

## Catholics for Renewal Inc

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20 September 2012

Family and Community Development Committee  
Parliament of Victoria  
Parliament House,  
Spring Street,  
East Melbourne  
Vic 3002

The attached submission to the Family and Community Development Committee of the Victorian Parliament for the Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations is lodged on behalf of Catholics for Renewal Inc., a national community-based group of Catholics.

We understand that the Committee's normal practice is to release submissions on its website at the time of reporting and that such submissions attract Parliamentary privilege. We are however aware that our submission challenges some positions adopted by the Catholic Church and believe that in the interests of accountability and transparency, the submission should be available for consideration by others to inform evidence before the Committee. We are also concerned to ensure our full accountability to our 8,000 plus supporters who signed an earlier statement supporting our concerns with the Catholic Church's approach to the sexual abuse crisis. For these reasons, it is our intention to make the submission available on our website and to interested parties, accepting that this action may mean that the submission does not attract Parliamentary privilege.

As office bearers of Catholics for Renewal, we are happy to respond to any queries from the Committee or its officers, and would welcome the opportunity to appear before a public hearing on the Inquiry by the Family and Community Development Committee of the Parliament of Victoria.

Peter Johnstone OAM  
Chairman

Frank Burke  
Secretary

**Catholics for Renewal Inc: Submission to Inquiry into the Handling of Child Abuse  
by Religious and Other Non-Government Organisations**

**SUBMISSION**

**TO**

**THE FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE  
OF THE VICTORIAN PARLIAMENT**

**FOR**

**THE INQUIRY INTO THE HANDLING OF CHILD ABUSE BY  
RELIGIOUS  
AND OTHER NON-GOVERNMENT ORGANISATIONS**

**BY**

**CATHOLICS FOR RENEWAL INC.**

*www.catholicsforrenewal.org*

**SEPTEMBER 2012**

**(Note: This submission is not confidential. Catholics for Renewal requests to appear  
before a public hearing)**

# Catholics for Renewal Inc: Submission to Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations

## EXECUTIVE SUMMARY

- Catholics for Renewal Inc was established in April 2011 as a national community-based group of Catholics committed to renewal of the Catholic Church so that it is Christian in all respects, in the pursuit of its mission and in its governance. (para 1)
- It is urgent for the Victorian government to address how religious and other non-government organisations respond to the criminal abuse of children as proposed by the *Cummins Inquiry*, to ensure that the State meets its responsibilities in addressing a significant area of child sexual abuse of grave concern to the Victorian community. (para 6)
- The extent of sexual and other abuse of children by religious personnel continues to be elusive due to factors such as limited reporting by intimidated children, the difficulty of successful prosecution, and poor record keeping. (para 18)
- It is hard to imagine a more exploitative abuse of the expectations and respect that Catholic children have for religious personnel, than the distinctive and evil effects of sexual abuse of minors. (para 20)
- The Church's response to the identification of religious personnel sexually abusing children was commonly to protect its reputation and that of the abuser, with little regard to a known victim or the exposure of future victims, and less regard for the Christian teachings that should have guided its response. (para 26)
- Dr Marie Keenan's ground breaking work in clerical child abuse in Ireland, published this year, locates the problem of such abuse not just within the individual psychology of the perpetrators, but also within the very cultural fabric of the priesthood and the governance structures and practices of the Church. (para 28)
- The institutional Church has in recent times belatedly acknowledged its complicity in this scandal and taken some steps to improve its handling of sexual abuse complaints. (para 31)
- Church leaders minimise the Church's own role in perpetuating the abuse, and their consequent responsibility
  - to identify problems inherent in Church decision making, and
  - to introduce reforms to Church governance. (para 33)
- In a recent pastoral letter concerning the Parliamentary Inquiry, Catholic Church leaders in Victoria have apologised again for the sexual abuse of children under the Church's care, and committed to "*continuing to take decisive action to protect our children*". The letter does not however apologise for the Church's past '*decisive actions*' to protect both perpetrators and the Church's reputation at the expense of innocent children. (para 36)
- The Church's child abuse complaints system fails to identify and prosecute offenders at the first sign of abuse. The internal complaints-based system appears to be based on a demonstrably false assumption that child victims will in fact complain, and such complaints are an adequate means of identifying and dealing with abusers. (para 39)
- The Church has forfeited any dubious claim to self regulation, an inappropriate and unjustifiable proposition for private policing of grave criminal conduct. (para 42)

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- Cardinal Carlo Maria Martini, a highly regarded cardinal who resisted attempts to elect him Pope in 2005 due to his terminal illness, gave his final interview just before his death on 31 August 2012, in which he rebukes the church — and by implication its leadership — for being “200 years out of date”. (para 44)
- Papal primacy and an ordained male hierarchical structure of governance are arrangements which are feudal in origin, and clearly in tension with modern values of good governance emphasising transparency, inclusivity and accountability. (para 45)
- The governance philosophy and practices of the Church involve a strong requirement of ultimate obedience to the *Pope*, involving for some a level of loyalty that can arguably be seen in practice as ‘blind obedience’. Keenan has observed that “*the role of obedience in the current crisis of child sexual abuse cannot be underestimated*” (para 46)
- Church leaders were often aware of the abuse of children by particular priests or religious in their charge but failed to act properly on that knowledge to protect the child from harm, with apparent endorsement from the Vatican. Many Church leaders shamefully colluded in covering up abuse and reassigning abusers to other ministry appointments. (para 51)
- There has been very limited discussion of the role of the Church’s “*theological beliefs and . . . structures that engender and maintain patriarchal views*” in the sexual abuse crisis, or questioning of a system of governance based on strong centralised global control, an inappropriate culture and structure, and institutional self-preservation. (para 54)
- Can a system of governance whereby all ultimate power is vested in **males** who are **celibate** and **often socially isolated**, and increasingly **aged**, understand and respond to social and spiritual needs of communities? It is difficult to conceive of any modern organisation with these features being seen as adequately responsive and accountable in the modern world. (para 55)
- The capacity of the Church to respond appropriately to the horror of the rape of children by some priests is further prejudiced by a totally celibate, totally male, and increasingly aged hierarchy. (para 57)
- Catholics for Renewal believes that a strong linkage has been established between the inadequacies of the Church’s governance and its self-protective response to the sexual abuse of children. (para 58)
- The *Cummins Report* saw mandatory welfare reporting as inappropriate for preventing the concealment of child abuse within religious organisations, and stressed the need for mandatory criminal reporting by all religious personnel at all levels. (paras 61, 62)
- The Archdiocese of Sydney has stated that priests “*who have committed crimes against children or pose a risk to them are **permanently removed** from public ministry*”. (para 71) and “*The policy of the (Sydney) Archdiocese is for allegations of sexual abuse to be reported to the police so that they can be investigated and dealt with through the justice system*”. (para 85)

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- The Victorian Church protocols do not require evidence of child abuse to be reported to State authorities for investigation and, where appropriate, prosecution. (para 75)
- State legislation to breach the ‘seal of confession’ would be ineffectual and would simply isolate the perpetrators from a potentially helpful source of guidance and contrition. Arguments for exempting matters arising in the sacrament of Reconciliation do not however seem to preclude the possibility of priest confessors giving conditional absolution, dependent on a ‘penance’ of reporting the sin/crime to the police. (paras 95-96)
- The Church has an accountability to God and to the people of the Church, and it also has an accountability to the State on matters pertaining to the State. It will take humility for the Church’s institutional leadership to acknowledge their failings - individually and collectively - and accept that its governance arrangements prejudiced its response to the abuse of children in its care. (para 100)
- There is a need for legislative change and also for change within religious and other non-government organisations to implement good governance structures and practices that ensure high levels of accountability including alertness to any criminal abuse of children and that all evidence of criminal abuse of children is brought to the attention of civil authorities. (para 102)
- Refer **RECOMMENDATIONS** at end of submission.

# **Catholics for Renewal Inc: Submission to Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations**

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

### **A Submission from Catholics for Renewal Inc.**

#### **INTRODUCTION**

1. Catholics for Renewal, incorporated in Victoria under the Associations Incorporation Act (1981), was established in April 2011 as a national community-based group of Catholics committed to renewal of the Catholic Church so that it is Christian in all respects, in the pursuit of its mission and in its governance.

2. Catholics for Renewal seeks to work within the Church to enable Catholics to address matters which concern the good of the Church, seeking renewal of the Church in the likeness of Christ, in keeping with their duty as members of the Church<sup>1</sup>. We received the support of more than 8,000 Australian Catholics who signed an Open Letter to Pope Benedict XVI and the Australian Bishops (Attachment A) last year, expressing a number of concerns about the Church's spirituality, governance and practices including:

*“Our Church has been tainted by injustice and blemished by bad decisions. We still reel from the sexual abuse scandal, where the Church's initial response was manifestly inadequate and where some authorities, in their attempts to protect the institution, exposed innocent young people to grave harm”*

3. Many of the on-line signatories to the Open Letter posted comments about their hopes and desires for Church renewal, especially expressing the need for reform of governance and decision making. Many expressed dismay and anger at the Church's handling of child sexual abuse. Some shared their personal experience of being abused by a priest or religious and the trauma occasioned by such abuse. Some recounted how Church cover up and denial in their particular cases had in fact compounded the initial act of abuse. Others spoke of how the abuse crisis had shaken their faith in the institutional Church and alienated them from the life of the Church. Some expressed their disillusion with the Church's mishandling of abuse complaints and demanded major reform of the Church's laws and practices.

4. In March 2012, Catholics for Renewal wrote to the Premier and relevant Ministers following the tabling in the Victorian Parliament of the Report of the Protecting

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<sup>1</sup> "Christ's faithful have the right, indeed at times the duty, in keeping with their knowledge, competence and position, to manifest to the sacred pastors their views on matters which concern the good of the church." (Canon 212, para 3)

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Victoria's Vulnerable Children's Inquiry (the '*Cummins Report*')<sup>2</sup>, supporting the Report's recommendations for:

- i. a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation (Rec. 47), and
- ii. a formal investigation into the processes by which religious organisations respond to the criminal abuse of children by religious personnel (Rec. 48).

5. This Inquiry is the first of its type in Australia. The O'Farrell government in New South Wales will "wait for the outcomes of this Victorian inquiry into the handling of child abuse by clergy before considering any action in NSW"<sup>3</sup>. The Queensland Child Protection Commission of Inquiry was established on 1 July 2012<sup>4</sup> with a broad brief not dissimilar to the Victorian Government's *Cummins Inquiry* to review Queensland's child protection system and report by 30 April 2013; media reports suggest that the Queensland Inquiry will consider some form of mandatory reporting for the clergy and other religious organisations.<sup>5</sup>

6. It is urgent for the Victorian government to address how religious and other non-government organisations respond to the criminal abuse of children as proposed by the comprehensive *Cummins Inquiry*, to ensure that action is at last taken for the State to meet its responsibilities in addressing a significant area of child sexual abuse, an area of grave concern to the Victorian community. Catholics for Renewal notes the importance of a national approach by governments and indeed by the Catholic Church in some aspects of these issues, and also notes the benefit of this Inquiry to national directions and in informing the thinking of other States and the Catholic Church.

7. The need for national approaches does not excuse the Victorian government from the need for immediate action in Victoria on the matters under consideration.

### **TERMS OF REFERENCE AND INQUIRY PROCESS**

8. In April 2012, the Government announced that it had established this Inquiry into the handling of child abuse by religious and other organisations, through the Family and Community Development Committee of the Parliament, to consider and report to the Parliament within 12 months on the processes by which religious and other non-government organisations respond to the criminal abuse of children by personnel within their organisations, including:

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<sup>2</sup> Cummins Report - *Report of the Protecting Victoria's Vulnerable Children Inquiry* (cited in this submission as *The Cummins Report*), January 2012, Department of Premier and Cabinet, Victoria, Australia

<sup>3</sup> Newcastle Herald, *Wait and see on clergy inquiry*, Thursday 2 August

<sup>4</sup> <http://www.childprotectioninquiry.qld.gov.au/about/commissioner>

<sup>5</sup> <http://www.theaustralian.com.au/news/nation/call-for-mandatory-reporting-of-child-abuse-for-queensland-churches/story-e6frg6nf-1226449239491>

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- the practices, policies and protocols in such organisations for the handling of allegations of criminal abuse of children, including measures put in place by various organisations in response to concerns about such abuse within the organisation or the potential for such abuse to occur;
- whether there are systemic practices in such organisations that operate to preclude or discourage the reporting of suspected criminal abuse of children to State authorities; and
- whether changes to law or to practices, policies and protocols in such organisations are required to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of such abuse.

9. This submission focuses on the Catholic Church and its responsibilities in purging the Church of sexual abuse of children under the care and pastoral oversight of its priests, religious and other personnel, and its responsibilities in bringing such criminal activity to the notice of the State's crime authorities. We do not focus directly on the role of other religious or non-government organisations covered by the terms of reference, but many of our concerns apply equally to other churches and non-government organisations. We address the terms of reference under the following headings:

- The Language of Sexual Abuse
- The Consequences of Abuse for Victims
- The Response of the Catholic Church
- Catholic Church Governance
- Reporting Child Abuse
- The 'Seal of the Confessional'

and conclude with Recommendations to the Family and Community Development Committee of the Parliament.

10. We note that the Inquiry will investigate past practice and future reforms for the handling of criminal abuse of children. Catholics for Renewal is reassured by the Committee's *Submissions Guide*, issued on 13 July 2012. In the Guide, the Committee makes explicit that under its terms of reference it is seeking information relating to:

- The causes and effects of criminal abuse within religious and other non-government organisations;
- Whether victims were in any way discouraged from reporting such abuse, either within the relevant organisation or to the police;
- If such abuse was reported, how the reporting of their experience of abuse was handled;
- The consequences of abuse, including the effect on the victims and others, and the consequences for the perpetrator(s);
- The adequacy of the policies, procedures and practices within religious and other non-government organisations that relate to the prevention of, and response to, child abuse;
- Suggestions for reform, to help prevent abuse and ensure that allegations of abuse are properly dealt with. This includes both reforms to Victorian laws and

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reforms to the policies, procedures and practices within religious and other non-government organisations.

11. In the Submissions Guide, the term “*criminal abuse of children*” includes:
  - a. Unlawful physical assaults;
  - b. Sexual abuse offences, such as rape or indecent assault under the Victoria Crimes Act 1958;
  - c. Any acts of criminal neglect that may give rise to child protection intervention under the Children, Youth and Families Act 2005;
  - d. Facilitating such offences by others.
  
12. We note that the Committee defines “*religious personnel*” as covering both ministers of religion and other lay personnel (at all levels), which also includes employees and volunteers acting within religious bodies or related organisations. We see this definition of “*religious personnel*” as including all Church officials at every level and we adopt this definition in our submission. This is particularly relevant to our views on mandatory reporting under the Crimes Act (see section below *Reporting Child Abuse*)
  
13. Catholics for Renewal has advised Government that for justice and healing to be done and seen to be done, the Inquiry must have appropriate and adequate staff to assist it in its work. Recent appointments of support personnel to assist the Inquiry are encouraging. To effectively address the complex issues before the Inquiry we believe that, in addition to legal and other specialist advice, the Inquiry needs access to theological expertise to explain Church governance practices to enable the Inquiry:

*“to inquire into and understand how certain aspects of the culture of the Catholic Church and other religious organisations have in the past allowed clergy sexual abuse to be tolerated and perpetrators shielded from the criminal consequences of their actions. Only with access to such expertise can the Inquiry break open this issue and engage the churches in reform of their practices.”* (Catholics for Renewal Letter to the Premier, 10 May 2012).

### **THE LANGUAGE OF SEXUAL ABUSE**

14. Catholics for Renewal feels that the horror of child rape and other forms of sexual exploitation of innocent children has been desensitised to some extent in the minds of the community by a form of horror fatigue and an understandable reluctance to confront the evil of adults in privileged and protected positions violating the innocence and trust of children.

15. In order to understand the imperative for an adequate response, we need to be constantly confronted with the evil nature of the abuse and the fact that abused children, particularly when the abuse is perpetrated by priests and religious, will likely be emotionally scarred for life and their opportunity for normal development gravely prejudiced. We discuss this further below (see section below *The Consequences of Abuse for Victims*).

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16. The community's reaction to, and their understanding of, the horror of sexual abuse in a recent ABC Four Corners program "Unholy Silence"<sup>6</sup> and a more recent 60 Minutes program "Breaking the Silence"<sup>7</sup> seemed to be enhanced by the raw emotion and appropriate use of explicit language to describe the nature of the sexual assaults involved. The term sexual abuse has possibly come to be inadequate for eliciting appropriate reactions to the horror of the acts involved and the consequent need for legislative action to protect children and to ensure that churches and other organisations are completely intolerant of sexual abuse of children in their organisations.

17. This submission will at times refer explicitly to forms of sexual exploitation such as child rape and we try to remain conscious of the terrible impacts of the crimes involved, to adequately reflect the gravity of the issue under discussion. It needs to be recognised that any form of sexual interference with a child is an abhorrent crime which can cause grave ongoing damage.

### **THE CONSEQUENCES OF ABUSE FOR VICTIMS**

18. There are clearly many child victims of sexual and other abuse by religious personnel. The extent of child abuse by religious personnel continues to be elusive across the world due to factors such as limited reporting by intimidated children, the difficulty of successful prosecution, and poor record keeping. Keenan cites the report of the John Jay College of Criminal Justice in New York, published in 2004, which found that allegations of sexual abuse were made against 4% of priests in active ministry in the USA during the period 1950-2002, and this study did not include many other priests and bishops named in relation to sexual abuse allegations for the same period after the study was completed.<sup>8</sup> In Australia, the full extent of sexual abuse of minors amongst religious personnel has apparently not been researched by the Catholic Church, but Broken Rites Australia reports 112 known cases where Catholic priests and religious have been convicted in Australian courts for child sexual offences.<sup>9</sup>

19. All cases of the criminal abuse of children have devastating effects on the abused victim. But it is the sexual abuse of children, ranging from inappropriate relationships to rape, where one sees most clearly the devastating consequences, more than any other form of criminal assault. The initial act of abuse brings pain, humiliation, guilt and anger. Time often does not assuage the hurt caused by the original act. Often, time exacerbates the original hurt and corrodes self respect, particularly where the abuser goes unpunished.

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<sup>6</sup> ABC Four Corners: "Unholy Silence", Monday 2 July 2012,  
<http://www.abc.net.au/4corners/stories/2012/06/28/3535079.htm>

<sup>7</sup> 60 Minutes, Channel 9, "Breaking the Silence", Sunday 16 September 2012,  
[http://sixtyminutes.ninemsn.com.au/video/?videoid=78c8a882-5aa2-4637-a492-8591f2019771&src=v5:posterframe:titleBar^link:&from=mpl\\_en-au\\_sixtyminutes\\_news^sixtyminutes^stories](http://sixtyminutes.ninemsn.com.au/video/?videoid=78c8a882-5aa2-4637-a492-8591f2019771&src=v5:posterframe:titleBar^link:&from=mpl_en-au_sixtyminutes_news^sixtyminutes^stories)

<sup>8</sup> Marie Keenan, *Child Sexual Abuse and the Catholic Church: Gender, Power and Organizational Culture*, Oxford University Press, New York, 2012, P.7

<sup>9</sup> Ibid, P.8

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Those sexually abused as children often have problems forming healthy sexual relationships based on love and trust, for the act of sexual abuse has robbed those words, 'love' and 'trust', of their meaning.

20. Sexual abuse of children by religious personnel shares all these features of abuse. But it is important for the Inquiry to confront the distinctive and evil effects of sexual abuse of minors by religious personnel whom children are taught to see as inherently virtuous. It is hard to imagine a more total contradiction of everything Jesus Christ stood for, or a more exploitative abuse of the expectations and respect that Catholic children have for priests and other religious personnel; it would be difficult to overestimate the pervasive and lasting harm it has done to victims, as well as the damage to the good works and the many good priests of the Catholic Church as the institution that provided and preserved links between the abusers and the abused. Bishop Geoffrey Robinson says that sexual abuse of a child is “a bulldozer gouging a road through this fragile ecosystem of love and meaning that a person has been painfully constructing”.<sup>10</sup>

21. Catholics for Renewal submits that there is always spiritual harm resulting from sexual abuse of children by religious personnel, for the abuse always violates the child's sense of wholeness and connectedness and hence the child's, and ultimately the grown adult's, sense of meaning and identity. Sexual abuse by a priest or religious destroys the answers that the religious beliefs have provided up to that point. The power that has been abused is a spiritual power, Robinson says, that “*allows a priest or religious to enter deeply into the secret lives of others*” and “*the link between the minister and the god can be impossible to break and it can almost seem as though the very god is the abuser*”<sup>11</sup>.

22. Robinson also makes the point that within a church community it is impossible to separate the victim's relationships with the abuser, with God, and with the community. The religious abuser will inevitably be a person of power and respect and will have greater status and credibility in the community than the child victim, a status and credibility which is used by the abuser to intimidate and silence the child. The abuser's reputation may carry far more weight than the word of a child victim, even with the victim's parents. All too frequently, faith communities have retreated into collective denial of clerical abuse and turned on the victim for identifying such a dark practice. Instead of finding support and understanding, a victim and their family can be left feeling unwelcome, isolated and ostracised. The harm to the abused child is compounded if church authorities appear to place the protection of the Church from scandal above the interests of the abused child. In such circumstances the entire community is seen by the child as joining in the rejection. Robinson concludes that “*the magnitude of the effect on the victim's world of meaning must be seriously compared with the abuse itself*.”<sup>12</sup>

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<sup>10</sup> Bishop Geoffrey Robinson, *Confronting Power and Sex in the Catholic Church; Reclaiming the Spirit of Jesus*, 2007, P.217

<sup>11</sup> Ibid, P.218

<sup>12</sup> Ibid, P.219

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23. In talking about the American experience of clerical sexual abuse, Richard Sipe<sup>13</sup> remarks that in addition to the physical effects on the child of the unwanted sexual encounter, the emotional damage that a victim suffers recalling the pain of the violation needs to be acknowledged. When priests are the abusers, the effects on children are long lasting and go well into adulthood. Further, sometimes the results of the abuse are irrevocably tragic, and suicide and attempted suicide by the victims of sexual abuse by a priest are common. For the victims and their families, sexual abuse is not just a single violent act but a life sentence. Catholics for Renewal commends the study of Sipe's research<sup>14</sup> and its relevance to the Inquiry.

### **THE RESPONSE OF THE CATHOLIC CHURCH**

24. The Catholic Church has responded inadequately and defensively to the exposure of its systemic failure to address child abuse appropriately, often seeking to avoid the issue and normalise the situation by references to widespread sexual abuse in other organisations and indeed predominantly in families. Many responses regret the criminal behaviour of abusers but fail to acknowledge explicitly the immoral and arguably criminal actions of Church authorities in seeking to protect abusers and the institutional Church at the expense of vulnerable children. The actions of some Church authorities throughout the world including Victorian dioceses in failing to report known child abusers to police and moving them to new parishes where they could violate other children seems to have been a scandalous attempt to protect perpetrators and the Church's reputation. The protection of the Church from scandal was put above the interests of children.

25. The Church's abysmal response cannot be justified by references to sexual abuse in other organisations or claimed lack of understanding. The Church's response is the more devastating because it conflicts fundamentally with its constant position and established teaching that sexual abuse of any kind, especially of children, is a very serious sin, and also conflicts with its mission to propagate Christ's teachings, a mission which should have informed an unambiguous and decisive response in the first instance. The Church's responses have generally ignored a critical need to reform the Church culture and governance framework that has contributed to the systemic failure to address child abuse appropriately, resulting in further abuses and the protection of perpetrators.

26. The Church's response to sexual abuse has been rationalised at times by a dubious reference to a general societal ignorance of the nature and the impact of child abuse. Catholics for Renewal considers the reference to alleged societal ignorance to be irrelevant and does not accept that the Church, founded on the teachings of Christ, can justify in this way its at times criminal response directed to institutional protection without regard to the exposure of vulnerable children. The identification of religious personnel sexually abusing children always involved one or many child victims, but the

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<sup>13</sup> A. W. Richard Sipe, *Sex, Priests and Power - Anatomy of a Crisis*, 1995. Pp. 38-39

<sup>14</sup> Also A. W. Richard Sipe, *A Secret World - Sexuality and the Search for Celibacy*, 1990

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Church's response was commonly to protect its reputation and that of the abuser, with little regard to a known victim or the exposure of future victims, and less regard for the Christian teachings that should have guided its response.

27. A current Inquiry in NSW by Antony Whitlam QC on behalf of the Catholic Dioceses of Armidale and Parramatta is relevant<sup>15</sup>. That inquiry is examining allegations of mismanagement and possible concealment of evidence from police in the case of the serial sex offender Father "F". Also of interest is the current reporting of the case of the serial sex offender and former priest Peter Chalk where reports indicate that his religious order was aware of his abusive activity and did not report their concerns to the police, and compounded their culpability by actively discouraging victims from reporting this criminal abuse to police<sup>16</sup>. This matter has resulted in a senior priest on the governing board of a Canberra Secondary school reportedly being asked to stand aside because of his failure to alert police to multiple child abuse allegations involving Chalk in the late 1980s and early 1990s<sup>17</sup>. There has also been a recent report of a police strike force in NSW formed to investigate whether past and present church leaders had failed to report a serial child-sex offender to police.<sup>18</sup>

28. Dr Marie Keenan's ground breaking work in clerical child abuse in Ireland, published this year<sup>19</sup>, locates the problem of such abuse not just within the individual psychology of the perpetrators, but also within the very cultural fabric of the priesthood and the governance structures and practices of the Church. Her findings are drawn from 15 years of research working with perpetrators and their victims and study of reports of sexual abuse by religious personnel throughout the world. We know of no contemporary research of this type and quality available in Australia.

29. Keenan suggests (after Greeley<sup>20</sup>) that 'clerical culture' imposes "an iron law of denial and silence on priests that contributes to many of the problems in the priesthood today."<sup>21</sup> Keenan continues:

*"Within such a clerical culture, human frailty is concealed and the lived reality of many priests and religious is ignored or obliterated. The result can be disappointment, isolation, and loneliness."*<sup>22</sup>

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<sup>15</sup> <http://www.smh.com.au/national/retired-judge-whitlam-heads-inquiry-into-church-handling-of-father-f-20120717-228cp.html> Retired judge Whitlam heads inquiry into church handling of 'Father F' Sydney Morning Herald, 18 July 2012

<sup>16</sup> *Secret tapes reveal church reluctance to report abuser*, Sydney Morning Herald, 18 August 2012

<sup>17</sup> *Senior Catholic asked to stand aside*, The Age, 20 August 2012

<sup>18</sup> Herald Sun, 31 July 2012 *Senior Catholic priests in child-sex cover-up inquiry*

<http://www.heraldsun.com.au/news/national/senior-catholic-priests-face-child-sex-cover-up-charge/story-fndo48ca-1226439245629>

<sup>19</sup> Keenan, op.cit.

<sup>20</sup> Greeley, A.M., *Priests: A Calling in Crisis*, Chicago and London, University of Chicago Press, 2004, P.104

<sup>21</sup> Keenan, op.cit. P.41

<sup>22</sup> Keenan, op.cit., P.41, quoting Greeley, op.cit. P.107 and Ranson, D. 'The climate of sexual abuse' in *The Furrow*, 53(7/8), P.394

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30. Keenan identifies a clerical culture requiring conformity, based on secrecy and denial of male expression and emotion. Dr Keenan offers a series of recommendations that calls for radical institutional reform before a more representative and accountable church can emerge. Catholics for Renewal commends the research of Dr Keenan and its relevance to the Inquiry.

31. Catholics for Renewal notes that the institutional Church has in recent times belatedly acknowledged its complicity in the scandal of child abuse including the rape of children by a significant number of religious personnel, and has taken important steps to improve its handling of sexual abuse complaints. Of relevance to this Inquiry is the Catholic Archbishop of Melbourne's *A Pastoral Letter on Sexual Abuse*<sup>23</sup>, in particular the following extracts:

*"With great humility we acknowledge that the crimes of the perpetrators have done great harm. We recognize that in the past we have not always dealt appropriately with offenders. We have had to learn from our mistakes and continue to do so."*

...

*"Sexual abuse in any form, and any attempt to conceal it, is a grave evil and is totally unacceptable. As Christ's Church we must face up to the truth of these revelations and not attempt to disguise, diminish or avoid in any way the actions of priests and religious who have betrayed their sacred trust"*

...

*"We receive few complaints of abuse that has taken place since the 1970s"*

32. Bishop Peter Connors, the Victorian Bishop of the Ballarat Diocese (retiring from the role in October 2012), also issued a pastoral letter<sup>24</sup> which included the following comments:

*"I am appalled by the suffering that has occurred. (The victims') families, too, have been devastated by the harm to their loved ones, and by the violation of the trust they placed in figures they once respected and admired."*

...

*"I wish to express my sincere regret and apology for the suffering and trauma caused by the actions of some of our priests. I am also aware that the response of the church to this issue in the past has sometimes increased people's anger, confusion and disappointment. For this I also apologise."*

...

*"Although I am relieved that there have been no complaints against the actions of priests alleged to have occurred over recent years, I reaffirm my wish for victims of sexual abuse to come forward and my commitment to doing all in my power to assist them."*

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<sup>23</sup> Archbishop Denis Hart, *A Pastoral Letter on Sexual Abuse*, 1 July 2010

<sup>24</sup> Bishop Peter Connors, *Towards healing – A Pastoral letter on Sexual Abuse*, 25 March 2007,

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33. It is good that bishops have been prepared to make these profound statements and to admit the horror of child abuse within the Church. However, seemingly implicit in the Church's response to clerical sexual abuse is the suggestion that the worst of the abuse is over, that the current internal processes for the handling of sexual abuse complaints provide a just balance between the rights of an abused child and the alleged abuser, and that the processes are adequate for the complaint to be investigated thoroughly and the abuser prosecuted according to law. Church leaders tend to minimise the dimension of the Church's own role in perpetuating the abuse, and their responsibility to identify problems inherent in Church decision making and to introduce reforms to Church governance.

34. The internal Church processes for dealing with the aftermath of sexual abuse are discussed in more detail later in this submission (see sections below, *Catholic Church Governance* and *Reporting Child Abuse*). *The Melbourne Response*<sup>25</sup>, established in 1996 and since reviewed, is a complaints-based process for considering the provision of compensation and support in the light of complaints of sexual and other abuse perpetrated by religious personnel under the control of the Archbishop of Melbourne.

35. In a homily Sunday 10 September 2012, Sydney priest Peter Maher pointed to the role of the "culture of clericalism" in sexual abuse and said there's an absence of "*any form of dialogue that might privilege the victim's stories . . . the first step in healing and reconciliation*"; and "*Church representatives are still trying to address this tragic abuse from a position of power . . . I think it's time to be more real and recognise that it is primarily an institutional failure: a failure to recognise that unfettered clerical power created a climate in which on-going abuse could go on unabated.*"<sup>26</sup>

36. In a recent pastoral letter to Catholic parishioners throughout Victoria concerning this Parliamentary Inquiry, Catholic Church leaders in Victoria have apologised again for the sexual abuse of children under the Church's care, and committed to "continuing to take decisive action to protect our children"<sup>27</sup>. The letter does not however apologise for the Church's past 'decisive actions' to protect both perpetrators and the Church's reputation at the expense of innocent children. The letter warns parishioners: "*During the Inquiry, you may hear disturbing reports of cases in our past when Church processes to prevent and respond to abuse failed the children in our care*" – a disturbing understatement of the Church's culpability. Similarly, the Archbishop of Melbourne stated in his pastoral letter of 1 July 2010 that he had been "*much encouraged by Pope Benedict XVI who has never shirked the issue, and has been at great pains to apologise to victims*", and then quotes extensively from the Pope, quotes which apologise for the

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<sup>25</sup> *Sexual and Other Abuse - The Melbourne Response*, Catholic Archdiocese of Melbourne, undated (originally released in 1996, revised February 2011)

<sup>26</sup> CathNews, Blogwatcher, 9 Sep 2012 and: <http://petermaher.blogspot.com.au/2012/09/no-more-secrets-homily-for.html>

<sup>27</sup> Pastoral Letter on [the Victorian Government Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations](http://www.ballarat.catholic.org.au/newsevents/view_article.cfm?id=426&loadref=430), 21 August 2012, [http://www.ballarat.catholic.org.au/newsevents/view\\_article.cfm?id=426&loadref=430](http://www.ballarat.catholic.org.au/newsevents/view_article.cfm?id=426&loadref=430)

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‘misdeeds’ of abusers but fail to acknowledge or apologise for the unethical and apparently criminal behaviour of the Church in dealing with the abuse and abusers.<sup>28</sup>

37. In its submissions to the *Cummins Inquiry*, the Church stated that the majority of clergy sexual abuse cases within the Melbourne Archdiocese relate to abuse committed decades ago. This view is inadequately based on a system dependent on the receipt of complaints. The Cummins Inquiry was told that in nearly all cases the subject of complaints took place before the Archdiocese implemented its current procedures and processes to provide internal safeguards for the reporting of abuse<sup>29</sup>. Similarly, the implication in the statement “*We receive few complaints of abuse that has taken place since the 1970s*”<sup>30</sup> is that there have been few abuses that have occurred “*since the 1970s*”. Such claims fail to accept that these complaints, mostly from adults about their experience as children, are likely to identify only some victims from the past and are unrepresentative of the multitude of past or present child victims, given that child victims will be in fear of telling even their parents and are most unlikely to come forward as children at the time of the abuse, and many are reluctant to come forward even as adults.

38. The Cummins report observed that “*the ‘reverencing of church leaders’ can lead to a reluctance of victims to speak up . . .*”<sup>31</sup>, reluctance that applies particularly to sexually naive children taught to revere their priests and other religious as representatives of God in their lives. It can be confidently assumed that children abused by religious personnel suffer not only the horror of a sexual abuse they don’t understand but are effectively denied the comfort of complaining due to the respect in which the abuser is held by society, including their parents, and the often chilling threats from the ‘respected’ abuser. As adults, many complainants have had to overcome a shame regarding the threats and guilt laid on them by the perpetrators, and/or reluctance to relive the horror of their childhood trauma. Many will not come forward even as adults, despite the occasional offensive suggestion that the attraction of financial compensation is sufficient to overcome such trauma.

39. A complaints-based system fails to respond with the immediacy required to identify and prosecute offenders at the first sign of abuse, in order to protect current and likely child victims. An internal complaints-based system would also appear to be based on a demonstrably false assumption that child victims will in fact complain, and such complaints are an adequate means of identifying and dealing with abusers. If further abuse of victims is to be avoided, evidence implicating suspected perpetrators must be brought to the attention of State authorities at the time of any reasonably suspected abuse by anyone who can identify them. The churches and other organisations having responsibilities with children must strive to be alert to abusers and to seek by every reasonable means to identify them and to report them to civil authorities. As an American writer observes, “*Whenever a perpetrator and his or her enablers are stopped and*

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<sup>28</sup> Archbishop Denis Hart, op. cit.

<sup>29</sup> Cummins Report, op.cit. 14.4.7

<sup>30</sup> Archbishop Denis Hart, op.cit.

<sup>31</sup> Cummins report, op.cit. 14.5.2

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*publicly identified, there is a strong likelihood that future crimes will be prevented*<sup>32</sup>. Of course the corollary of this observation is that those crimes will continue until the perpetrator is stopped. The same writer observed: *“The primary barriers to legislative reform to aid victims of sexual abuse as children in the United States are the state Catholic (bishops) conferences, which lobby state governments”*.<sup>33</sup>

40. Catholics for Renewal considers it naive and dangerously misleading to accept that clerical abuse of children is an historic matter, that complaints (mainly from adults for past abuse) are an adequate indication of the current level of abuse. The Church's past denials, concealment and inadequate regard for vulnerable children exacerbated the rapes and other sexual assaults on children. Many sources of evidence for these views are available<sup>34, 35, 36</sup>. The Church now needs to accept the horror of these insidious crimes, which of their nature are difficult to expose, and further to commit to actively identifying all instances of child abuse, to reporting all cases that come to its attention, to never again hide their knowledge of child abusers from the criminal justice system, and to focus on a response of the highest integrity and effectiveness working in cooperation with civil authorities.

41. We are pleased to note Archbishop Hart's acceptance that *“in the past we have not always dealt appropriately with offenders”* and *“any attempt to conceal (sexual abuse) is a grave evil and is totally unacceptable”*<sup>37</sup> and Bishop Connors' acknowledgement that *“the response of the church to this issue in the past has sometimes increased people's anger, confusion and disappointment”*<sup>38</sup>. Catholics for Renewal submits that it is in the public interest to understand the past for the lessons it provides in reviewing structures and practices, in identifying deficiencies in governance that contributed to the 'inappropriate' responses, and in improving current policies for the handling of child sexual abuse complaints.

42. We firmly submit that as a consequence of the Catholic Church's appalling record in the area of child sex abuse, including concealment and protection of perpetrators at the expense of further abuses, the Church has forfeited any dubious claim to self regulation, an inappropriate and unjustifiable proposition in any event for private policing of grave criminal conduct. Only the State with its duty to act on behalf of all its citizens can be properly accountable for a comprehensive framework to safeguard all vulnerable children. This duty cannot be delegated to any religious or non government organisation.

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<sup>32</sup> *America* (journal), What the Clergy Abuse Crisis Has Taught Us, Marci A. Hamilton, 25 Sep. 2006

<sup>33</sup> *ibid*

<sup>34</sup> Geoffrey Robertson QC: The Case of the Pope, Vatican Accountability for Human Rights Abuse, 2010 – Catholics for Renewal quotes this book as a useful source of relevant references and evidentiary material, not to endorse necessarily the author's thesis or arguments).

<sup>35</sup> Bishop Geoffrey Robinson, *op. cit.*

<sup>36</sup> Marie Keenan, *op.cit.*

<sup>37</sup> Archbishop Denis Hart, *op.cit.*

<sup>38</sup> Bishop Peter Connors, *op.cit.*

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### CATHOLIC CHURCH GOVERNANCE

43. The Inquiry's terms of reference seek a focus on the practices, policies and protocols of religious and other non-government organisations for the handling of allegations of criminal abuse of children, and whether there are systemic practices in such organisations that operate to preclude or discourage the reporting of suspected criminal abuse of children to State authorities, and also whether changes to law or to practices, policies and protocols in such organisations are required.

44. Cardinal Carlo Maria Martini, a highly regarded cardinal who resisted attempts to elect him Pope in 2005 due to his terminal illness, gave his final interview just before his death on 31 August 2012, in which he rebukes the church — and by implication its leadership — for being “200 years out of date”:

*“Our culture has aged, our churches are big and empty and the church bureaucracy rises up, our rituals and our cassocks are pompous,” and “The church must admit its mistakes and begin a radical change, starting from the Pope and the bishops. The paedophilia scandals oblige us to take a journey of transformation.”*<sup>39</sup>

Church insiders believe that Cardinal Martini wished for the interview to be a sort of “spiritual testament” to be published after his death.<sup>40</sup> It is instructive that he saw the ‘paedophilia scandal’ as demonstrating the need for ‘transformation’.

45. It is clear that the Church's system of governance, essentially a feudal or monarchical system with ultimate central control, has been a major factor in the Church's apparent disregard for laws of the State in its response to crimes against children committed by religious personnel<sup>41</sup>. Papal primacy and an ordained male hierarchical structure of governance are arrangements which are feudal in origin, and clearly in tension with modern values of good governance emphasising transparency, inclusivity and accountability. Canon law requires “submission of the will to legitimate superiors, who stand in the place of God, when they command according to the proper constitutions”<sup>42</sup>.

46. The corrosive influence of sexual abuse within the Church has left many priests and religious ethically conflicted when confronted with child abusers within their ranks and “legitimate superiors” who acted unethically in dealing with such abuse. The governance philosophy and practices of the Church involve a strong requirement of ultimate obedience to the Pope, involving for some a level of loyalty that can arguably be seen in practice as ‘blind obedience’<sup>43</sup>. Keenan has observed that “obedience is one of the central

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<sup>39</sup> CathNews USA September 4, 2012: <http://www.cathnewsusa.com/2012/09/vatican-is-rocked-by-cardinal-martinis-damning-words-from-beyond-the-grave/>

<sup>40</sup> Ibid.

<sup>41</sup> Bishop Geoffrey Robinson, op. cit.; Geoffrey Robertson QC, op.cit.;

<sup>42</sup> Canon 601

<sup>43</sup> See a helpful discussion of this issue in Keenan, op cit. P. 223

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*features of governance for the Roman Catholic Church in exercising authority”<sup>44</sup> and that “the role of obedience in the current crisis of child sexual abuse cannot be underestimated”<sup>45</sup>.*

47. Some would argue that the Catholic Church’s central control is constrained by a history of very local authority. Certainly the Church has been credited with substantial contributions to the principle of subsidiarity whereby decisions are taken by the competent authority closest to those affected. In practice however, the application of that principle varies according to the Vatican’s practice and, despite strong support for subsidiarity and collegiality at the Second Vatican Council 1962-65, the Church remains an institution where there is considerable central control and strong direction in practice, and the evidence indicates that this has been the case with the child abuse scandal..

48. In April 2010, Fr Hans Kung, an internationally eminent theologian and critic of the Catholic Church’s governance who served as an expert theological advisor to members of the Second Vatican Council, wrote an open letter to all Catholic bishops published in the Irish Times entitled ‘*Church in worst credibility crisis since Reformation*’<sup>46</sup>. In that letter, Fr Kung observed:

*“There is no denying the fact that the worldwide system of covering up cases of sexual crimes committed by clerics was engineered by the Roman Congregation for the Doctrine of the Faith under Cardinal Ratzinger<sup>47</sup> (1981-2005). During the reign of Pope John Paul II, that congregation had already taken charge of all such cases under oath of strictest silence. Ratzinger himself, on May 18th, 2001, sent a solemn document to all the bishops dealing with severe crimes (“epistula de delictis gravioribus”), in which cases of abuse were sealed under the “secretum pontificium”, the violation of which could entail grave ecclesiastical penalties.”*

49. The “*oath of strictest silence*” implicitly directed non-compliance with any requirement of civil law or conscience to report a criminal offence to civil authorities. Kung’s claim has been evidenced by many other sources, e.g. Geoffrey Robertson QC<sup>48</sup>. The Catholic Church attributes to the Pope “*full, supreme, and universal power over the whole Church, a power which he can always exercise unhindered*”<sup>49</sup>.

50. Catholics for Renewal is aware of support by some Church authorities for reporting criminal sexual abuse of children by religious personnel to civil authorities. However, that attitude has not emerged until recently. The role of the Vatican in the sexual abuse scandal was made clear in last year's 400-page report into abuse in the Diocese of Cloyne. Judge Yvonne Murphy highlighted the relevance to the Cloyne events of a

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<sup>44</sup> Keenan, op.cit. p. 156

<sup>45</sup> Keenan, op.cit. P.224

<sup>46</sup> Hans Kung, The Irish Times, Fri. 4 April 2010

<http://www.irishtimes.com/newspaper/opinion/2010/0416/1224268443283.html>

<sup>47</sup> Pope Benedict XVI since April 2005

<sup>48</sup> Geoffrey Robertson QC op. cit. P. 43

<sup>49</sup> Catechism of the Catholic Church, 882

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'strictly confidential' letter sent to all Irish dioceses in 1997 by papal nuncio Archbishop Luciano Storero. The papal nuncio's letter expressed "*serious reservations of both a moral and canonical nature*" about a proposal from the Irish bishops to make the reporting of child sex abuse allegations to the civil authorities mandatory.<sup>50</sup>

51. The sexual abuse crisis in the Catholic Church has been exacerbated by the Church's governance arrangements. Church leaders with authority over, and accountability for, religious personnel officiating in their jurisdiction were often aware of the abuse of children by particular priests or religious in their charge but, with apparent endorsement from the Vatican failed to act properly on that knowledge to protect the child from harm. Further, there were many instances where leaders shamefully colluded in covering up the abuse and reassigning the abuser to another ministry appointment within their jurisdiction or to the jurisdiction of another Church leader. We submit that church leaders hold considerable power and authority in the Catholic Church which warrants specific attention in considering mandatory reporting arrangements.

52. It is important for civil governments to be aware of the authority of the Pope and the Vatican hierarchy in directing the affairs of the Catholic Church, and the consequent importance of clear civil laws in reflecting the values of the State and its citizens. From a religious perspective and indeed most perspectives, the laws of the State cannot and should not be accepted uncritically if they are contrary to Church doctrine; for the Catholic Church, possible laws countering the 'seal of the confessional' would be such an issue and that issue is addressed later in this submission. Any conflict that exists needs to be addressed and the Church may at times see good reason for resisting civil law that conflicts with doctrine, but the protection of children is a fundamental responsibility of the State which should be fully endorsed by the Catholic Church and all other religious and corporate entities, and requires enforcement under the criminal law. The Church, in its law and in its actions, must support the legitimate authority of the State to investigate and prosecute child sexual abusers within its ranks.

53. The Cummins report observed that:

*"a good organisational approach to risk management of child abuse would incorporate an understanding of:*

- . . .
- *How theological beliefs and church structures that engender and maintain patriarchal views can operate to undermine the ability of a victim to speak up, and to expect that appropriate criminal action can take place;*
- . . ."<sup>51</sup>

54. There has been very limited discussion of the role in the sexual abuse crisis of the Church's "*theological beliefs and . . . structures that engender and maintain patriarchal*

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<sup>50</sup> Belfast Telegraph Friday, 23 March 2012 <http://www.belfasttelegraph.co.uk/opinion/columnists/eamon-mccann/vaticans-empty-gesture-is-betrayal-of-abused-children-16134489.html>

<sup>51</sup> Cummins report, op.cit. 14.5.2

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views”, or questioning of the systemic failure of the Church itself in responding to this criminal behaviour, immoral and arguably criminal responses facilitated by a system of governance based on strong centralised global control, an inappropriate culture and structure, and institutional self-preservation.

55. A further question has to be addressed, namely whether a system of governance whereby all ultimate power is vested in **males** who are **celibate** and **often socially isolated**, and increasingly **aged**, is able to understand and respond to social and spiritual needs of communities. It is difficult to conceive of any modern organisation with these features being seen as adequately responsive and accountable in the modern world. This is a question for the Church itself in addressing its spiritual mission, but it is also a question for the State in addressing its legislative responsibilities.

56. There has been some small recognition of the impact of male exclusivity in Church governance by including some women in roles that are not central to governance. These changes, while welcome in themselves, are minimalist and do not address the fundamental dysfunctional features of Church governance where the Church’s response has been effectively to exacerbate the situation by emphatic reinforcement.

57. There is a difficult question as to the possible dysfunctional role of celibacy in informing the response of the Church to issues of sexuality as well as the possible relationship to deviant sexual behaviour. Catholics for Renewal respects highly and commends the spiritual commitment of those who choose celibacy, but we question the appropriateness of compulsory celibacy as a precondition for priesthood. We fear that the capacity of the Church to respond appropriately at an institutional level to the horror of the rape of children by some priests is further prejudiced by a totally celibate, totally male, and increasingly aged hierarchy.

58. Catholics for Renewal believes that a strong linkage has been established between the inadequacies of the Church’s governance and its self-protective response to the sexual abuse of children. Despite recent attempts by various Church authorities to correct that response, the dysfunctional governance systems remain and create a grave responsibility for the State to legislate to ensure the reporting of child abuse in the future. Catholics for Renewal is not aware of any evidence that the Catholic Church has questioned the role of its dysfunctional system of governance despite observing in its responses in Victoria that “*Church processes to prevent and respond to abuse failed the children in our care*”<sup>52</sup> and that “*church officials have sometimes failed to deal appropriately with those who have been abused*”<sup>53</sup>.

59. These inadequacies of Church governance underline the imperative that State laws should never rely on private institutional responses to criminal offences, recognising that

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<sup>52</sup> Pastoral Letter on the Victorian Government Inquiry, op. cit.

<sup>53</sup> Catholic Archdiocese of Sydney, op. cit. P. 4

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such responses often reflect the interests and prejudices of the institution, whether a church or other institution.

### **REPORTING CHILD ABUSE**

60. The very significant recommendation of the *Cummins Inquiry* that there should be mandatory criminal reporting of child physical and sexual abuse by religious and staff of religious organisations was expressed as follows:

*“47. The Crimes Act 1958 (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to:*

*\* A minister of religion; and*

*\* A person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people.*

*An exemption for information received during the rite of confession should be made...”*

61. The *Cummins Report* drew a clear distinction between mandatory welfare reporting, which it saw as inappropriate for preventing the concealment of child abuse within religious organisations, and its recommendation for mandatory criminal reporting. Current welfare reporting provisions of the Children, Youth and Families Act 2005 mandate specifically nominated professionals working with children to report to welfare authorities (Department of Human Services) should they form the belief on reasonable grounds that a child is in need of protection on the ground that the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child’s parents have not protected, or are unlikely to protect the child from that harm (ss184 and 162 of CYF Act).

62. The *Cummins Report* dismissed the extension of mandatory welfare reporting to all religious personnel as inappropriate, and stressed the need for mandatory criminal reporting by all religious personnel at all levels. The Report observed the likely absence of expertise and capacity of religious and of religious organisations’ staff under the provisions of welfare reporting (other than already mandated professionals) to report suspected cases of child physical and sexual abuse, unlike the mandated professionals with relevant skills. It should also be noted that the focus of mandatory criminal reporting is on the criminal abuse within a religious organisation, not the welfare requirement for a professional to “*form the belief on reasonable grounds that a child is in need of protection*” (ss184 and 162 of CYF Act).

63. The *Cummins Report* determined that extending mandatory welfare reporting would not ensure an appropriate investigation of suspected child physical and sexual assault by religious personnel, and saw the Crimes Act 1958 as the appropriate legislative mechanism. The Report also noted that “*the ‘reverencing of church leaders’ can lead to a*

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*reluctance of victims to speak up . . .*<sup>54</sup>. In essence, the *Cummins Report* recognised the unique dangers for child victims from predators who are religious personnel and demonstrated the need for reporting of a suspected criminal offence to police authorities – a quite different form of mandatory reporting from the established welfare reporting.

64. Mandatory criminal rather than welfare reporting of suspected crime by religious and all staff of religious organisations as a means of exposing and prosecuting perpetrators of sexual abuse of children is one of the most important reforms proposed by the *Cummins Inquiry*.

65. Catholics for Renewal notes that the *Cummins Report* rebutted the then strong opposition from the Victorian Catholic Bishops and the Independent Commissioner under *The Melbourne Response* (the protocol of the Catholic Archdiocese of Melbourne for the handling of child abuse) to any form of mandating all religious personnel. It would seem that this opposition was based on the Church's experience of reports through its private internal complaints-based system of at-times long past incidents, rather than a necessary focus on the need to identify and deal quickly with any perpetrators of child abuse, especially current child abusers, in accordance with law and the interests of all vulnerable children.

66. A private internal system responding to individual complaints is concerned primarily with the particular complainant/victim, without attempts to identify other victims of the alleged perpetrator or prosecution of the perpetrator which requires police attention. This resultant focus on largely historic complaints does not recognise the crucial and immediate need for Church personnel to be alert to exposing to State authorities any current abusers, separate from the lodgement of complaints.

67. In responding to an argument of the Victorian bishops and the Independent Commissioner against the introduction of mandatory reporting, that criminal mandatory reporting would disturb some victims, the *Cummins Inquiry* dismissed these submissions concluding that:

*“The Inquiry considers that, in the long term, the potential discomfort or distress to an individual victim caused by the mandatory reporting of the alleged abuse will be outweighed by the public interest in triggering a **criminal justice response** (bolding added) that holds the perpetrator publicly responsible and aims at deterring potential abusers from using the cover of large organisations and positions of authority or influence over children to commit abuse. The public criminal process would also have a significant public educative effect.”*<sup>55</sup>

68. Catholics for Renewal acknowledges the substantial documentation and guidance<sup>56</sup> developed by the Catholic Church in recent years to respond internally to complaints of

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<sup>54</sup> Cummins report, op. cit. 14.5.2

<sup>55</sup> Cummins report, 14.5.2

<sup>56</sup> A variety of documents have been published in different jurisdictions of the Catholic Church in Australia and include:

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child abuse committed by religious personnel. We acknowledge the publication in 1996 of a national response to complaints of abuse which covered all religious personnel in Australia (*Towards Healing*), except the Archdiocese of Melbourne which established its own procedures in 1996 (*Sexual and Other Abuse - The Melbourne Response*) in place of Part 3 of the *Towards Healing* policy. The *Melbourne Response* is described as reflecting the principles that are set out in the *Towards Healing* and *Integrity in Ministry* documents.<sup>57</sup>

69. Both *Towards Healing* and *The Melbourne Response* are primarily complaints-driven in dealing with misconduct of religious personnel. Both have been reviewed since 1996 with the *Towards Healing* protocol subject to external review and input from a wide range of stakeholders, including some complainants and victims advocacy groups. Different approaches have also evolved in the handling of complaints, with *The Melbourne Response* adopting an essentially juridical process. Catholics for Renewal questions the need for a separate Melbourne diocesan complaints handling process. The existence of two complaints handling protocols unnecessarily complicates the process for complainants and others, and the need is unclear.

70. We welcome the commitment inserted in *Towards Healing* in December 2000 that:  
” *Serious offenders, in particular those who have been found responsible for sexually abusing a child or young person . . . will not be given back the power they have abused*”.<sup>58</sup>

and also the assurance that:

“*no-one should be permitted to exercise a public ministry if doing so presents an unacceptable risk of abuse . . .*”.<sup>59</sup>

71. We further welcome the recent explicit assurance from the Archdiocese of Sydney that the *Towards Healing* protocol will be administered in the Sydney Archdiocese so that priests

“*who have committed crimes against children or pose a risk to them are permanently removed from public ministry*”<sup>60</sup>,

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*Integrity in Ministry*: a document of principles and standards for Catholic Clergy & Religious in Australia, June 2004 (reprinted April 2010), National Committee for Professional Standards

*Towards Healing*: principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia, National Committee for Professional Standards, 1996, rev. 2000, rev. 2010

*Integrity in the Service of the Church*: A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, National Committee for Professional Standards, 2011

*The Melbourne Response*, op.cit

*May our children flourish - Code of Conduct for Caring for Children*, Catholic Archdiocese Of Melbourne, undated

*Zimmerman Services Diocesan Child Protection Unit*, Diocese of Maitland-Newcastle,

<http://www.mn.catholic.org.au/bishop/dcppcu.htm#Developmentofchildprotectioninthediocese>

*Sexual Abuse - The Response of the Archdiocese of Sydney*, undated (reported in *The Australian* 24 August 2012 and *CathNews* 24 August 2012 <http://www.cathnews.com/article.aspx?aeid=32850>)

<sup>57</sup> *The Melbourne Response*, op. cit., Foreword

<sup>58</sup> *Towards Healing*, Part 2, para 27

<sup>59</sup> *Ibid.* Part 3, para 42.6

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and that new procedures of the Vatican applying across the world have

*“made it easier to deprive priests who commit crimes against children and other vulnerable people of their priestly status, to ‘laicise’<sup>61</sup> or ‘defrock’ them”.*<sup>62</sup>

72. The reference in the Sydney document to priests who “pose a risk” to children addresses the difficult situation where allegations are sufficient to cause grave concern but are inadequately evidenced, a common situation in the case of child sexual abuse. Catholics for Renewal stresses the importance of due process for all accused of the terrible crime of child sexual abuse. We note the difficulties in both proving and disproving allegations of child sexual abuse and the conventional wisdom that very few allegations by children of sexual abuse are found to be false. Because of the lack of physical evidence in most cases of sexual abuse there is rarely corroborating evidence to support the allegation and it is the word of a child against an older person, usually an adult and in the matter under discussion a religious person whose position demands considerable respect in the community.

73. The consequences for a falsely accused person can be devastating with lifelong damage to a person’s social standing and career; the consequences can be worse for falsely accused religious personnel whose very positions demand the perception of a virtuous life. On the other hand, valid allegations that are not pursued will almost certainly lead to continued abuse of the victim and the abuse of further victims. Such situations demand considered attention as to reassignment and supervision of the alleged abuser, and also point to the importance of mandatory criminal reporting to ensure proper investigation in the interests of both the alleged perpetrator and victim. It is therefore incumbent on the State and all organisations dealing with children to ensure that all reasonable suspicions of child abuse are reported and subjected to due process at the earliest possible opportunity.

74. We are not aware of any commitment by the Archdiocese of Melbourne or other Victorian dioceses similar to the Archdiocese of Sydney’s requirement that priests “*who have committed crimes against children or pose a risk to them are permanently removed from public ministry*”. Catholics for Renewal notes that the *Towards Healing* policy has a commitment to greater accountability of church leaders for the oversight and supervision of child sex abusers<sup>63</sup>. However, the policy does not specify in any detail practices for preventing the possibility of further child abuse by an alleged abuser, such as types of

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<sup>60</sup> Catholic Archdiocese of Sydney, ‘*Sexual Abuse - The Response of the Archdiocese of Sydney*’ undated, P. 12 (reported in *The Australian* 24 August 2012 and *CathNews* 24 August 2012)

<sup>61</sup> In fairness to many good priests who have been ‘laicised’, Catholics for Renewal notes that the laicisation process should not be seen only in a negative context; it is also the process sought by or forced upon many who seek to leave the ministry of their own choice or to lead a lifestyle not allowed to priests within the Church, e.g. priests wishing to marry.

<sup>62</sup> Catholic Archdiocese of Sydney, op. cit. P.5

<sup>63</sup> *Towards Healing* op.cit. Part 2, paras 28 and 29

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assignment, forms of supervision and duration, and issues of recidivism<sup>64</sup>. This information is of relevance to this Inquiry's work and it is in the public interest that such practices be published by the Church.

75. Despite the steps taken by the Australian Church in its complaint handling protocols and its acknowledgement in *Towards Healing* that:

*"Any form of sexual behaviour with a child or young person, is always sexual abuse. It is both immoral and criminal"*<sup>65</sup>,

the protocols applying in Victoria do not require evidence of child abuse to be reported to State authorities for investigation and, where appropriate, prosecution. *The Melbourne Response* is complaints-dependent and a complainant retains the discretion to pursue their case to finality within the Church's internal system without any information being provided to the police. Further, it would appear that under *The Melbourne Response*, the Independent Commissioner appointed can investigate a case and conclude that an allegation of grave abuse is substantiated and an abuser is at large, but not report the predator to the police should the complainant insist on confidentiality and no police involvement.

76. In addition to the two principal complaint handling protocols, the Church has issued a number of guidance documents to address sexual abuse through better internal practices. Of relevance to this Inquiry are two documents setting out principles and standards governing clergy and religious in Australia, *Integrity in Ministry* (2004 reprinted 2010), and for Church workers-employees and volunteers, *Integrity in the Service of the Church* (2011). A consequence of the proliferation of Church documents covering abuse of children is the confusion this presents to victims of abuse in identifying whom to contact and what process - national or diocesan or possibly a separate process of a religious order not under the control of a diocesan bishop - is available to address their abuse. It is time for the bishops and religious leaders of the Australian Catholic Church to adopt one national Code of Conduct covering all Catholic Church workers, including priests and clergy, specifying:

- clear standards of behaviour in dealing with children and the specification of prohibited categories of sexual conduct or "forbidden behaviours";
- a duty of all Church personnel at all levels to report evidence of sexual abuse of children to civil authorities, whether or not the subject of complaint;
- the conditions governing the assignment of Church personnel accused and /or convicted of sexual abuse of children and the supervision arrangements to accompany future assignments;
- sanctions for breaches of the Code, including termination of employment and removal from ministry.

77. The Church's actions, as with all other organisations, must reflect at the least a commitment to working with the State and in accordance with State law. It is the State

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<sup>64</sup> Ibid. paras 30-32

<sup>65</sup> ibid, para 3

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that provides the legal framework to ensure the identification and successful prosecution of criminal behaviour. Church documents should ensure compliance with explicit State law mandating criminal reporting requirements as proposed in this submission.

78. Sexual abuse of children by some priests and religious, together with attempts by some church authorities to conceal the abuse, constitutes the ugliest story ever to emerge from the Catholic Church. Catholics for Renewal supports the introduction of mandatory criminal reporting of sexual abuse by religious personnel in the Catholic Church. A criminal offence should apply for religious personnel at all levels, including the most senior church leaders with responsibility for the oversight and assignment of religious personnel, should they fail to act on knowledge of acts of child abuse or reasonable suspicion of abuse committed by another person within that organisation by reporting that knowledge to the Police for investigation.

79. Catholics for Renewal proposes that mandatory criminal reporting measures should include a *concealing serious indictable offence* provision. The offence would provide that if a person who is a member of a religious or other organisation has committed a serious indictable offence involving abuse of a child, and any other member of that religious or other organisation knows or believes that the offence has been committed and he has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for the offence, and fails to bring that information to the attention of a member of the Police Force, that person is criminally liable for his concealment. Such criminal action should attract a suitable penalty under the *Crimes Act*.

80. It should normally be incumbent on a mandated person receiving evidence of child abuse to advise any informer of his/her obligation and intention to report to the civil authorities (but note the discussion below of the Catholic Church's sacrament of Reconciliation/ Confession).

81. In the case of the Church's complaints procedures, Catholics for Renewal notes the opposition expressed to the *Cummins Inquiry* by the Catholic Bishops of Victoria to mandating religious personnel to report any evidence of child abuse. The bishops stated that reporting of complaints to police "would have an unintended consequence of discouraging offender disclosures"<sup>66</sup>. We note that this opposition is not shared by the Catholic Archdiocese of Sydney (see para 85 below). Although some victims of child abuse may well want to access support without becoming involved in a criminal prosecution, others would likely welcome involvement of the police. That decision should not however be subject to influence by an organisation which has a conflict of interests and could be seen to benefit from these crimes not being reported to the police. It is noted that a submission to the *Cummins Inquiry* stated "that religious organisations

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<sup>66</sup> Cummins Report, 14.4.7

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and communities directly and indirectly pressure victims not to disclose abuse to the police”<sup>67</sup>.

82. The Church should not be able to withhold from the police any evidence of sexual abuse of children; any exemption could be at the cost of more children being exposed to the abuser. In fact, we understand that the Magistrates’ Court and the County Court have ruled that the right of police investigation overrides the confidentiality provisions of *The Melbourne Response*. It should be noted that a report to the police does not mean that victims will be compelled to press charges. Further, it is our understanding that where the police have used the courts to obtain material from *The Melbourne Response* and complainants have insisted upon not pursuing their complaints through the justice system, the complainants’ privacy has been respected by the police.

83. It should not be necessary for the police to seek out information known to the Church through the Courts and it is unacceptable that a private institution should have knowledge of sexual abuse crimes unknown to the police. It should be a matter of concern to Church authorities that failure to promptly and fully report all information about suspected child abuse by religious personnel to the police could mean that other victims of the same accused abuser are less likely to be identified and assisted, and the abuser less likely to be successfully prosecuted and thus prevented from further acts of abuse. An internal Church investigation cannot be a substitute for a police investigation of a serious criminal offence.

84. We do not propose a specific form of words but encourage the Inquiry to examine legal practices in Australia and overseas where *failure to protect a child from harm* laws have been enacted. In this context, we are aware of *Section 316(1) of the Crimes Act 1900 (NSW)* which provides that knowledge of serious indictable offences must be reported to the police but observe that:

- a) the NSW provisions for mandatory reporting of crime include but go beyond child abuse crimes, the focus of this inquiry, and
- b) those provisions make prosecutions subject to the approval of the Attorney General, a provision that we reject as inappropriately discretionary at the political level for crimes of sexual abuse of children.

85. The Catholic Archdiocese of Sydney in late August 2012, possibly in response to recent publicity about the above statutory requirement and an apparent failure to report to Police<sup>68</sup>, released ‘*Sexual Abuse - The Response of the Archdiocese of Sydney*’ which includes the following statement:

“*The police are best placed to investigate sexual abuse allegations, not the church. . . . The policy of the Archdiocese is for allegations of sexual abuse to be reported to the police so that they can be investigated and dealt with through the justice system.*”

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<sup>67</sup> Ibid, 14.5.2

<sup>68</sup> Four Corners, op.cit

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*'Towards Healing' is NOT a substitute for a police investigation*” (emphasis in original)<sup>69</sup>.

86. The Catholic Archdiocese of Sydney also notes in its recent document:

*“Unlike the law in some other Australian states, the law in New South Wales requires anyone who knows or believes that a serious crime has been committed and has information about it to report it to the police.”*

*Towards Healing* includes the following advice about the reporting of child abuse:

*“Church personnel who are required by law to report suspected child abuse shall conscientiously comply with their obligations. State or Territory law regarding the reporting of knowledge of a criminal offence must also be observed. The appropriate Church Authority shall also be notified of any such report.”*<sup>70</sup>

Dioceses outside Melbourne are covered by *Towards Healing* but Church personnel in Victoria are not *“required by law to report suspected child abuse”*. This submission argues that the State has a clear obligation to introduce such a legislated mandatory criminal reporting obligation.

87. The recent Court ruling in the United States where Monsignor William Lynn of Philadelphia was convicted on a charge of *child endangerment*, is instructive; Lynn helped to cover up clerical sexual abuse in his tenure as Secretary of Clergy, Philadelphia Diocese 1992-2004. He is the first American cleric to be so sentenced in a civil court. Monsignor Lynn acted under instructions of his cardinal who, due to his death before proceedings were brought, escaped prosecution. Judge M. Teresa Sarmina observed that Lynn *“enabled monsters in clerical garb ... to destroy the souls of children”*<sup>71</sup>, and that when Cardinal Anthony Bevilacqua ordered the 1994 list of accused priests prepared by Lynn to be destroyed, Lynn *“chose to stick around and keep quiet”*. *“Monsignor Lynn personally heard the suffering of children,”* she said but, *“since he was going to obey his bishop, he had to build a wall to steel himself from hearing their pain.”*<sup>72</sup>

88. On Thursday 7 September 2012, the first American bishop criminally charged in the clergy sex abuse scandal was found guilty of failing to report suspected child abuse. USA Today reported:

*“Catholic Bishop Robert W. Finn was found guilty Thursday of failing to tell police about a priest suspected of sexually exploiting children, an unprecedented verdict that is being hailed as a landmark in the effort to bring accountability to the church's hierarchy”*<sup>73</sup>.

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<sup>69</sup> Catholic Archdiocese of Sydney, op. cit. P.7

<sup>70</sup> *Towards Healing*, op.cit. Part 3, para 37.5

<sup>71</sup> The Orange County Register, 25 July, 2012- [http://hosted2.ap.org/CAANR/APHome/Article\\_2012-07-25-Priest%20Abuse-Trial/id-eb4f86d32ce845eb9af4028116666898](http://hosted2.ap.org/CAANR/APHome/Article_2012-07-25-Priest%20Abuse-Trial/id-eb4f86d32ce845eb9af4028116666898)

<sup>72</sup> *ibid.*

<sup>73</sup> USA Today, 8 Sep 2012, <http://www.usatoday.com/news/religion/story/2012-09-07/bishop-sex-abuse-coverup/57689558/1>

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89. Meanwhile, in Australia on 30 August 2012, a Catholic priest in New South Wales became the first Australian Catholic priest to be charged with concealing the alleged child sex crimes of another<sup>74, 75</sup>. The priest has been charged under NSW law with two counts of misprision of a felony, concealing knowledge of a serious crime, relating to alleged child sex offences by a now defrocked priest against two boys in the late 1970s.

90. Catholics for Renewal stresses that the protection of child abusers is criminal and should be subject to the full force of the criminal law. We strongly assert the necessity for mandatory criminal reporting of child abuse, by all religious personnel at all levels.

### **THE ‘SEAL OF THE CONFESSIONAL’**

91. Catholics for Renewal notes that South Australia is the only Australian jurisdiction with a specific mandatory reporting duty for a ‘minister of religion’ and that is the more limited welfare reporting responsibility rather than a criminal reporting mandate for religious personnel at all levels (Section 11(2) of the SA *Children’s Protection Act 1993*). Section 11(4) of that Act exempts a priest or a minister of religion from divulging information communicated in the course of a confession (the Catholic Church’s sacrament of Reconciliation). Recommendation 47 of the *Cummins report* proposed a similar exemption provision for its proposed criminal reporting mandate for religious organisations:

*“An exemption for information received during the rite of confession should be made”*

92. The debate about whether there should be any exemptions from the mandatory duty to report knowledge of the criminal abuse of children in the case of confession has been enlivened by the Irish Government’s decision to proceed with legislation (*The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Bill 2012*), which contains no such exemption provision and removes the right of priests to use the confessional seal as a reason for not coming forward with information concerning the abuse of children. This has placed the State, the Irish Government, in conflict with the Catholic Church which has indicated that it will not cooperate with this legislative requirement.

93. The Catholic Church’s internal laws in respect of the seal of confession universally bind all Catholic priests irrespective of the country in which they exercise priestly ministry. The universal Code of Canon Law provides inter alia:

*“The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason’.* (Canon 983.1).

94. Canon Law also provides that “physical or moral impossibility” can excuse a person from making a confession of sin (Canon 960). It has been argued that if there were any

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<sup>74</sup> CathNews August 30, 2012 *Retired priest charged with failing to report abuse by another priest*  
<http://www.cathnews.com/article.aspx?aeid=32944>

<sup>75</sup> The Age, 31 August 2012, P.5 “*Priest charged with abuse cover-up*’

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real possibility in the circumstances of a confession that a child predator would be reported by the priest to the police, the penitent would be excused on grounds of moral impossibility from confessing that sin<sup>76</sup>.

95. There is an argument that the seal of confession should not be recognised by civil law given past Church failures. However, such an approach would be a grave step requiring confessors to breach a sacred trust with nothing to be gained by way of protecting children. However horrendous the crime and sin, State legislation to breach this trust would be ineffectual and would simply isolate the perpetrators from a potentially helpful source of guidance and contrition.

96. Arguments for exempting matters arising in the sacrament of Reconciliation do not however seem to preclude the possibility of priest confessors giving conditional absolution, dependent on a 'penance' of reporting the sin/crime to the police. This would seem consistent with ensuring an important principle of confession is met, namely true contrition. The Parliamentary Committee should consider proposing in its report that the Catholic bishops of Victoria consider a direction to confessors that absolution for sins of child sexual abuse should normally be dependent on the penance of reporting such a serious crime to the police and that absolution be conditional on the performance of the penance. At the least, such a direction would send an unambiguous signal to child sexual predators of the condemnation of such crimes by the Church and would signify the commitment of the Church to purging child abuse from its ministry.

97. The sacrament of Reconciliation is not intended to give false comfort to those who are not truly contrite and committed to reform. The sins/crimes of child abuse often involve addictive behaviour destroying the lives of children and require a proactive response from the Church. Guidance to confessors would be a good start. The Church needs to move beyond its past reactive and self-protective behaviours to taking every step to protect children from child abusers. This is a continuing responsibility.

### **CONCLUSION**

98. The Catholic Church has manifestly failed to protect children in its care and oversight from criminal abuse by religious personnel. Catholics for Renewal believes there is a need for substantial reforms to Victorian laws and also to the governance and accountability arrangements of the Catholic Church. These reforms are crucial to securing for children the rights and protections which the community rightly expects from those charged with their care. The recently retired Bishop of Canberra-Goulburn, Patrick Power, made the following salient observation:

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<sup>76</sup> CathNews Perspectives July 21-22 2012 *Church transparency and the seal of the confessional* - article and postings by Fr Frank Brennan SJ, 23 July 2012 - <http://www.cathnews.com/article.aspx?aeid=31915>

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*“Sexual abuse perpetrated by priests is the gravest crisis faced by the Church since the sixteenth century Protestant Reformation needing not just a focus on abusers but a total systemic reform of Church structures.”<sup>77</sup>*

99. The welfare, health and education agencies of the Catholic Church do remarkable work in the Victorian community particularly amongst the poor, the elderly and the marginalised. And yet the Church cannot be an effective witness unless the institutional church takes decisive action to remove the stain of child abuse and to adopt effective and accountable governance practices. Until it takes such action, it will be regarded in the wider community with mistrust rather than trust, a divider rather than a reconciler of peoples, and will prejudice the efficacy of its welfare, health and education agencies. The Church’s past failures to actively purge child abusers from its ranks has made it an agent of destruction of the lives of many children and cannot be offset by the good works of its agencies. The State has an obligation to ensure that no organisation can protect criminals. The exploitation and maltreatment of children is a despicable crime, made worse by inadequate responses.

100. This Inquiry provides the Church with an opportunity to meet this challenge with humility, courage and wisdom - in the words of Cardinal Martini, *“to take a journey of transformation”<sup>78</sup>*. The Church has an accountability to God and to the people of the Church, and it also has an accountability to the State on matters pertaining to the State. It will take humility for the Church’s institutional leadership to acknowledge their failings - individually and collectively - and accept that its governance arrangements prejudiced its response to the abuse of children in its care. It will take courage to confront the unhealthy aspects of its clerical and feudal culture, name them and root them out. It will take wisdom and a reform of many critical aspects of the Church’s governance to envisage a new future in which children under the care of the Church have a safe environment in which to experience trust and love in their lives.

101. The Inquiry has been asked by the Government in its terms of reference to report to the Parliament on processes by which religious and other non-government organisations respond to the criminal abuse of children. The Committee has been asked specifically to consider the practices, policies and protocols in such organisations for the handling and reporting of criminal abuse of children and to identify changes to law or to practices to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of such abuse.

102. Catholics for Renewal has outlined in this submission serious deficiencies in past and present governance of the Catholic Church which affect the occurrence, handling and reporting of child abuse by religious personnel. Some of those deficiencies can be addressed by appropriate State legislation and public findings by the Committee. There is a need for legislative change and also for change within religious and other non-

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<sup>77</sup> The Canberra Times, *Speaking to Power*, 30 June 2012

<http://www.canberratimes.com.au/opinion/speaking-to-power-20120629-217y1.html>

<sup>78</sup> CathNews USA September 4, 2012, op. cit.

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government organisations to implement good governance structures and practices that ensure high levels of accountability including alertness to any criminal abuse of children and that all evidence of criminal abuse of children is brought to the attention of civil authorities.

### **RECOMMENDATIONS**

Catholics for Renewal **recommends** that:

A. The Crimes Act 1958 (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within or associated with a religious or other non-government organisation.

B. The separate reporting duty proposed in A should define a criminal offence for personnel at all levels of religious or other non-government organisation, including senior church leaders with responsibility for the oversight and assignment of religious personnel, should they fail to report to the Police for investigation any evidence of acts of child abuse or suspected abuse committed by another person within or associated with that organisation.

C. An exemption to Recommendations A and B for information received during the Catholic Church's sacrament of Reconciliation would be appropriate if the Government accepts that the Church has given adequate guidance to its priests that absolution for sins of child sexual abuse should normally be dependent on a penance of reporting such a serious crime to the police and that absolution be conditional on the performance of the penance.

D. Having regard to:

- a) systemic failures in organisations responding to criminal abuse of children, particularly the Catholic Church,
- b) dysfunctional responses facilitated by a system of governance based on
  - i. strong centralised global control,
  - ii. discriminatory structures,
  - iii. inappropriate culture, and
  - iv. institutional self-preservation,

the Inquiry should find that religious and other non-government organisations, should adopt clear and unambiguous modern governance structures, policy and practice and ensure:

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- gender balance and accountability in decision making structures,
- informed and transparent decision making on evidence of child abuse,
- reporting evidence of child abuse to civil authorities,
- consistent Australia-wide practices for responding to allegations of child abuse, and
- appropriate assignment and supervision policies for accused and convicted personnel.

E. The Inquiry should record a finding that the bishops and religious leaders of the Australian Catholic Church should adopt one national Code of Conduct covering all Catholic Church workers, including priests and clergy, specifying:

- clear standards of behaviour in dealing with children and the specification of prohibited categories of sexual conduct or "forbidden behaviours";
- a duty of all Church personnel at all levels to report evidence of sexual abuse of children to civil authorities, whether or not the subject of complaint;
- the conditions governing the assignment of Church personnel accused and /or convicted of sexual abuse of children and the supervision arrangements to accompany future assignments; and
- sanctions for breaches of the Code, including termination of employment and removal from ministry.

### **LODGEMENT**

This submission is lodged on behalf of Catholics for Renewal Inc. The office bearers hereunder are available for a public hearing on the Inquiry by the Family and Community Development Committee of the Parliament of Victoria.

Peter Johnstone OAM  
Chairman

Frank Burke  
Secretary

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**Attachment A**

**OPEN LETTER TO POPE BENEDICT XVI AND THE BISHOPS OF AUSTRALIA**

Dear Pope Benedict and Bishops of Australia

We, the undersigned Catholics of Australia, write to you regarding our concerns for the Church. We ask that you consider these matters during the 2011 *Ad Limina* visit.

As Christ's faithful, we must speak out. Under Canon Law we have a right and a duty in keeping with our knowledge, competence and position, to manifest to our pastors our views on matters which concern the good of the Church (C.212.2-3).

The Church no longer adequately inspires many of our communities. It has alienated too many adults who were born of Catholic parents, attended Catholic schools, and lived a sacramental life. It has become disconnected from, and irrelevant to the lives of too many of our children. With fewer priests, its ability to provide regular Eucharist in our parishes, especially in rural areas, has become increasingly limited. As an institution it does not yet embody the vision of Vatican II for a truly collegial Church in which decisions respect local cultures, communities and circumstances. Rather, it appears as an institution focussed on centralism, legalism and control, with few effective structures for listening and dialogue, and often more concerned with its institutional image and interests than the spirit of Christ.

Our Church has been tainted by injustice and blemished by bad decisions. We still reel from the sexual abuse scandal where the Church's initial response was manifestly inadequate and where some authorities, in their attempts to protect the institution, exposed innocent young people to grave harm. We were shocked at the lack of due process in the way Bishop Morris, a dedicated pastor, was removed from his diocese. We were dismayed by the failure to consult properly on the new English translations of our liturgy. We can no longer accept the patriarchal attitude towards women within our Church, and we fear that an extended claim to infallibility is stifling discussion on many important issues. These issues include some teachings on human sexuality, as well as new forms of ministry for women and married men; the latter an anomaly for a Church committed to equality, and which welcomes married ministers from other Christian traditions. These concerns undermine confidence and trust in you our leaders.

We want and pray for a renewed Church that follows Christ more closely in every way. We need a Church committed to authentic collegiality and subsidiarity. We seek an open, transparent and accountable Church, which respects due process, rejects every form of discrimination, listens to its people, promotes co-responsibility in every facet of its mission and ministry, and is compassionate to its core. We call for an outward-facing Church totally committed to justice, peace, ecumenism and dialogue with other faiths, and which advocates unequivocally for the rights of the oppressed and disadvantaged

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while tending practically to their needs. We need and want a Church where we are ‘all one in Christ, with no more distinctions ...between male and female’ (Galatians 3:28) and whose leaders read well the signs of the times and interpret them in the light of the Gospel.

As a first step towards collegiality and subsidiarity, we call on each diocesan bishop to convene at an early date a synod in his diocese, under the provisions of Canon Law (C.460-468), to discuss how the local Church might be a more authentic witness in the 21<sup>st</sup> century. We also ask that Pope Benedict allow a return to a more accountable and consultative process for the appointment of bishops, giving both priests and people a real voice as was earlier Church practice. This could commence with the appointment of the next bishop of Toowoomba.

For all of us Jesus is the way, the truth and the life. As the People of God and your sisters and brothers in Christ, who together seek the Kingdom of God, we pray that the Spirit will guide us all ever closer to Jesus in the critical task of renewal.

*Catholics of Australia*