

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

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

Melbourne — 26 March 2013

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Mr B. Bartl.

The CHAIR — Good afternoon, everybody. Before we commence, I ask that the media follow the media guidelines and all members of the public gallery switch off their mobile phones. On behalf of the committee, I welcome Mr Bernd Bartl. Thank you for your willingness to appear before this hearing. 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. If your evidence contains adverse comments or allegations about any individual or individuals, I request that you do not refer to the name or names of that individual or those individuals. If you do make an adverse reflection about a person and name them, I will suppress that evidence.

This hearing is being recorded, and you will be provided with proof versions of the transcript. Following your presentation committee members will ask questions relating to the inquiry. Thank you for providing your initial submission and subsequent submission, and we look forward to hearing from you. Please commence when you are ready.

Mr BARTL — This is based to a significant extent on the experience of the second of our children, Anthony, who sustained quadriplegia after crossing the local road and being hit by a car, and his exclusion from his local Catholic primary school subsequently despite three applications to the equal opportunity commission and a number of legal agreements that were made both with the school, with the parish priest, with the archbishop and others.

My wife asked me, in relation to this supplementary submission, when she saw an early draft this morning, why I do not go into the details of Anthony. I do provide an outline of what happened to us in the initial submission, but today I really wanted to concentrate on what is directly relevant to this inquiry, which is the sexual abuse of particularly children, and in my case I am particularly concerned about what my church's position has been in relation to the sexual abuse of children. I will closely follow this written supplementary submission.

I, and I think many other Catholics, are deeply ashamed at what has been done and failed to be done in our names. But in my case also, I feel shame at failing to do something myself. For example, I could conduct a regular vigil outside the archbishop's residence or archbishop's office, or maybe outside the cathedral, in solidarity with victim survivors and in protest at their appalling treatment. I did conduct a silent vigil of such a kind, with a burning candle, on Friday evenings, for a number of weeks, outside our parish priest's house in solidarity with our son and in protest at his treatment by his local parish school.

I am also wanting to make it very clear that the position adopted by many Roman Catholic officials is not the official Catholic position, insofar as the occupying of an office is to 'do the work'. That is the original Latin derivation of term 'office', to do the work — that is, the work required by holding that office. Thus, being a member of the Catholic church and, concomitantly, the official Catholic position — it seems to me — entails following the example of Jesus.

Far too often the routine patterns of the church treat God as a tame, dumb, animal. When a couple of Kensington parish women learnt of our son being injured late on the afternoon of 19 November 1986 they told the parish priest about it, and a prayer was slotted into the 'prayers of the faithful' section of that evening's mass. A far more powerful prayer would have been to reconvene the mass at the hospital and let it take whatever form turned out to be appropriate, and that form may have borne little resemblance to a routine Catholic mass. After all, it was in response to an occasion which was not routine.

By the way, I do not in any way intend to be ungrateful for the prayers, but what I am suggesting is that the memory of the church is still able to respond in a routine way to the landmark major events such as birth, marriage and death, but the idea that God must be invited in, must be allowed to break in, whether at moments of great joy, of quiet meditation, but also at moments of shame or guilt or in crises, that idea now frequently escapes the notice of many Catholic officials.

In case I am misunderstood, I am pointing to a more general malaise, a losing of the way by the routinised church, which means that the Catholic Church has to be helped to see where it is failing to do its proper work.

Maybe another example will help here, to make the same point. When we wrote to the archbishop at the time about the refusal of the local Roman Catholic primary school to take our son back after being injured, the archbishop concluded his brief letter to us by saying that he would pray for us. However, ensuring our son would return to his school, or at least doing whatever the archbishop could do to bring that result about, was not

mentioned in the letter. That mode of action — that is, saying you will ask God to do something but fail to do what you can yourself — turns prayer into a subterfuge and is a kind of domestication of God.

To properly address the great wrong inflicted on many children and people entrusted to the care of Catholic officials and employees, an astonishing conversion of hearts would be required. For example, there is a Catholic practice of removing the consecrated hosts from the church tabernacle after the Holy Thursday mass — such as will be done on Thursday this week — also called the mass of the last supper, to indicate the suffering and death of Jesus and in particular his temporary absence between the crucifixion and resurrection. It seems to me proportionate to the catastrophe that sexual abuse and its large-scale cover-up and repeated collusion constitutes in the Roman Catholic Church that every church in the archdiocese follow this practice for, say, a year, each and every day, in solidarity with the suffering of hundreds of victims, not all of which are survivors, as we know. Nothing like this has even been done for a day in this archdiocese, and I am not aware of it being done in any other.

Saying the words ‘sorry’ or ‘apology’ or praying to God when there is a very real earthly action that could be initiated and continued is simply and grossly inadequate. In particular, proper restitution, restoration, redress — including punishment — and reconciliation for any wrong done, to the extent that is humanly possible, has to be an absolutely essential part of any ‘sorry’.

I speak about these things here, although they might be considered church matters, because the bureaucratic church institution has so far had little or no room for discussion of these matters, let alone serious action on them. I have no say in this church of which I am a part. I cannot initiate these things. I am not given that kind of standing within the church. Catholic officials do not listen to many of their own people and maybe do not listen to even most of them. I mean of course seriously, attentively, sensitively listening and then responding meaningfully. It is very hard for any of us — it is hard for me — to do this properly, but it is at the core of our humanity, and therefore we need to help each other to learn to do it. This inquiry, I would say, is one serious attempt to do so, and I want to firmly support the committee’s members and Parliament in this endeavour.

However, given the inquiry’s terms of reference, it is the state of Victoria and how it may share responsibility in permitting the Roman Catholic dioceses in its jurisdiction to avoid proper scrutiny and accountability, and the dioceses being required to provide redress, that I now want to briefly get to. This is about state laws and procedures that may impede proper scrutiny and accountability and allow Roman Catholic institutions to avoid restitution, restoration and redress.

I think it is an error to see any legislative or policy changes that this inquiry recommends and that Parliament accepts and implements as some kind of attack upon religion, religious organisations in general or the Roman Catholic Church in particular. I have already given one reason for thinking this would be an error — that everyone needs help to listen seriously, attentively and sensitively, and then to respond meaningfully, and most of all, those who need this help are those who think they do not need that help, who think they already know it all.

Secondly, any view that would characterise change in law or policy as an attack fails to see that present law and policy give special status to some religious organisations in numerous ways and, in some instances, give special treatment to all religious organisations; for example, in tax law exemptions and antidiscrimination law exemptions. However, the state should be extremely clear as to why it accords this special status to religious organisations and whether and to what extent it is actually appropriate to do so. I recognise that this inquiry is not inquiring generally into the special status of religious organisations in law or policy, but I do not think there can be any doubt that this inquiry has to grapple with elements of this question.

I have a couple of recommendations that you already received in my earlier submission. I do support the mandatory reporting of sexual abuse by officials and employees of churches and other religious organisations, including information gained in the privacy of the confessional. The second recommendation I have also already given to you. It is that not only should victims be able to claim compensation from the property of the church generally, which currently they are largely prevented from doing, but also that the Confiscation Act — I think that is the appropriate act — which allows for the confiscation of property that is involved in crime, be made clear such that the confiscation of property can and should apply to the Roman Catholic Church and other churches for crimes of sexual abuse.

There is a quick note that usually in these matters there is a question of causal nexus between the crime and the property to be confiscated. In Western Australia that nexus does not have to be direct. It seems to me, when you have people being shifted around from parish to parish and from school to school, that there is actually collusion by senior people in the church in the crime, whether intentionally or unintentionally, and that property is involved in those crimes. If it is easier for victims to gain compensation by going down this path once the person has been convicted, then I think that should be open to them.

The third recommendation is a new one which occurred to me subsequent to my submission of last September, and it is that very substantial public funds go to all manner of non-government organisations, whether they be religious, churches or other non-government organisations. It was originally envisaged as part of the Freedom of Information Act that non-government organisations can be put in a schedule at the end of the act. It seems to me that you should be able to make freedom of information requests that legally have to be complied with to not only schools and welfare organisations but also the archdiocese itself and the parishes to open up the whole operation of these institutions. If they accept public money, I think they need to be held publicly accountable. Thank you.

The CHAIR — Thank you, Bernd, for your presentation to us this afternoon. I would like to go to one of the areas that you have just spoken about in relation to a continued apology or sorry; they are words I think you said are grossly insufficient. In your submission to us you said:

In particular proper restitution, restoration, redress (including punishment) and reconciliation of any wrong done ...

I know that in one of your recommendations you spoke about the compensation element, but could you perhaps elaborate a little bit more and explain to the committee about those other elements that I have just highlighted to you in relation to restoration and reconciliation?

Mr BARTL — The days and years our son was barred from his local Catholic primary school, which he attended for nearly two years prior to his accident, cannot be restored; that time has flowed past. For somebody who has been sexually abused, on the face of it their innocence is enormously difficult to restore. But in so far as there can be any restoration, it involves the person who has done the wrong acknowledging that it was a wrong.

One of the very hardest things for our family, and I suspect for other people who have had wrongs done against them, is for the culprit or perpetrator to avoid, to resist, to fail to say sorry. I know with my children if I do the wrong thing by them and I do not say sorry, our relationship is in trouble. If I say sorry but I do not actually change my ways or do something to compensate for something I have done wrong, I lose their respect and the sorry is not taken seriously. These are very fundamental human realities.

There seems to be a kind of attitude amongst senior members of the Roman Catholic Church to which I belong that they are above the law or that simply saying sorry is enough but not actually following up on it. If I want to repair the relationship with my child, I at least have to be open to doing whatever that child tells me she or he is wanting to repair the relationship. That did not happen in our case. There was actually a meeting at the school at which I think a new parish priest said sorry, but then they broke another legal agreement subsequent to that. What is the purpose of saying sorry if you are not actually going to change what you do and try to repair things? That is the thing that worries me.

For a long time there were no apologies, either by the Vatican or in Australia. But then the words are meaningless if they are not followed by action. I guess the nub of my submission is to say that I think many people in the church to which I belong are incapable of doing the right thing.

The CHAIR — Is that changing their way? Is that what you mean?

Mr BARTL — Sorry?

The CHAIR — By changing their ways? Are they incapable of doing that?

Mr BARTL — Yes, exactly — changing the attitudes and realising that people who come to church are equal in God's eyes. It is not that there is one group of people who can do no wrong and another group of people who have to be told how to behave; we are all children of God and we all need to listen to each other. The bishop can learn as much and maybe far more from a person who has been abused by a fellow Catholic.

The CHAIR — Thank you for that clarification.

Mrs COOTE — Bernd, thank you very much indeed for painting your personal picture of your relationship with the church. You said that you are not in a powerful position within the church to be making major changes. Could you tell me, the other parishioners and people who would be in a similar circumstance to yourself in their relationship with the church, are they expecting from this inquiry that their church should make apologies and reparations? What would your understanding be of that?

Mr BARTL — My wife asked somebody who was at a shared table after mass last Sunday whether the school at which he is a senior administrator had dealt appropriately with any cases of sexual abuse. Tears started streaming from his eyes. He did not think it was particularly well handled. There are many people in the Catholic Church who want to see their official leadership listen to what is really needed to change. It feels almost absurd to say it, but to turn it into a more humane organisation. It operates close to a dictatorship, and that is not how Jesus operated. I do not believe the early church operated like that. There is an enormous yearning for a more humane response, a more just response, a more caring response. But there is also a strong tribal element, so some people when we complained to the Equal Opportunity Commission in relation to our son and the school would no longer talk to us. We were barred from reading at mass and we were barred from distributing communion. The Holy Thursday vigil was shortened because I used to stay quite late, and it meant I could not continue with that practice. Some people sided with the parish priest.

It is not clear cut, but I think there are a lot of people who have left the church; although the church we go to now says that the church has left them rather than that they have left the church. There is an enormous yearning for a church that reflects the teachings of Jesus.

Ms HALFPENNY — You are saying that many people have left the church. How many and for what reason do you think that is? Is it over a long period or a short period of time?

Mr BARTL — It has happened for years. I think the statistics are clear. I do not know them off the top of my head. Very few people who nominate to be Catholic on the five-yearly census actually attend church regularly or take some of the church's teachings such as contraception at face value. But yes, many people are disillusioned. The appalling lack of justice and compassion in relation to victims of sexual abuse is only one of a whole series of poor leadership aspects within the church, which is alienating members — —

Ms HALFPENNY — Just coming back to the child abuse, from your experience and observations as a parishioner has there been any leadership role taken by, for example, the parish priest in terms of raising this issue within the local church community?

Mr BARTL — I feel hesitant to say this, but no, not really. It is incredibly difficult. I was not going to say this, but I will say it. Some people may take offence at this, but it is meant as a serious comment. I compare the Catholic Church to one of the last Stalinist organisations on the planet. North Korea may be another one. I remember going to a conference and speaking to a Soviet diplomat quite a few years ago now and he explained to me democratic centralism. There is nothing democratic about democratic centralism: the very top level appoints the next level down and they tell the next level down who they can vote for, and so on all the way down. That is how the Catholic Church operates. It is not how Jesus operated. For any ordained priest to step out of line is incredibly difficult. The only way you can appeal a decision of the Archbishop in Melbourne — and we were confronted with this; we were thinking of tackling it internally by going against the Archbishop — is to go to the Vatican. There is a Vatican court — the Apostolic Signatura, I think it is called. So far as I can see, you have no hope of appealing against a decision of an archbishop or a bishop.

Mr O'BRIEN — Thank you, Bernd. I need to disclose for the record that I have known you in a former life. I have offered some advice to you. I also congratulate you to the extent that you have been able to achieve some successes, not total successes, in your advocacy for disability access. I also commend you on your advocacy on this issue.

If I could summarise and then ask you to elaborate, one of the points I have taken is that you have said that the first step is earthly actions and then the second step is prayers, in the sense that prayers and apologies — words without deeds — can be meaningless. What prospects do you think you have as a parishioner of convincing other parishioners of the need for that to take place via the hierarchy, as opposed to being further ostracised by a hierarchy they do not see is listening? That is the challenge you face as an advocate of this cause that you now

have in coming before us. I wonder what the prospects are and how you see yourself achieving some success there, if you can?

Mr BARTL — To be honest I think the chances are nil. Now that is not quite as hopeless as it sounds for somebody who thinks in religious terms. God does break in on people occasionally against their inclination. A public hearing like this, which may or may not get reported, where there is a public discussion — —

I know when I have done something wrong and somebody else points it out to me in front of other people, I am shamed by that usually. It is one of the ways that some realisation can grow that what I am doing or what anyone does, in terms of feelings of shame or guilt, is wrong. For God anything is possible. A friend of mine says the greatest miracle is that after 2000 years the Catholic Church still exists, given everything that it has done and failed to do. I can only do what I do, but recent history does not give me an enormous amount of hope that things will rapidly change.

Mr O'BRIEN — Thank you for coming before us, and I commend you to continue your advocacy. I know the success you eventually had partially in your other endeavours and the reasons why you sought that.

Mr WAKELING — Thank you very much for your presentation. Certainly in evidence throughout the course of our inquiry we have had many people that have talked about their legal action involving the Catholic Church and in particular its actions to try to put up a significant defence. That is obviously involving potential criminal behaviour and obviously brings into question the character and reputation of the Catholic Church. I am interested in that context in your actions involving the church. Can you just elaborate a little? It is my understanding that it was about the non-continuation of your child at a school. I am just asking for a comparison, because obviously I am assuming that you were not alleging that the Catholic Church was responsible for the action but that it was more about the capacity of your child to continue at the school. I just want to see if you can perhaps provide a bit of a link there.

Mr BARTL — Anthony was injured on 19 November 1986. He was in a coma for a month or more. We applied for him to return to the school the following year, 1987. The parish priest was enormously scared about this, because Anthony had high-level quadriplegia, so he relied on a ventilator to stay alive. It is a very serious injury, but he is actually relatively mobile in the sense that he can use an electric wheelchair, and the ventilator went on the bottom of his wheelchair, and he uses a mouth stick to work on a computer.

The Transport Accident Commission quite early on said they would pay for all reasonable costs. However, what the Catholic Education Office said formally was they wanted the Transport Accident Commission to say they would supply whatever the school requested. There was an impasse because the Transport Accident Commission said, 'It depends on whether what you request is reasonable. Our act says we must provide what is reasonable, but if you have an unreasonable request then we are unlikely to meet your request'. At that point we went to the Equal Opportunity Commission. I think that broke down late in 1987, in the sense that we had a conciliation meeting.

We were aggressively attacked by the lawyer representing the whole mob — the archbishop, the director of the Catholic Education Office, the parish priest and the school principal. However, as part of that agreement, or there was a summary of the meeting which was sent out to the parties subsequently, it was said that the school would not enrol Anthony the following year but that they would discuss with us how to enrol him in future. We waited some months and nobody contacted us, so at that stage I went to see the principal of the school and said, 'We were told that there would be discussions at the school to see that Anthony could enrol'. She said, 'Oh, were there? I will have to get back to you'. So I think there were two or three meetings that year, and again it was clear that the school did not want to take him.

I am not sure, but I either lodged another complaint or there was another mediation at the Equal Opportunity Commission. That is right, it was quite some time later, so we were getting close to the final year of Anthony's schooling. The agreement was that the school would set up an enrolment and support group, we took it, with a view to enrolling him. He had been going to the local state school, what I irreverently call the pagan school, for four years. It was demonstrated that he could do it. He was well integrated there. But I think it was at the very first of these so-called enrolment and support group meetings that the principal, a nun from the religious order of Mercy, said, 'You're talking as though your son is going to come back here'.

Mr WAKELING — That provides some explanation. It was a case of a dispute over the perceived capacity of the parish school to be able to provide appropriately for your child with respect to disability access.

Mr BARTL — That is how it was couched, but fairly early on it came to be seen by some parties as some kind of power struggle. How could we dare to dispute what the parish priest and others were telling us we could or could not do?

Mr WAKELING — Thanks, Bernd.

Mr O'BRIEN — Mr Wakeling just used a term that I used incorrectly — disability access. If I have learnt anything from your advocacy, it is all access or universal access, because as you have said to me, we are all only ever temporarily abled rather than disabled. I failed in that, and I correct Mr Wakeling. I have learnt something from you.

The CHAIR — Thank you for that correction, Mr O'Brien. Bernd, thank you very much for appearing before us this afternoon. On behalf of the committee, I again express our appreciation and thanks. Your evidence has been most helpful. Thank you.

Witness withdrew.