for Professional Standards. The Committee is appointed jointly by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes. Its role is to oversee the development of policy, principles and procedures in responding to complaints of abuse against Church personnel.

¹ Study of Reported Child Sexual Abuse in the Anglican Church, May 2009, available at <http://www.anglican.org.au>.

In 1999, I was asked by the National Committee to conduct an independent review of *Towards Healing* which led to a new version of the protocol published in 2000. In 2008 I was asked to do so again, and this led to a further revision which was accepted in 2009. I have also been involved in numerous other respects with the work of the National Committee, including conducting a review of its work in Queensland about a decade ago. I am not a Catholic, but am a practising Christian of another denomination.

I would be pleased to assist the Parliamentary Committee in any way I can to understand the processes of *Towards Healing* and the strengths and weaknesses of this approach. In my view, *Towards Healing*, at its best, has been a pastorally sensitive and positive way of reaching out to victims who have been sexually abused by clergy and religious, given the evidential and other difficulties that most will face in trying to get compensation through the civil justice system. However, the Church has done less well in dealing with offenders in its midst, and in some cases at least, the promises it made in *Towards Healing* have not been fulfilled.

My support for the work of the National Committee for Professional Standards has now ended, because I have seen first-hand the efforts the Church has made to cover-up its failures and wrongdoing in the very recent past. The National Committee, which is meant to be in the vanguard of providing a just response to the problem of sexual abuse within the Church, was largely responsible for the cover-up to which I refer.

The promises made in *Towards Healing*

In the Preface to *Towards Healing* the bishops and leaders of religious institutes stated that

“...this document establishes public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church. If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.”

The document goes on to identify those criteria by which it may be judged:

“The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, an effective response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.”

While the National Committee for Professional Standards has done much good work over many years, led by dedicated and courageous people such as Bishop Geoffrey Robinson and Sister Angela Ryan, in my view the Church has in recent years retreated from its support for the commitments it made in *Towards Healing*.

This submission illustrates the continuing serious problems in the Church concerning its handling of child sexual abuse cases by reference to one religious Society, called the Salesians of Don Bosco. The Salesians are one of the largest religious Orders (or "institutes") in the world. Their work is primarily concerned with children and young people. Much of their work, historically, has been with adolescent boys. Paedophiles who are attracted to boys sometimes have a very substantial number of victims, and therefore organisations working with teenage boys need to be especially vigilant and responsible.

As will be seen, I have serious concerns about the way in which this organisation has dealt with its members who have been accused of crimes of sexual abuse. These concerns do not relate to cases twenty or thirty years ago, but to the very recent past. The cover-up of these matters continues to the present, and people at the highest levels of the Catholic Church nationally have been involved in that cover-up.

I make this submission with very great regret because I worked constructively with the National Committee for Professional Standards for many years and was impressed by the integrity, dedication and commitment of so many of those with whom I worked during that period. I regard myself as a friend of the Catholic Church, and work with Catholic leaders on many other issues of shared interest and concern.

The Salesian scandal

My concerns about the Salesians arose during the course of my work with the Catholic Church on the revision of *Towards Healing* in 2008-09. Through submissions, I was made aware of cases involving three members of the Salesians, all of whom taught at the Salesian College, Rupertswood in Sunbury, Victoria, and against whom allegations of child sexual abuse were made in the 1990s or early 2000s. The Salesian leadership in this part of the world is based in Victoria.

These cases raised very important issues about the level of commitment to the values expressed by and on behalf of the Australian Catholic Church in *Towards Healing*, and also very significant child protection concerns.

The report I have written for the National Committee of Professional Standards, finalised in August 2010, is attached as Appendix A. Although my agreement with the National Committee of Professional Standards and with the Salesians was that this report should be publicly released, the National Committee of Professional Standards reneged on that agreement. They also failed to act on a recommendation by a distinguished QC in Victoria, made in December 2010, that there should be a formal

and independent inquiry into these matters. As far as I am aware they have also taken no action to address the issues that were raised in my report. As the body entrusted by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes to oversee the development of policy, principles and procedures in responding to complaints of abuse against Church personnel, I expected more of the National Committee of Professional Standards than that the very serious concerns I raised would be brushed under the carpet.

The three Salesian cases

The three Salesians about whom my report was written, and who were accused of child sexual abuse, all avoided investigation for sex offences against children, one for a time and two permanently. The Salesians have operations in many countries and these men were posted overseas. Two went to Samoa. A third went to work with the Salesians in Rome. The details of these cases are explored in full in the report (Appendix A). The following is provided by way of introduction and summary to the detailed information provided in that report.

Fr Klep

Fr Klep, left Australia to go to Samoa in 1998 after having been convicted in 1994 of sex offences against minors in Melbourne. He left Australia at a time when, as I understand it, the police had begun investigating further complaints against him. On his application form to gain temporary residence in Samoa, Fr Klep falsely claimed that he had never been convicted of any criminal offences. This form was witnessed, and the truth of that statement affirmed, by the Australian leader of the Salesians at the time, Fr John Murphy. The leader of the Salesians is known as the 'Provincial'. It is a rotating post, with leaders typically serving for about 3-5 years.

Further complainants came forward to the Salesians in the few years after Fr Klep went to Samoa, and it is my understanding that a warrant was issued for Fr Klep's arrest on new criminal charges sometime around the late 1990s. Complainants also came forward through the *Towards Healing* process. Yet despite the mounting evidence that he had committed numerous very serious sex offences against a number of children, Fr Klep continued to serve in the ministry of the Salesians in Samoa, working in a theological college. He was not suspended, expelled from the priesthood nor even brought back to Australia to assist the police with their inquiries. Although he was not working with children, no written record has emerged of any restrictions being placed on his ministry by the Provincial between the time he left to go to Samoa and late 2003. At that time, the Provincial, now Fr Ian Murdoch, responded to a complaint from a member of the public

who was aware of Fr Klep's history and who was shocked to find him celebrating mass in the Cathedral in Samoa. It appears that he celebrated the mass in public on other occasions, had contact with children, and was otherwise regarded as being a priest in good standing with the Church.

Towards Healing promised that offenders would be dealt with and that "serious offenders will not be given back the power they have abused". Canon law, by which the Salesians are bound, treats the sexual abuse of a minor as a serious offence. Canon 1395 §2 provides that someone found responsible is to be "punished with just penalties, not excluding dismissal from the clerical state if the case so warrants." It also imposes various obligations to investigate canon law offences (Canon 1717). Even by the Church's own laws, and the commitments it publicly made in *Towards Healing*, Fr Klep should not have been allowed to continue in ministry. By the most basic community standards, he should have been prevented from ever exercising again the ministry of a priest. And yet he continued on in Samoa exercising a priestly ministry and participating in the work of a theological college. No effort was made by the Salesians to bring him to justice or to ensure that he was 'punished with just penalties' either under the laws of the State of Victoria or even under Canon law (for example, removal from the priesthood).

That accountability for Fr Klep's crimes only occurred because of the intervention of an American investigative journalist, Reese Dunklin, writing for the *Dallas Morning News*. In 2004, he revealed Klep's presence and activities in Samoa, and reported that he was having contact with children and young people.

The Samoan Government announced that Fr Klep would be deported, and expressed its outrage that a known sex offender was sent to that country. The Samoan government also indicated that the Archbishop of Samoa was not informed of Klep's history. Indeed, in a public statement, it said that "His Grace may have been deceived and misled" about Fr Klep both by Fr Klep himself and by "senior officials of the Catholic Church in Australia". Klep then left Samoa to return to Australia.

Klep was arrested on his return to Melbourne and subsequently pleaded guilty in 2005 to a number of sex offences against children in addition to those cases for which he had been convicted in 1994. He was sentenced to a jail term which was increased on appeal.

Fr Ayers

Also in Samoa at this time was Fr Jack Ayers. He lived and worked in the same theological college. In 2000, the then Provincial of the Salesians, Fr Murdoch, settled a

complaint of child sexual abuse against Fr Ayers. It appears it was not the first complaint against Fr Ayers and there is no record that Ayers (who has recently died) denied the offences. Yet despite the apparent acceptance of this complaint of serious criminal misconduct, no written record has emerged of any restrictions being placed on Fr Ayers' ministry or that he suffered any consequences for his criminal wrongdoing even under Canon law. The complainant indicated his willingness to report Ayers to the Victorian police. At any time, the Salesian leadership could have ordered his return from Samoa to submit to a police investigation, or invited the police to interview him when he was back from Samoa, (as he was on at least one occasion). No effort was made to bring him to justice. The evidence would appear to indicate that he continued to serve as a priest in good standing with the Church, although by this time he was in his twilight years, did not enjoy good health and therefore was not active in public ministry.

Attached as appendix B is a letter from the Archbishop of Samoa to the American journalist, Reese Dunklin, on June 11 2004. On the first page, he makes it clear that the Archbishop was not aware of the sexual abuse history of either Fr Klep or Fr Ayers prior to the reports made by Mr Dunklin. On the second page, it is stated quite specifically that the personnel files of these two men in Samoa had been checked and that nothing "may prompt us to prohibit or prevent them to minister in our archdiocese." That is, as far as the Archbishop was concerned, there were absolutely no restrictions that had been placed on the priestly ministry of either Klep or Ayers.

Father Julian Fox

The third person is Fr Julian Fox, a very senior member of the Society, and a former Provincial in Australia. Fr Fox was accused of sexual abuse by a former student, Luke Quilligan, in the year 2000. That complaint was being investigated by the police. *Four Corners* has revealed, in its program on July 2nd 2012, that another complainant has recently come forward alleging sexual assault by Fr Fox. I understand this new complaint is also being investigated by the police, and I have been advised by the National Committee for Professional Standards that the current leadership of the Salesians is cooperating with the police in that investigation.

Fr Fox has consistently denied the allegations of sexual abuse by Luke Quilligan and the presumption of innocence must be fully respected. The issue with which this submission deals is only about how the Salesians dealt with the allegation of sexual abuse made against him. It appears from all the evidence that Fr Murdoch, the Provincial at the time, made strenuous efforts to bring Fr Fox back to Australia to

address these allegations fully and properly. *Four Corners* has documented those efforts and I summarised them in my report (pp.14-15).

I am now in a position to give further information about what happened. *Four Corners* has made public the letter that Fr Murdoch wrote to the Rector Major of the Salesians, Fr. Pascual Chávez Villanueva on 26 February 2004.² This letter, as published by *Four Corners*, is attached as appendix C. The Rector Major is the worldwide Head of the Salesians. The letter records a meeting that Fr Murdoch held with Fr Luc Van Looy and Fr Fox in December 2003. Fr Luc Van Looy was then the Vicar General of the Society (the no 2 ranking official) and went on shortly afterwards to become the Bishop of Ghent in Belgium, an office he still holds.

The letter made it clear that Fr Murdoch had very serious concerns about Fr Fox based upon the "extensive subsequent documentation" that he had gathered. He considered that "it would be unwise in the extreme for Fr Julian Fox simply to return to active ministry as though nothing had happened." He went on to say the following:

"Unexpectedly, I was asked whether it would be an acceptable solution to transfer Fr Julian Fox to another Province."

That is, Fr Fox would be transferred to another part of the world where he would no longer owe an obligation of obedience to Fr Murdoch as his Provincial. Since only Fr Van Looy, Fr Fox and Fr Murdoch were at this meeting, it may be inferred that the person who made this suggestion was Fr Van Looy. Fr Murdoch regarded this as "totally unacceptable." Fr Murdoch insisted that Fr Fox return to Australia to face his accusers and also to inform the Archbishop of Suva about the allegations, since he had been serving in Fiji. Fr Fox declined to do either of these and expressed a 'preference' for appointment to the Social Communications Department in Rome. Only after the rejection of Fr Van Looy's proposed solution, and the rejection by Fr Fox of Fr Murdoch's requirement that Fr Fox return to Australia to face his accusers, did they agree on Fr Fox's proposal that he remain in Rome with the Social Communications Department. Fr Van Looy played a crucial role in frustrating Fr Murdoch's efforts to bring Fox back to Australia in order to deal with the serious allegations made against him.

Because Fr Fox did not return from Rome, he was never interviewed by the police in Victoria. Luke Quilligan sadly died in 2005 before the police had an opportunity to complete their investigation. At that point, Fr Fox was no longer required for police

² Online at http://www.abc.net.au/4corners/documents/abuse2012/Letter_IFox.pdf

questioning as no prosecution could be brought without a victim to testify, and with no other witness. Fr Fox has, I believe, returned to Australia on at least three occasions since Luke Quilligan died, but was not required to return to be interviewed by the police at a time when Mr Quilligan was still alive and a prosecution might have been brought against him.

In March 2010, as will be explained further below, the Salesians and the National Committee for Professional Standards agreed that I would write a report, to be made public, on the issues arising from the cases of these three men. By this stage, Fr Murdoch had died and the Provincial was Fr Frank Moloney. Fr Moloney informed the Rector Major in Rome, Fr. Chávez, of this planned report. On March 17th, 2010, Fr Moloney wrote to Fr Tim Brennan, then the Co-Chair of the National Committee of Professional Standards, in which he provided a translation of a letter from the Rector Major dated 16 March 2010, giving the Rector Major's understanding of events concerning Fr Fox. That translated letter is attached as appendix D.

Fr. Chávez refers to the same letter as *Four Corners* has published, dated February 26, 2004 (appendix C). The two letters should be compared. According to the Rector Major, Fr Murdoch gave Fr Fox two options. One was to return to the Australian Province, inform the Archbishop of Suva and face his accusers in Australia. The other option was to remain and work in Rome in the area of Social Communications. The Rector Major assured Fr Moloney that Julian Fox had chosen one of the two alternatives put to him by Fr Murdoch. It will be apparent from reading Fr Murdoch's letter that this account given by Fr Chávez to me in March 2010 is at variance with the truth.³

The circumstances surrounding my report on the Salesians

I tried for more than two years to get the Church to deal with these issues itself before going public about it in late August 2011. The background to the report (appendix A) is that I first wrote formally to the Co-Chairs of the National Committee of Professional Standards on May 14th 2009, following informal discussions with Fr Tim Brennan, one of the Co-Chairs. At this time the other Co-Chair was Bishop Bill Morris of Toowoomba.

I indicated that I thought the matters concerning the Salesians that had been drawn to my attention in the course of the review of *Towards Healing* were so serious that they warranted an independent public inquiry. I also said that an appropriate first course of

³ Fr Moloney indicated in a note to his translation that he did not have a copy of the letter of February 26th 2004 that *Four Corners* has now published, and so he was unaware of the discrepancy.

action was to refer these concerns to Fr Moloney, and to seek his co-operation with an internal investigation before deciding what further action to take. My letter of May 14th was forwarded, belatedly, to Fr Murdoch in August 2009. Fr Moloney responded by making available numerous documents from his files, in a letter of September 9th 2009 with 12 attachments. As I understood it, these 12 attachments constituted the relevant documentary evidence that was available from the files of the Salesians in relation to these matters.

Various delays then occurred for which Fr Tim Brennan later apologized. Eventually, a meeting was held in Bondi Junction on March 12, 2010 between Fr Moloney, Fr Tim Brennan, Bishop Bill Morris and myself. My proposal was that I would write a report for the National Committee for Professional Standards, to be made public, that took account of the documentary evidence that Fr Moloney provided in September 2009 and such other information as was available to me.

Fr Moloney was very resistant to this course of action. He did not think the Salesians were any different from any other religious institutes of the Catholic Church in Australia. He was concerned to protect the good name of the Salesians and very unwilling to acknowledge any deficiencies at all in the Salesians' handling of these three cases. He saw the National Committee's role as being to act on behalf of the Salesians, not to criticise them; after all, the Salesians helped to fund the work of the National Committee. However, I made it clear that I would call publicly for a government inquiry unless the National Committee took its own action. Consequently, it was agreed that I would write the report. The report was written in accordance with the process agreed at that meeting. The letter from Fr. Chávez to Fr Moloney, written four days later (16 March 2010, appendix D), refers to the fact that the report would be made public.

The Report

The report, finalised in August 2010, has never been released. The National Committee of Professional Standards continues to refuse to release it, and must therefore be held responsible for the continuing cover-up of these very serious matters. After the report was finalised, numerous wild claims were made by Fr Moloney about the process by which it was written, alleging gross unfairness to the Salesians. For these reasons, I need to give some detail about the report and the circumstances surrounding its suppression.

The report was finished in draft towards the end of April 2010. I took account of all the documentary material that Fr Moloney gave me, as well as other material made

available to me or that I discovered from my own research. The report also drew upon some contemporaneous newspaper reports, in particular in relation to statements from eyewitnesses, or from the protagonists involved in those events such as Fr Murdoch. The report is limited in that I could only rely on documentary evidence. A judicial inquiry with subpoena powers would no doubt be able to shed much more light on these events, not least in terms of the communications between the Victorian Police and the Salesians about these three priests from 1996 (in the case of Klep) onwards. Other witnesses also might come forward who can assist in determining whether Fr Klep was moved overseas to avoid the police investigations.

Fr Moloney already had ample notice of the issues that would be traversed from my initial letter to the Co-Chairs of May 2009, a subsequent letter of mine in November 2009, and our very lengthy meeting on March 12 2010. He had already provided a substantial amount of documentation to assist me. As I recorded in my Report, having identified the concerns that led to the Report:

After significant further deliberation, it was agreed that the most appropriate course of action was for the Salesians to respond to these concerns and to make available whatever documentary evidence was available to help clarify the picture. The current Provincial of the Salesians, Fr Frank Moloney, has cooperated fully with this process and, together with the co-chairs of the National Committee for Professional Standards, has agreed that the most appropriate course of action would be for me to write this report setting out the facts as far as I have been able to discern them from the documentary evidence available.

My draft report was sent to Bishop Morris and Fr Brennan on April 29th 2010 and they forwarded it to Fr Moloney for his comments in early May 2010. In a letter of May 7th 2010 sent to Bishop Morris and Fr Brennan, he made a few comments on the draft report but nothing of substance. That letter is attached as appendix E. After that letter was forwarded to me, I made further minor revisions to the draft report and sent the final report to Fr Tim Brennan by email on 13 August 2010.

The suppression of the report

I have never been given an adequate explanation for why the National Committee did not immediately publish the report as it had previously agreed to do. My understanding of the subsequent events is as follows. After the completion of the report in August 2010, Fr Moloney, the Provincial of the Salesians, waged a very strong campaign to prevent its release. My understanding is that on September 2nd 2010, Fr Moloney wrote to Bishop Morris and Fr Brennan questioning 25 issues in that Report. That letter has never been shown to me and I did not even become aware of its existence until June 2011.

The National Committee for Professional Standards dithered for some time in deciding what to do in the wake of Fr Moloney's strident campaign. I have been told that threats were made that many male religious orders, incited by the Salesians, would withdraw funding from the National Committee for Professional Standards if the report were released, but have not been able to verify this. That withdrawal of funding might have led to the complete collapse of the work of *Towards Healing*.

Eventually, the National Committee commissioned Mr David Curtain QC, a senior barrister in Victoria, to provide advice. He met with me and separately with Fr Moloney towards the end of 2010. At his meeting with me, he agreed with the need for some independent inquiry into the Salesian cases.

On December 23rd 2010, I received an email from Sr Angela Ryan, the Executive Officer of the National Committee for Professional Standards. It was copied to David Curtain QC and to the General Secretary of the Australian Catholic Bishops Conference, Fr Brian Lucas. The material parts read as follows:

Dear Patrick,

David Curtain has sent a report in which he advises that there is agreement to set up an independent inquiry.

Fr. Brian Lucas will contact you early in the New Year.

The purpose of this contact will be to discuss the proposed inquiry, to consider what outcomes would be expected and to gain sufficient information to prepare a brief for the inquiry.

My understanding from other documents is that Mr Curtain recommended that the inquiry be conducted by an independent retired judge.

Fr Lucas and I met in Sydney on 16th February 2011 in offices attached to St Mary's Cathedral in Sydney. However, at that meeting, Fr Lucas indicated to me his strong opposition to having an independent inquiry. It would be embarrassing for the Salesians, he said, and very expensive. He was not certain who would pay for such an inquiry. He sought my agreement to another course of action, which was that a summary of my report be placed on the National Committee's website, together with whatever response the Salesians chose to make. With great reluctance, I agreed to that course of action. On April 2nd, 2011, I received by email a draft of that summary prepared by Fr Lucas, which he called a "Notice". It was only two pages long and I regarded it as wholly inadequate. It glossed over the very serious failures of the Salesians in dealing with the cases discussed in my report.

After a further exchange of emails in the subsequent weeks, I eventually sent him a more detailed summary on May 1 2011. A month went by with no further action; but after two follow-up emails from me, Fr Lucas wrote on June 6th 2011 to say he was forwarding my summary to Fr Moloney so that he could prepare a response.

On June 23rd 2011, nearly a year after I had finalised my report, Fr Moloney sent his response to Fr Lucas with the intention that it be published along with the summary of my report. Fr Moloney's response was extremely confused. He referred to 'two' reports. He described my initial letter to the Co-Chairs of the National Committee for Professional Standards in May 2009 as the first 'report'. That letter simply called upon them to ask the Government to establish an independent public inquiry and explained the reasons for that recommendation. It also proposed that first, the Salesians be invited to respond to these concerns. As I have explained above, that letter was then forwarded to Fr Moloney for a response and my recommendation ended up, in March 2010, with the agreement that I would write a report myself based upon the materials the Salesians had already provided for public distribution. There was only ever one report, the one which is attached as appendix A.

In relation to that report, which he refers to as the 'second' report, Fr Moloney wrote:

...the Salesians were never given an opportunity during the course of the preparation of this Report to offer any response to the findings made against them in it... At no stage during the preparation of the Parkinson Report 2 were the Salesians consulted or given a chance to address the adverse findings that are in now in this second report.

Remarkably, he also wrote that: "There is and has been nothing other than the highest level of probity exercised by the Salesians" in relation to the case of Fr Klep.

In saying the Salesians were not given an opportunity to address the adverse findings, it may be that Fr Moloney had simply forgotten that he had been shown the draft report in early May 2010 and had written to Bishop Morris and Fr Brennan commenting on it on May 7th 2010 (appendix E). He may also have forgotten that in that letter he had made almost no comments of substance.

It appears that in complaining that at no stage were the Salesians consulted, he may have forgotten that the Co-Chairs of the National Committee for Professional Standards raised my initial concerns, expressed in a letter in May 2009, to him for response in August 2009; that he gave a written response to my concerns which contained 12 attachments in September 2009 and that these internal Salesian documents provided much of the evidential basis for my report. He may also have forgotten that there had

been a very lengthy meeting with him on March 12th 2010 at which the concerns were fully discussed and that the process for the preparation of the report was as agreed at that meeting. He may also have forgotten that subsequently he had forwarded to Bishop Morris and Fr Brennan, to pass on to me, the translated letter from the worldwide Head of the Society, the Rector Major, dated March 16 2010.

Given this history of consultation with the Salesians, and given that the report took account of the documents they had provided, it does seem very surprising that Fr Moloney should have claimed, in a document intended to be made public, that at no stage during the preparation of my report were the Salesians consulted or given a chance to address the adverse findings.

As a result of seeing the Salesian response, I accepted Fr Lucas's suggestion that we not proceed with publishing the summary and that response. The response would have been grossly misleading and deceptive, and nothing would have been gained by it. He indicated that it was now up to the National Committee of Professional Standards to decide what to do.

I made one final effort to get the National Committee of Professional Standards to take some action on the Salesian scandal. By this stage, Archbishop Phillip Wilson of Adelaide was the episcopal Co-Chair of the National Committee for Professional Standards. He was also the Chair of the Australian Catholic Bishops Conference, and thus in a position of leadership at the very highest levels of the Catholic Church in Australia. I wrote to him on June 26th 2011. In the course of that letter I wrote as follows:

Given Fr Moloney is not satisfied with the fairness of the process to which he originally agreed, and claims not to have been 'given a fair go', clearly the only alternative now is for there to be a proper judicial inquiry into these issues. My preference remains for the National Committee for Professional Standards to ask the Government of Victoria to establish a public inquiry, with subpoena powers to call witnesses such as the former Provincial, Fr Murphy (who played a critical role in the Klep matter). Fr C, who I believe remains in Rome, could take the opportunity to give his version of events. The Victorian Government has an interest in ensuring that respected organisations in our community that are trusted to work with children and young people co-operate fully with police investigations about child sexual abuse, and play their part in ensuring that convicted child sex offenders are not given any opportunity to reoffend against children and young people.

Archbishop Wilson rang me a couple of days later, saying he would look into it, but never replied to this letter. No further action occurred in relation to the Salesians.

Finally, on August 29th 2011, having waited two months for a response from Archbishop Wilson and more than a year since completing the report, I wrote to Robert Clark, the

Attorney-General for Victoria, making a call for an independent public inquiry. Your Committee's reference is a response to that call, along with many others who sought the establishment of a Royal Commission. Recently, in early July 2012, the Co-Chairs of the National Committee for Professional Standards confirmed in an email that they had no intention of releasing my report.

Other issues concerning the Salesians

The issues concerning Frs Klep, Ayers and Fox are not isolated. Other Salesians have been convicted of child sex offences and there are reports of secret settlements in relation to claims made against yet other men. On 22 August 2011, Father Michael Aulsebrook was sentenced to a term of imprisonment for indecent assaults of a boy, aged 12, at the Salesian College, Rupertswood. It was reported that in his judgment passing sentence, Judge Tim Wood recorded that Aulsebrook admitted that another complaint of sexual abuse had previously been made against him. Aulsebrook had received "counselling" from the Salesian order but no criminal prosecution occurred. Subsequently, the Salesians appointed him to St Mark's College in Port Pirie, South Australia, where he served as school principal for nine years.⁴ It is difficult to imagine what the public response would be if a man who was known by a State Education Department to have sexually abused children were later appointed as the Principal of a school by that Department.

In an article published in Melbourne's *Sun Herald* on September 8th 2010, Margaret Harrod, Aulsebrook's sister and herself a former Salesian nun, is reported as saying that she "went to officials because she was concerned her brother had molested a number of students after she witnessed him "inappropriately touch the groin" of a young girl." She says she was told she was "ruining his life by coming forward", and that the Salesians chose to ignore her brother's history. The report goes on to quote her as follows:

"The first allegations were made before he was ordained, and yet he still became a priest and eventually principal," she said. "The Salesians knew Michael was guilty of assault. I believe he assaulted more than one person.

"It hurts to talk about my brother like this, but the point has come when I can no longer keep quiet."

A more detailed account of Ms Harrod's shocking story was published in *Women's Day* in November 2011.⁵ I have also spoken with her.

⁴ <http://www.heraldsun.com.au/news/victoria/salesian-priest-jailed-for-less-than-a-year-over-sex-abuse-of-student/story-fn7x8me2-1226119669684>

⁵ <http://www.margaretharrodconsulting.com/margarets-story>.

Richard Sipe, one of America's leading experts on sexual abuse in the Catholic Church, wrote this of the Salesians in 2008:

"It is the third largest religious society in the Roman Catholic Church. It rivals the Jesuits for power within the church and has a large number of cardinals including the present Vatican Secretary of State, Cardinal Tarcisio Bertone... The Society of St. John Bosco (SDB) is the most closely organized (controlled) religious group that I have ever come in contact with. I say this on the basis of reviewing scores of documents in the cases of sexual abuse by members of the society in California where 21 or 22 SDB priests and brothers have been identified as sexual predators.... Seasoned clinicians and lawyers who have worked with the Society have said that it is, "the most unrepentant and defiant" religious group they have ever experienced in regard to sexual abuse within its ranks. My experience has been similar."

The terms 'unrepentant and defiant', amongst other adjectives, do help to describe my experiences with the Salesian leadership on these issues. I have also been troubled by the great difficulties I have had in getting the national leadership of the Catholic Church to initiate any independent inquiry or to take any other action whatsoever between May 2009 and the present time.

One other matter is already on the public record, as I revealed to *The Age*. In a letter in September 2009, Fr Moloney, as Provincial of the Salesians, claimed that the American journalist who first broke the story about Klep and Ayers in Samoa in 2004 had since been convicted and jailed for sexual abuse of minors. My communications with that journalist and other inquiries indicate that this is completely unfounded. Fr Moloney initially revealed that these allegations were sourced from his lawyers. He subsequently apologised for spreading these false rumours.

Having said all this, it is important to note also the very fine work done for so long by many dedicated Salesian men in serving communities in Australia and the South Pacific. Any complete account of the work the Salesians have done over the years would no doubt provide many stories of sacrificial care for the poor and vulnerable.

The importance of the Salesian case for the Parliamentary Inquiry

The most important issues arising from the Salesian scandal are firstly the way in which convicted or alleged sex offenders in religious Orders that have international ministries appear to have been allowed to go overseas or to remain overseas, beyond the reach of the Australian investigatory authorities, and secondly, that they have continued in good standing as priests despite the apparent acceptance that they have committed serious criminal offences. Michael Aulsebrook was even made the Principal of a school after issues of sex offending had emerged.

I focused on the Salesian cases as the clearest and most concerning example, not least because there were three such incidents. I was also deeply concerned about the apparent lack of supervision of Fr Klep in Samoa, with the consequence that he appears to have been allowed unrestricted contact with children and young people after being convicted of sex offences against minors, and after the Salesians signed up to *Towards Healing*.

Fr Moloney, in his response dated June 23rd 2011, raised the issue of other cases of leaders of religious Orders and Bishops who did not bring their members back to Australia when they were accused of sex offences. He mentioned in particular a case of a member of the Missionaries of the Sacred Heart who was not brought back from Japan. He also referred to other organisations that had not dismissed convicted offenders from the ministry. In this context, he cited the Archdiocese of Melbourne. If, as Fr Moloney says, there are other religious orders or dioceses who have dealt with matters in a similar way to the Salesians, then this is all the more concerning. It may be that Fr Moloney would be prepared to testify to the Parliamentary Inquiry about what he knows of how other Catholic orders or dioceses in Australia have dealt with the issue of clerical sex offending.

Certainly, the Salesians are not alone when it comes to the international dimensions of bringing sex offenders to justice. In my report to the Church following the review of *Towards Healing* in 2009, I wrote the following:

“During the course of this review, it has become clear that in a few cases, the level of cooperation given to the police and other civil authorities in dealing with issues of sexual abuse has not met the standards to which the Church committed itself in 1996 and again in 2000.

One example is the efforts which were apparently made by one religious order, St John of God, to prevent the extradition of two of its members to face trial in New Zealand on charges of child sexual abuse. Those efforts to prevent extradition were ultimately unsuccessful, with the High Court of Australia in 2006 rejecting an application for special leave to appeal from the decision of a Full Federal Court.

Of course, if an individual priest or brother who is accused of sex offences against children wants to fight extradition charges, that is a matter for them. The issue is what assistance the Church should give them to do so, in particular by meeting legal costs. It is consistent with the principles voluntarily adopted by all dioceses and religious institutes, that any person found to be in Australia who is wanted to face charges in another country should be returned to face justice in that jurisdiction to the extent that the Church authority can ensure this. It can ensure this if the accused person continues to be under the authority of the religious order or diocese, since a failure to comply with the orders of Church leaders to return ought to result in disciplinary action against the person. The Church has leverage so long as a person wants to continue in the ministry of the Church and in receipt of financial provision from the Church.

The only exception to the requirement to return an accused person to the jurisdiction in which they are under investigation is where there are reasonable grounds for grave concern that the person will be unable to have a fair trial if returned to that other country. It is unlikely that Australia would have an extradition treaty with a country about which such grave concerns could reasonably be held.

A further issue concerns the way in which Church authorities deal with accused persons who leave Australia and continue in ministry in other countries. No Church leader should ever aid and abet an accused person to leave the jurisdiction when there are accusations of criminal offences. If a person is allowed to leave Australia to work in another country, under the auspices of the religious order, then issues may arise whether the Church leadership itself has conspired to pervert the course of justice. If a person is overseas and serious issues about criminal offences have arisen in Australia and are being investigated by the Australian police, then the Church leadership in the country to which that person has gone should insist on their return to be interviewed by police in Australia, whether or not there is an extradition treaty between the two countries.

Of course, whether an individual priest or brother answers questions put to them by the police is up to them. They have the right to remain silent. The Church, for its part, should do what it can to ensure that it is cooperating with the police investigation to the greatest extent possible, by using its authority over those who remain submitted to the Church leadership. It should lend no assistance to an individual in frustrating a police investigation in a country which is committed to the rule of law and to procedural fairness in the conduct of criminal trials.”

This passage from my report is followed by the recommendation that:

The Church should cooperate with police investigations concerning offences of child sexual abuse or crimes of violence against adults by:

1. Requiring priests in a diocese, or members of religious orders, to return to the country where the alleged offences occurred and to cooperate with the police investigation and refusing to fund legal costs to fight extradition proceedings unless the Church authority receives written advice from senior counsel or other legal expert with expertise in the law of that country that there are reasonable grounds for grave concern that the person will be unable to have a fair trial if returned to that other country.
2. Taking disciplinary action against any priest or religious who fails to comply with such instructions.
3. Requesting Church authorities overseas to require priests or religious who are situated in the relevant country and wanted for questioning in Australia to return to Australia for the purposes of cooperating with a police investigation, and publicizing any failure by the overseas Church authority to do so.

I am not aware of any action that has been taken in response to this recommendation or that it has been adopted as the policy of the Catholic Church. It should be.

Conclusion

For the reasons given, I consider that the Church as a whole is no longer committed to the criteria by which it said it would be judged when it first promulgated *Towards Healing* in 1996. Those criteria are:

- Truth
- Humility
- healing for the victims
- assistance to other persons affected
- an effective response to those who are accused
- an effective response to those who are guilty of abuse and
- prevention of abuse

I say this as a friend of the Church, and as a fellow Christian. Neither friends of the Church nor fellow Christians can or should condone the way in which child sexual abuse has been covered up for so long, and with such devastating effects both on victims, and on the credibility of the Church itself.

There are many people involved in the *Towards Healing* process, and who have served on, or with, the National Committee for Professional Standards, who want to respond appropriately and compassionately to victims of child sexual abuse, and to repair the terrible damage to the reputation of the Catholic Church that the sexual abuse scandals have caused. I have been impressed by their integrity, honesty and dedication. Unfortunately, this good work is undone by religious Orders who continue to put their own protection ahead of the protection of children, and by those senior leaders in the Church who are complicit in the cover-up of their wrongdoing.

The Salesian issues demonstrate how far the Church still has to go in restoring public confidence and trust, and shows the need for the openness and accountability that it promised to the Australian people in promulgating *Towards Healing* so many years ago.

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