

**Further (final) submission to
Inquiry into the handling of Child Abuse by Religious and Other Organisations**

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What does what I have written so far have to do with the nub of the parliamentary inquiry's concerns:

Is the response to child sexual abuse, by non-government organizations, and by the Catholic church in particular, adequate? And, if there are serious inadequacies, is there anything the parliament or the government of the State of Victoria can do to remedy the inadequacies?

Restoration, and its relationship to compensation and punishment

I want to summarize here how the response (also intended to include lacks of response) of the Catholic church to sexual abuse by clergy, members of religious orders, and others, has been inadequate according to its own understanding of what to do in order to right a wrong.

I don't think the parliament or the government of the State of Victoria can do the Catholic church's job for it, but I want to show that measures available to be recommended by this inquiry may actually contribute to what the church organisation should be doing anyway but is frequently failing to do.

There have been apologies, sayings of 'sorry', by Roman Catholic church officials, for the sexual abuse in the church; but being sorry, knowing and feeling and expressing sorrow, is actually an acknowledgement of loss and ultimately needs to betoken a suffering-with and being-with the ones who have been wronged. Genuine suffering-with and being-with recognizes the common need for restoration, repairing or healing, and concomitant acceptance of one's own role in bringing about that restoration.

It is critical to note that someone other than the person who caused the harm or injury or damage can make a difference by saying 'sorry' and suffering-with and being-with the person who has suffered or is suffering harm, injury or damage. It is not trivial or nugatory, or it doesn't have to be, for someone other than the wrong-doer or person who has caused the damage to be sorry and say 'sorry'. It seems to be an astonishing fact of the human reality, that one person can substitute for another and make a real difference in righting a wrong or mending harm or damage. The difficult lesson to be drawn from this is that, in a way, when someone who has done damage, caused harm or has done wrong, yet is unable or unwilling to repair the damage, heal the injury or right the wrong, then others are called to act in the stead of the unable or unwilling. It is a very discomfoting thought, since

it suggests one should not and really cannot automatically wash one's hands off matters which one did not directly contribute to.

Thus there is nothing ridiculous in bishops, the Pope, and others, saying 'sorry' in cases where they have not directly done wrong themselves (but let me hasten to add, not intervening to prevent further sexual abuse, shifting abusers around where they could do further great wrongs, not assisting to bring abusers to the notice of police or, indeed, instructing people to not report crimes to the police, are direct and culpable wrongs).

But for the saying of 'sorry' to gain its full and proper meaning, whether it is saying 'sorry' on behalf of what wrong one has done oneself, or whether it is saying 'sorry' on behalf of what others have done, it has to be a promise to try and put things right: to repair the damage, heal the injury, or right the wrong. Of course a serious word like 'sorry' can be used glibly, but when sorrow about a wrong done is expressed in all seriousness one should mean what one says by uttering the word 'sorry'.

And the fullest meaning of 'sorry' is the determination to repair the damage, heal the injury, or right the wrong: that is, the determination to 'restore' what has been lost.

Restoration is critical to righting any wrong. 'Restoration' derives from the notion of restoring, rebuilding, re-establishing, renewing, and also of giving back. The idea is to bring back a good order that has been disrupted, harmed or violated; or, in other words, to manifest love and justice where their absence has brought damage or destruction, to show up good again in the world.

There are two parts to this righting of a wrong. The first part is to do what one can to alleviate suffering (including measures to prevent foreseeable further suffering), to make up for what has been lost and is causing suffering. But, secondly, it is only by the wrongdoer and others fully recognizing the wrong that has been done, by suffering the wrong as the wrong that it is (feeling it in their bones and gut), that restoration may be completed.

So, in the first place, restoration (repairing or healing), requires:

- a) acknowledging fully and openly that a wrong has been done (that is, realizing that it is admission of wrong done that deserves respect, not the pretense of nothing having happened or pretending that what has happened is minor);
- b) efforts to prevent good order being disrupted, harmed or violated again (eg. reporting sexual abuse to police, letting people in places where it has occurred know about the abuse and encouraging anyone else abused or knowing of abuse to come forward and providing support for that to occur, and precluding opportunities for the abuse to be able to occur again);
- c) doing what the wronged person gives to understand would help them to have faith in others and a good world again, where what is asked for relates to the wrong suffered (eg. maybe asking to meet with senior church officials in order to be heard, asking for an apology from designated people, receiving counselling from someone nominated by the wronged person, obtaining education or training or finding employment in a nominated supportive workplace after having been unable to hold down a job consequent to the abuse). Some of this may cost money, even large amounts of money, but given the money is available it is a prerequisite for genuine recognition of the loss, injury or harm that has been suffered, genuine recognition of the wrong that has been done.

But restoration, repairing or healing, does not stop there. There is, secondly, the very difficult matter of deep suffering-with and its role in asking for forgiveness and in giving

forgiveness. This final element of restoration may be too difficult, even impossible. It is to do with the asking for forgiveness, and the releasing from the wrong done by the person asked to forgive.

This part to restoration is enormously difficult, as I hope to explain, because forgiveness is not at all about anyone being let off the hook.

I am trying to differentiate what might be called 'bare' retribution (payback) or 'bare' compensation, from something deeper: differentiate these from a deeper understanding of what can be brought about through restorative suffering (as opposed to, say, inflicting punishment out of revenge). It is all too easy to think of general damages granted by a court as part of compensation for injury caused (for pain and suffering and loss of enjoyment of life) as a sweetener; that is, as something that will soften the loss of those things which cannot be given back or fixed. And it is all too easy to think of punitive damages or being sent to jail as the taking of revenge, as the taking of pleasure in inflicting misery on the one who has brought misery on the person wronged.

Instead, I think that such general or punitive damages ordered to be paid by the wrong-doer or those responsible for him or her, or the sentencing of a wrong-doer to jail, is a loss to be suffered by the wrong-doer, but a loss to help the wrong-doer better understand what she or he has done. My belief is that the need by some people to make themselves suffer, or some people willingly accepting suffering (punishment) that is meted out by others, when they have wronged someone; and the need by people who have been wronged to know that the wrong-doer suffers; has the same root cause and is actually to do with forgiveness.

I don't want to be misunderstood here. I say that, because I have had great difficulty in obtaining some clarity about this for myself. What I want to differentiate is the following: there can be pain, bodily pain, caused by some wrong-doing, such as being bashed up, or tortured, or hit by a car. And there can be the experience of loss, the feeling of loss, due to something that belongs to one now being destroyed or now being in the possession of someone else; and there is the feeling of loss from no longer being able to do things, losing capacities one once had. The pain may be able to be stopped or alleviated, the belongings replaced or brought back, the capacities revitalized or substituted for with mechanical or electronic aids or through the assistance of others. But none of that stopping, alleviating, replacing, bringing back, revitalization or substitution nullifies the wrong. The wrong has alienated the wrong-doer from the person wronged, it has separated them, and that alienation or separation is a suffering. In the first instance it is a suffering by the person wronged, because they experience the wrong as a wrong, and the person wronged is pretty clear that there is now a divide between themselves and the wrong-doer. What is often not at all obvious (with common exceptions such as a mother or father and a child that has wronged them) is that the deepest suffering is due to the divide; that a division or alienation between people is a wound in the body politic. If the wrong-doer felt the full force of the wound that his or her wrong-doing would open, then the wrong-doer would recoil from doing it. It seems to me, that what is sometimes called the sting, pang or prick of conscience, or, sometimes, a tortured conscience, is the realization by a wrong-doer of the meaning of what they have done. And it is in the full awareness of what the wrong-doer has done, and the suffering that that awareness brings to her or him, that the possibility of asking for forgiveness and (just maybe) the possibility of forgiving is opened up.

So that, for example, the loss of freedom of movement entailed by jailing is a bodily separation from much of the rest of the wrong-doers polity; but much of the importance of

this bodily separation is its conduciveness in aiding the wrong-doer to understand that they are separated from others in a much deeper sense: because of their wrong-doing and their inability to feel some of the real force of the wound that the wrong they did inflicted.

I don't believe that any of this is, on reflection, completely beyond the ordinary ken of people. Nevertheless, as I have said, I have had much difficulty becoming clearer about this myself and I have some difficulty in keeping a lively awareness of it from losing its vitality.

Having sought to briefly distinguish among different kinds of suffering, let me proceed again with the discussion of forgiveness.

Forgiveness can be thought of as a mutual giving. On the one hand, for the wrong-doer to truly ask for forgiveness, it seems to me, it requires him or her to fully live the suffering and anguish of the person who has been wronged: otherwise, how would the person seeking forgiveness really know what they are asking to be forgiven for? Here the wrong-doer is seeking to give her or his understanding of the other's suffering, to show that the wrong-doer is fully with the other, no longer in opposition. And, on the other hand, forgiveness by the person wronged, is begging of her or him to believe that they who have done the wrong are now so dramatically changed that they share a common understanding of the wrong done and that therefore the wrongdoer can be released of their guilt (since, if they are not dramatically changed they cannot really know what they have done and therefore cannot be unburdened of something they do not experience as carrying).

In this way, punitive compensation and punishment by jailing may be proper means for leading a wrongdoer to ask for forgiveness and may, but also may not, help the person wronged to open themselves to forgiveness. I am attempting to show how punishment will often be part of the overall end of restoration for the person who has been wronged as well as for the wrong-doer, and that resistance to bringing about punishment, and obstruction and avoidance of punishment for wrong-doers by church officials runs counter to a proper understanding of what may be required for restoration and for forgiveness as part of restoration.

Ultimately, I believe, for a Christian it may only be possible to forgive (especially if the person who has wronged one fails to acknowledge the wrong done or does not ask for forgiveness), by recognizing that the Christ has already suffered the depth of suffering that one has experienced and that he has suffered it entirely gratuitously. That is, that in some deep sense Christ has taken upon himself the suffering that the wrong-doer needed to suffer in order to recognize the wrong done to one. In coming to realize that the Christ has undergone the suffering that is requisite for a deep understanding of the wrong done to oneself, one may be helped to feel understood and may be helped toward forgiving those who do not understand what one has suffered. It may also be, that some inkling of the gratuitous suffering of the Christ, if a wrong-doer allows knowledge of this gratuitous suffering to stir in their consciousness, makes it possible for the wrong-doer to open themselves to feeling the suffering they have inflicted on another and may make it possible for them to overcome the fear of rejection and punishment which they anticipate should they admit their guilt to others.

What I have hoped to give a glimpse of here, is something of my religious understanding of what role punitive damages (as a part of compensation) and incarceration (as part of punishment or retribution) play in seeking restoration for a person who has been wronged. Suffering cannot be avoided by the wrong-doer if she or he wants to seek forgiveness; whether it be the conscious suffering-with and anguish from being open to what the person

wronged has undergone, or whether it is suffering decided on by others to try and help bring the wrong-doer to that conscious realization of the suffering he or she has inflicted (in an important sense both upon him- or herself and the person wronged). It is my belief that all human beings seek a good world, but all of us need much help in recognizing what is good, and all of us need help in asking for forgiveness and maybe even more so in wanting to forgive.

I think it is well to attend to the need for forgiveness to be asked for and for forgiveness to be given in order to fully restore a good world for people who have been wronged, but parliament and government do not have it in their power to bring this about. Nevertheless, by understanding the role compensation and punishment can play in fostering a recognition of the need for forgiveness, as part of a full picture of restoration, the clumsy measures available to parliament (legislation) and to government (policy and administration of policy) may be able to be better formulated and directed.

My care and concern for the Catholic church of which I am a member, in the way it has generally treated people sexually abused by some of its officeholders and employees, and the way it has often treated the friends and family of people sexually abused and advocates and supporters speaking on their behalf, comes down to this:

The Christian understanding of what restoration means in the face of a wrong is a deep and rich one, but instead of seeking greater clarity and deepening of that understanding by listening, really listening, to people who had been greatly wronged, and responding accordingly, on the contrary church officials have by and large slammed the shutters down and thereby betrayed the truth entrusted to them. In particular,

- a) I am ashamed that instead of Roman Catholic officials understanding restoration of right after a wrong having been done, in the most generous, compassionate and just way; and instead of understanding responsibility for restoration in its broadest terms (that is, that if others can make up for the inability or unwillingness of the wrong-doer, that the others should try to do so in the stead of the wrong-doer); instead of these understandings of what one should try to do, the Catholic official response generally has been to minimise help and support, to use every legal angle to prevent being held to account, and to dictate the terms of payouts through an internally determined and appointed system of adjudication;
and
- b) I am troubled by the ostensible shallowness of the understanding of what forgiveness entails, and by the apparent cheapening of forgiveness, in the example set by Roman Catholic officials of what to do about wrong-doing and wrong-doers. Punishment (of the wrong-doer) will often be part of the overall end of restoration for the person who has been wronged as well as for the wrong-doer, and that resistance to bringing about punishment, and obstruction and avoidance of punishment for wrong-doers by church officials runs badly counter to a proper understanding of restoration: where asking for forgiveness and letting oneself be open to forgiveness are understood as the proper end of restoring a good world.



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Bernd Bartl
25 April 2013

Addendum

I want to look at the words available in addressing injury or harm or damage or, at its most general, losses; in particular the words I had raised in my earlier submissions in this regard and which the Inquiry indicated some interest in. I did this as part of my thinking about what to best say in this further submission, and it may be helpful to the Inquiry.

'Restitution', 'restoration', 'reparation', and 'redress'

When I used the term 'restitution', I took it to mean the returning of something taken from someone (usually wrongly taken), returning something taken which belongs to the person from whom it was taken. This meaning appears in the earliest use of the word in "Anglo-Norman and Middle French *restitution*, *restitucion* (French *restitution*) action of restoring or giving back something to its proper owner, or of making reparation to a person for loss or injury previously inflicted (1251 in Old French), action or act of restoring a person or people to a previous status or position (a1365 or earlier)". The related but now obsolete 'restitue' deriving from "classical Latin *restituere* to set up again, re-erect, to reconstitute, to make healthy again, restore, to revive, to re-establish, to renew, to restore to a given position, status, or condition, to reinstate, to make good, to give back unharmed. And the original etymon, without the 're', derives from the "classical Latin *statūt-*, past participial stem of *statuere* to set up, to establish, to appoint, to decree, to settle, determine, to decide, resolve". In short, the term 'restitution' comes from the notion of returning to what had previously been established, or was previously settled or determined, or had previously been decided upon or resolved.¹

A similar tale can be told about other terms which are related to this notion of bringing back an earlier state or condition, of making up for an injury or harm or damage done: i.e. 'restore', 'reparation', and 'redress'.

Thus, 'restore' derives from the notion of "to restore, rebuild, re-establish, renew, in post-classical Latin also to give back". And 'reparation' goes back to "*parāre* to make ready, put in order" with the 're' prefix making this into the notion of making ready again, putting back in order (what is now out of order but was previously in order). 'Redress' relies on the root-meaning of setting on the right path plus 're', so that it is setting something or someone back on the right path (with 'dress' ultimately deriving from 'direct').

'Reconciliation' originates in the notion of bringing people together again, thus implying that something has separated or dispersed them. Here the attention is on what the injury or harm or damage has done to the relationship between people. So, at first it may seem that 'reconciliation' is different in character to 'restitution', 'restoration', 'reparation', and 'redress'. 'Reconciliation' differs in usually having a strong sense of requiring mutuality between people (although, think of 'reconciliation' of the financial accounts of a firm, where this need not be the case, at least not overtly).

But this is only an apparent difference. In the context of dealing properly with injury or harm or damage caused by one party to another, (and that is the context of this parliamentary inquiry and this submission to that inquiry,) there can be no 'restitution', 'restoration', 'reparation', or 'redress', without a mutual understanding of what is right and wrong, what is harm and injury and damage on the one hand, and what is faring well and being in good order on the other. Mutual understanding is a meeting of minds, a coming together in a much deeper sense than being in close spatial proximity or in the same room;

¹ This etymology of 'restitution', and the following summary of origins or roots of meanings, is taken from the online [Oxford English Dictionary](#), 3rd. ed., March 2010.

indeed, even a much stronger sense than that of consent to a bare form of words and an amount of money to seal that consent to a bare form of words.

Note, that what is implicit in the usage of every one of these terms is, that what one is returning to, what one is trying to bring back is something better than what is now the case. That is, at the most general understanding of them, these terms all rely on the idea that something important or vital or integral has been lost and that what has been lost can somehow be re-instated, re-established, revived, regained.

Thus, it is no accident that all of these words have 're' (again, back to, returning to a previous condition or state of affairs) as prefix, and one (namely 'reconciliation') has both 're' and 'con' (with, together) as constituent elements.

Finally, there are a couple of closely related words which, however, function differently.

'Retribution' and 'compensation'

'Retribution' originally applied to 'pay back' for what was owed, was someone's due, to give back what, in a sense, already belonged to someone, and was a term which applied equally to reward and punishment. The 're', here, is not a returning to a previous, better, condition or state, but a reciprocation, a giving back of what has been given out, in kind: that is, according to whether what has been given out is good or bad.

And the other term, namely 'compensation', is to do with weighing one thing against another; one might say, to even things up; generally, to make up for.

Now, these are terms of account: counting up what is owed or deserved. Neither the meaning of 'retribution' nor that of 'compensation' seems to require mutuality: the judging or assessing or accounting can be carried out by a third party, the judgement or assessment or amount required to balance the account can be arrived at by parties neither owed something nor owing to someone.

Nevertheless, the root-meaning of 'retribution' as a 'giving back of what is owed', a giving what is due, does have a stronger connection (than 'compensation') with the idea behind the words 'restitution', 'restoration', 'reparation', and 'redress'. I think this is probably because the idea of giving or taking what is owed, does have inherent in it the idea that this is part of good order, part of a good world.