

18 September 2012

Dear Chair,

Submission re criminal abuse of children by religious and non-government organisations

Thank you for the opportunity to make this submission to your invaluable Inquiry. I am from NSW, and am not familiar with Victorian law but hope my general comments are of assistance.

➤ In response to Terms of Reference Item 1: *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;*

1. Revered status of clergy: Many parents inadvertently exposed their children to abusers believing that a clergyman would be a good role model or influence on their child. This exalted status becomes traumatic for the child who experiences extreme incongruity between the clergyman's public image and the victim's own knowledge of them. This trauma is compounded by the "revered" status; of "representing God" or being "God's helper". It is extremely intimidating to make an accusation that is discordant with general public perception as it risks alienation, scepticism and criticism in addition to the original abuse. It is devastating for victims to be disbelieved purely because it is their word against that of an esteemed "man of the cloth". The abuse is further compounded by clergy who lie about it or assist others to cover up the behaviour.

Proposal 1:

Legislative reform is required to provide for severe penalties for concealing offences. The offence of concealing the original crime exacerbates the original injury, delays or precludes justice and is in itself a separate and additional wrong. The concealing of offences isn't in "the past"; these offences are being committed right now, September 2012.

2. Authoritarian status of clergy: The church structure which demands deference and submission to [historically male] authority figures is counterproductive. People who raise issues of abuse demonstrate tremendous courage yet this is often regarded by clergy as temerity or insubordination. This is very damaging for victims but it is also very damaging for others who may genuinely want to address the horror of abuse, yet are disempowered from doing so, or even bullied and victimised by those in authority.

For example, it has been reported that in South Australia a teacher informed church authorities of child sexual abuse committed by another teacher. Upon learning that police hadn't been informed, the teacher notified the police directly. It was reported that by doing so, it was deemed that the teacher had breached a workplace confidentiality agreement and as a result, lost their job.

Proposal 2:

That current Employment Contracts issued by the churches be reviewed for "confidentiality clauses". If such clauses exist, they should expressly exclude the reporting of criminal matters. It is my understanding that it would be illegal to try to bind someone contractually into not reporting child abuse matters. Any other coercive means to compel clergy or staff to maintain staunch allegiance to the church should also be examined and eliminated.

3. Accolades bestowed on perpetrators: Sometimes perpetrators are given generous parish farewells, esteemed mentions in parish newsletters, highly dignified funerals and incredibly flattering obituaries. This is another form of abuse for victims who are only too aware of the reality of the perpetrator's legacy. It has been reported that the church is sometimes able to influence media not to report matters of abuse, even when clergy have been convicted.

Proposal 3:

Whenever clergy are convicted of offences, it should be mandatory that brief details (eg name of offender, offences, year/s in which offences occurred, term of sentence) are published in the parish newsletter and any newspaper/bulletin of the relevant religion that circulates in every parish where the perpetrator was ever assigned. This would confirm any rumours of abuse, may encourage other victims to come forward and may allow a whole lot of matters to "fall into place" for many people who were perhaps indirectly effected.

This type of mandatory publishing is analogous to standard practices that already exist (such as newspapers publishing corrections/ apologies, or when "Recalls" of unsafe food or products are advertised in the media). It would be very straightforward for the Churches to publish details of convictions in their own media and would be of negligible cost to them.

4. Response to abuse: Although churches will claim to have the interests of victims at heart, it is my view that the over-riding considerations are the image, reputation and liability of the church. The priority is to suppress matters by a number of tactics:
- bullying/ intimidating victims into keeping quiet;
 - blaming victims as though they are somehow responsible or deserving of abuse;
 - assuring victims that the church will "deal with it";
 - misleading victims into the additional shame of thinking they are the only person with a grievance, as if the problem is unique to them and indicative of some "inherent defect";
 - attributing the blame for the ensuing "scandal" to the reporter of the crimes rather than to the perpetrator of the crimes;
 - exploiting the goodwill of victims (eg not to embarrass the perpetrator, not to scandalise the victim's own family, not to ruin the "good name" of the church);
 - conducting disingenuous "investigations" which in reality are merely intelligence gathering exercises which enable the church to pre-empt legal proceedings while at the same time exhausting the financial and emotional resources of the victim.

Church-led inquiries also run the risk of being influenced by the status and tenure of those under scrutiny. The findings of such inquiries cannot be considered sound.

Proposal 4:

An independent body, (eg Ombudsman's office/ Tribunal), with appropriate power and authority, be established to investigate claims. Victims can then avoid further exposure to the church that failed them so badly in the beginning and can also avoid the additional trauma of court proceedings. The "Ombudsman/ Tribunal" should also be authorised to deal with "general abuse" (eg bullying) committed by the church.

5. The "Seal of the Confessional": Some priests claim they would go to gaol rather than "betray" the Penitent. This is a very clear and disturbing indication of where the priority is (ie with an adult perpetrator with access to lawyers and counsellors, rather than with an innocent, abused child who may otherwise be denied an advocate). Concealing crime is promoted as being somehow commendable and impressive.

Proposal 5:

Remove the exemption from reporting serious crimes disclosed in the Confessional.

- In response to Terms of Reference Item 2: *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;*

See Items 1 - 5 above.

- In response to Terms of Reference Item 3: *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.*

6. Abuse is seen as an "old, historical problem": Often people with little understanding of child sexual assault will feel sorry for the "poor old priest" convicted for something he did 30 years ago. Some people think it is "mean" to pursue an old person particularly if their own experience of the priest was entirely positive. This can lead to further alienation of the victim who is perceived as "bullying an old man" who has "done so much for the community". There is also the perception that the perpetrator shouldn't be condemned for something he did so long ago given that he (supposedly) has "done nothing wrong since".

It may be that crimes that happened many years ago are only coming to light recently (due to a combination of factors). However, the denial of the crimes and the concealing of them is an additional form of abuse that continues every day since the offences happened, right up to and including today.

Proposals 6 a) – 6 c):

- a) Where possible, all charges should include a contemporary element eg "two counts of buggery, 1976-78" **and** "concealing serious crime" (or whatever the appropriate term is in Vic), from the date it was first denied eg If it was first raised in 1984 but was denied, it should be "two counts of buggery 1976-78" **and** "concealing serious crime: 1984 - 2012".
 - b) Launch an education campaign regarding child sexual assault so that the general public has a better understanding of the different social and political climate many decades ago, the reasons for the delays in reporting crime, the impact on child victims over their entire lifetime and the statistics for recidivism of offenders. This needn't be expensive as this type of information is already well-researched and a general overview could be simply uploaded to a relevant website. Links to research and other websites could be provided for anyone seeking a more in-depth understanding of the issues.
 - c) Media outlets carrying stories about child sexual abuse should be encouraged to adopt the practice of concluding articles with "for further information, go to www.relevantwebsite" (developed from (b) above) in the same way that they already include (in NSW) details for Lifeline when reporting mental health issues or Quitline when reporting smoking issues.
7. "Religious Rites" Abuse: The practices of 'praying' over victims, 'blessing' victims, 'absolving' victims of "their" guilt immediately following an abusive incident, and admonishing victims for declining to be reconciled with unrepentant perpetrators constitute an additional and distinct form of abuse. Whilst victims may wish to sever their association with the formal institution of the Church, they may still have an abiding sense of spirituality. This spiritual aspect of their being is fractured when sexual or other abuse occurs within a spiritual/ religious context.

Proposal 7:

That "religious rites" abuse (or similar) be recognised, by legislation, as a distinct form of abuse. It should be considered an aggravating factor in charging and sentencing offenders.

8. Inability for victims to formally reject Organised Religion: Parents generally have their infant children baptised with good intentions, while the children themselves play no part in the decision. Clergy abuse can lead to an acute sense of betrayal and revulsion of the church. This revulsion is accentuated by the church's teaching that Baptism is "inviolable". It is grossly offensive, and a convenient fiction, that a church can confer a sacrament yet despite the most grievous and sadistic abuse by church members, a victim can't officially reject it. For example, the Catholic church will annul marriages, ex-communicate members and laicize priests but claims it can't "release" even the most abused person from its membership.

The idea of "inviolable" baptism also conveys the impression that a relationship with God is only possible via a church. In fact, many people feel a much more authentic relationship to God (however "God" is perceived by them) once they have left the church.

Proposals 8a) and 8b):

- a) The churches be required by law to establish and maintain a "Renunciation Register", where any abused or disaffected baptised person can register their formal rejection of the Religious Institution into which they were baptised. This may not meet with the endorsement of expert Theologians, or even appeal to all victims, but may provide a degree of empowerment to people who would at last be able to formally determine the nature of their relationship with a church.
- b) The idea of inviolable baptism be subject to academic scrutiny – this is a low priority proposal compared to many others but will possibly engage a new range of people in addressing the issue of systemic abuse by religious organisations. Also, if such a proposal was of interest to academics, it could be pursued independently of this Parliamentary Inquiry (eg via universities/ colleges).
9. Governments are complicit in abuse: Successive governments need to accept responsibility for the entrenched abuse in church organisations by their failure to take an adequate interest in the manner in which these organisations conducted their affairs and provided their services. Governments have long conveyed the impression that any involvement in the internal affairs of the churches is somehow inappropriate and disrespectful. In doing so, they effectively protect churches from public scrutiny and permit them to operate outside the law, and to do so with impunity. The churches have repeatedly shown themselves to be undeserving of this privileged status, yet there has been an ongoing absence of a demand for accountability from those in a position to make such a demand. Those who facilitate abuse are ultimately responsible for it and this may include lay staff employed by church organisations, police, politicians and public servants.

Proposal 9:

That legislation and ministerial portfolios accurately reflect the reality that no organisation can absolutely guarantee the conduct of its members and therefore must be accountable to an Ombudsman/ Commissioner/ Department. This recognition applies to other esteemed professions; it needs to be extended to the churches.

10. Immense yet Immeasurable cost: The immense human suffering created by entrenched abuse can never be over-stated. Apart from the unimaginable torment endured by primary victims, there are huge numbers of other people affected by church abuse including:
- family and friends who are left to grieve the loss of their loved one (because the victim has been altered so much as a person or because they are literally lost to suicide),
 - family and friends who are left with feelings of guilt for not suspecting abuse, or for not being able to adequately support the victim. Such people have to sit with the guilt and the sense of powerlessness and inadequacy for their entire lives,
 - teachers / classmates of victims who observed behavioural changes in children and never contemplated that they could have been subjected to horrific abuse while being expected to be attentive and engaged in class,
 - people who try to raise the alarm but are disbelieved or treated dismissively/ derisively, or bullied and victimised until their health literally fails,
 - families who regularly attended church, helped at parish activities and extended due reverence to church officials yet later learned that clergy was simultaneously molesting their child,
 - people who are exposed to the abhorrent details of abuse including families, friends, counsellors, police, lawyers, health professionals, victim advocates, journalists as well as people such as those reading all the submissions to this Inquiry; some of the repulsive incidents must be extremely distressing and necessitate “down-time” from continued involvement. Unfortunately “down-time” is unavailable to victims who suffer every single day of their lives.
 - There is also the financial cost to
 - i. victims/ families in pursuing action and for extensive counselling
 - ii. victims who are unable to complete their education or sustain employment
 - iii. the church in investigating complaints, defending matters and negotiating and paying settlements
 - iv. the community for police resources/ investigations, court proceedings, public inquiries, medical treatment/ evidence, incarceration of offenders and legislative reform.

Proposals 10a) and 10b):

- a) Children are abused by all sorts of people including strangers, teachers, coaches, foster families and even their own parents. Child abusers are part of society. However, governments must discontinue extending “Charitable/ “Non-taxable” status to churches, and other “charitable” organisations, which have a demonstrated history of entrenched child abuse. It is clear that these organisations require external regulation (Ombudsman/ Tribunal/ Ministerial portfolio), and therefore they should contribute to the expense of establishing and maintaining such an entity.
- b) It should be formally recognised that clergy and church members who provide valuable services in the community also suffer from the fallout from abuse because their own work and reputations are gravely demeaned by those who engage in abuse.

Thank you again for the opportunity to contribute to this Inquiry which has great potential for enormous reform. I hope it leads to significantly improved outcomes for victims of entrenched abuse whether by religious or non-religious organisations.

Yours faithfully,

Name withheld