

# SPEECH

**Blackfriars Lecture Series - Australian Catholic University**

***The Royal Commission and the unique challenges for the Catholic Church***

Francis Sullivan

CEO Truth Justice and Healing Council

Tuesday 20 October 2015



---

\*\*Check against delivery

Over the past two and a half years the child sex abuse Royal Commission has had a very close look at the way in which institutions, both public and private, have responded to claims of child sexual abuse.

It has looked at schools - public and private - including some of the country's most prestigious.

It has looked at religious organisations including the Anglican Church, the Salvation Army, the Jewish community, Australian Christian Churches, the Jehovah's Witnesses and, of course, the Catholic Church.

It has examined public institutions including state-run children's homes and orphanages, hospitals and health care organisations and homes for aboriginal children.

It has looked at other high profile organisations including the YMCA, Scouts and Swimming Australia.

It has investigated the way police and our public prosecutors have responded to the claims of survivors of child sexual abuse – how Government community services departments have dealt with abuse claims, and how public and private out-of-home care has operated.

The public examinations have been far reaching.

So far 33 public hearings have been held with maybe up to another 20 to come.

While the public hearings have been going on, the Royal Commission has also held some 4,100 private sessions where individual child abuse survivors have told their story to Royal Commissioners over a couple of hours with supporters alongside.

From the Royal Commission's data it is clear that around one in every three institutions identified in these private sessions is Catholic.

The Royal Commission has handled 26,000 calls, received 14,000 letters and emails and referred 767 people to police and other authorities.

Its work has been thorough and comprehensive.

It has looked into most corners of the community and it has revealed appalling behaviour in many of our most respected organisations.

Later this year and early next year the Catholic Church will again be the focus of public hearings, one in Melbourne the other in Ballarat.

We expect the final hearing involving the Catholic Church to take place in early 2017.

By then the Commission will have held some 50 public hearings with around a third of them examining Catholic schools, dioceses, parishes, homes and other organisations.

And by the end of its five-year life the Catholic Church will be the single most examined institution.

So what have we learnt during the past two and half years about our own institutions and about other organisations?

In almost every one of the public hearings looking at Catholic Church institutions we have seen how rigid, closed, defensive and combative the institutional Church can be when it is threatened.

It has been ready to use all its might, resources and social position to prevail over abuse survivors looking for justice.

The first instinct of most Church officials was to protect the reputation of the Church, regardless of the cost to the survivor and their family – and as it has ultimately turned out, at a far greater cost to the Church in so many different ways.

When demands of survivors were too confronting for Church officials, threats of legal defences or protracted bureaucratic processes were consistently used to contain the issue or manage them away.

Survivors have often said that they struggled to get close to Church leaders.

Church processes kept bishops and congregational leaders at a distance from the real discussions and certainly from meeting face to face with the victims.

Everything was done behind closed doors; there was no transparency and little, if any, accountability.

Discussions, according to some survivors, seemed to pay lip service to the redress processes established by the Church.

Decisions were weighted in favour of the institution, often determined without any of the consistency or rigour that might be expected from one of Australia's biggest and most structured organisations.

While some survivors have been treated with great consideration and kindness, many have reported that they were not believed by Church officials and even worse, when they engaged in the Church's redress processes, they felt re-traumatised.

They felt they were nothing more than a 'problem' that the Church needed to deal with so as to cause the least possible exposure, contention or expense.

In many cases it was clear that the way they were treated and the redress made available was dependent on the whim of the bishop or congregational leader dealing with the claim.

Survivors approaching the Church say they felt they were not believed and Church officials spent a good deal of time trying to find evidence to discredit their story.

A more pastoral, victim-first approach would see a standard Church procedure that assisted in the discovery of facts that might support the abuse claims.

In all, the 'victim- first' approach promulgated by the Church was not the lived experience for many survivors and their families.

### **Culture and clericalism**

Among the many criticisms of the Church during the Royal Commission's hearings has been the way in which the Church's culture, in particular clericalism, has played a role in the original crimes and then been a factor in their cover-up.

When we talk about culture it is important to have a reference point, a definition of sorts.

One of the more widely accepted definitions is that given by Sister Nuala Kenny, a respected Canadian paediatrician. It goes something like this:

*"Cultures are embodied ways of thinking and behaving that shape a people, they are not just major activities and events but the ordinary language, behaviour and rituals of daily life. Cultures are both empowering and limiting as they tell us what to value, how to behave and to whom we should listen. Cultures are highly resistant to change because they generate meaning, security, roots and identity".*

As an organisation the Church is a closed system with its own code of conduct and promotion.

It has a clearly defined elite caste –the clergy – with exclusive rights to participation.

Despite the official teaching position of the Church there is an entrenched power imbalance between the clergy and the laity which leads to the abuse of power characteristic of a culture of clericalism.

Fr Michael Paul Gallagher, the acclaimed Jesuit Professor of Theology at the Pontifical Gregorian University in Rome, says that apart from observable practices and acceptable ways of acting, a culture:

*"...entails a more concealed set of subjective attitudes often assimilated unconsciously over a long time".*

This is a very important point.

It provides an understanding as to why Church officials accepted the less than transparent and accountable approach to investigating the child sexual abuse crimes and bringing perpetrators to public account.

It was almost as if to do so was in itself a threat to breaking down the unspoken yet powerful internal code of the organisation and in turn putting at risk the prospects for promotion and status within the Church.

Peter Steinfels, one of America's leading Catholic commentators, says that denial and secrecy happened because priests and superiors operated in this closed, self-protective culture, a culture not open to scrutiny, inquiry, interview or evaluation, with little or no accountability and even less transparency from Church leaders back to the Church community.

This is despite the clear responsibilities of bishops to build up the faithful and to lead the Catholic community in facing its challenges around the child sex abuse crisis.

Ironically, in dealing with the child sexual abuse crisis behind locked doors to avoid scandalising the faithful and protect the Church, the opposite has been the result.

Bishops are very rarely held to account.

Appointments and movements of priests, their performances and personal issues are cloaked in secrecy with many Catholics deluded into believing that as consecrated people priests could not be abusers.

The fact that Church leaders have taken so long to admit that clerical abuse occurred at all and that it was either poorly managed or deliberately covered up goes to these issues of culture and clericalism.

Regardless of the country, whenever there have been official inquiries held into the Church's handling of a sex abuse scandal, the depth and scope of the abuse far outstrip any previous admissions.

This reflects to some extent the mindset of those who almost by instinct wish to be loyal and supportive of their Church, while at the same time believing that they are being open and balanced about what has occurred.

The way in which this 'cultural blind spot' is manifest varies and has changed from denying the abuse actually took place to creating a narrative that seeks to qualify the history.

These qualifications typically involve attempts to put the abuse scandal into some sort of justifying context like: there was more abuse in the Catholic Church because we ran more schools, homes and orphanages than anyone else, or; the Catholic Church dealt with more vulnerable children than any other institution, or; the abuse was a factor of immature candidates, seminarians and clerics, even homosexuals within the priesthood and religious life, or; the number of abusers in the Church was relatively small.

And so it goes.

But ultimately these rationales were offered more as a cultural scapegoating designed to excuse the institution rather than offer an honest and critical analysis to determine the full extent and reasons for the abuse, for the devastation caused by the abuse, and for the serious problem facing the Church.

A very difficult yet vitally important challenge for the Church was then and is now the extent to which it is prepared to go when asking why this scandal happened and why it has been handled so poorly.

Why was it that for too long Church officials confused crimes against children with failing in moral character as merely sinful, and able to be remedied by penance and private discipline?

Why was there an almost arrogant approach to civil authorities and the police that saw Church officials keep allegations hidden?

What impact did the lack of understanding about human sexuality and personal development have on the formation of priests and brothers?

To what extent, if any, did celibacy play a role in the abuse scandal?

How often did peer pressure determine the decision making of bishops that in turn lead to the concealment of crimes and the relocating of perpetrators?

How did the power imbalance between ordained priests and religious and the laity impact on reporting abuse to the proper authorities?

Is the sometimes isolated lifestyle of priests and brothers sustainable or even appropriate?

These and many other questions will need to be answered before we can expect to have a truly profound understanding about how our culture impacted on the abuse crisis.

### **Other institutions**

While much has been revealed about how the Catholic Church has responded to claims of child sexual abuse, so too have other institutions been similarly stripped bare.

Thanks to the work of the Royal Commission, we know that mismanagement and cover up of child sexual abuse is not unique to the Catholic Church.

Time and time again, the Commission has heard the testimony of survivors who were victimised by other institutions and their leaders when they reported their abuse.

Stories of failures to report allegations to the police and failure to ensure that victims were believed and supported are rife.

Often the Commission has heard there were no policies to guide personnel in institutions to identify and act on suspicious and inappropriate behaviour.

There was no training to help respond appropriately to children and adults disclosing abuse.

And, heart-breakingly, where there were policies in place, the Commission has found that when it came to the crunch they were either inadequate, or simply ignored.

Time and time again, just like religious organisations, secular institutions took no action to protect the children in their care, choosing instead to try to protect the reputation of their organisation.

This of course also results in protection of the perpetrators.

Leaders in respected organisations, such as the YMCA, the Anglican Church and the Yeshiva Jewish Community have resigned, their positions untenable, after details of their mismanagement of child protection and claims of child sexual abuse have emerged.

Universally, the case studies relating to government-run children's homes have revealed appalling abuse, compounded by cold, legalistic responses when complaints have been made.

More than once the Commission has heard about the profound difficulties faced by state police forces and offices of public prosecution in their attempts to investigate and successfully prosecute child sexual abuse crimes.

We have heard about the delays and bureaucratic approach taken by police forces in investigating complaints, and at times, their focus on budget and cost containment over the pursuit of justice for survivors.

At times prosecuting authorities have taken the easy way out, putting the matters in the 'too hard basket', choosing to drop them rather than pursue a difficult prosecution.

Over the 30 or so case studies so far there is much common ground between the investigations and findings into religious institutions and secular organisations.

This is despite at the start of the Royal Commission many people being of the view child sexual abuse was a Catholic issue and largely confined to Catholic Church institutions.

What has become clear is that this is not the case.

Having just said that, let there be no mistake: institutional abuse in other organisations should never be used to moderate the horror and scandal for abuse of children in the Catholic Church.

But we do now have a much clearer picture and we now understand child sexual abuse is a broad based community problem that needs a broad community based response.

And the most significant among these responses is, as a community, delivering a fair, consistent and compassionate redress scheme for child sexual abuse survivors.

### **Redress**

At the forefront of the Royal Commission's work, at its very heart, is the development of a national scheme of redress, or compensation, for child sexual abuse survivors.

I have already outlined what an abuse survivor faced when they approached the Church in search of justice and redress, particularly before the introduction of the Church's main protocols for dealing with abuse, *Towards Healing* and the *Melbourne Response*.

I must say here that it's come to light during the public hearings, that the Catholic Church is one of the few organisations that has its own protocols, limited as they are, for supporting victims of abuse.

Regardless of this, what is clear now is that it is no longer tenable for the Catholic Church, or for that matter any other institution, to run their own redress schemes.

I have said it before and I will say it again the 'days of the Church investigating itself must be over'.

And this is also the position of the Commission, which in August this year recommended a national independent redress scheme, coordinated by the Commonwealth but funded by the institutions in which the sexual abuse occurred.

The Catholic Church was the first major institution to call for this type of redress structure. And we have fully backed the Commission's proposal since it was released.

Almost from day one we have been saying that decisions about how survivors should be financially compensated must be taken out of the hands of Church leaders.

To that end our proposals around a national independent redress process are very much reflected in the Royal Commission's redress recommendations to the Federal and state governments.

### **Government response to redress proposal**

Yet our governments are lying low and playing politics with the Commission's recommendations which have now been sitting on the Attorney-General's desk for well over two months.

We have heard nothing from the Commonwealth on how they will be dealt with let alone implemented.

There seems to be quite a bit of jurisdiction responsibility shifting and posturing over redress efforts previously made for some victims, on some occasions, in some states.

Yet for a national scheme to be realised it will need the support of all Australian governments.

But, so far at least, that has not been forthcoming.

The initial Federal Government response, through its Attorney-General's office, to the Commission's redress consultation paper in January was, at best, dismissive.

Some have said the response was an insult to the Royal Commission and to abuse survivors and also to other institutions across the country working towards solutions, not obstructing progress.

In its three-page submission to the Commission's 300-page document the Commonwealth dismissed out of hand any involvement in a national redress scheme, saying that it is the responsibility of at fault institutions to manage redress.

This might be appropriate if the responsible institutions were capable of, or for that matter inclined, to do this. But we know many are not.

History and the Commission tell us a national approach in which abuse survivors are able to receive fair and consistent redress regardless of where, when or who they were abused by can only be achieved with the support of the Commonwealth.

That said it is pleasing to be able to report that the Commonwealth's intransigence seems to be moving.

There were reports a week or so back suggesting discussions about the Commission's redress proposals could be on the COAG agenda for the early November meeting.

This is significant and follows the state and territory governments writing to the Federal Attorney General, Senator Brandis, in September asking for clarification around how the Government intends to progress the Royal Commission's redress proposal.

I have also written to Prime Minister Turnbull asking the same question and seeking a meeting to discuss the issues with him.

What is disheartening, however, is the response from some of the state governments, in particular South Australia.

Its Attorney General, John Rau, dismissed out of hand any chance of South Australia revisiting compensation of abuse survivors and calling the Royal Commissioners a bunch of 'Johnny-come-latelies'.

He says the commissioners can be all care and no responsibility because they don't intend paying any of the bills.

He argued that some states and territories, including South Australia, already had long-standing compensation schemes and that his state had already dealt with a large number of people who had been children in state care.

He said that what the Commission was asking governments to do was basically 'pick the scabs off these old wounds and start all over again'.

I don't think the Royal Commission would put it in those words, but survivors do want the South Australian Government to look at all the abuse that has occurred in that state again and they do want the South Australian Government to re-visit past settlements.

And for Mr Rau to dismiss the Commission's proposals without even hearing the position of the Commonwealth and the other state governments would seem, at the very least, premature.

And while there is no denying the South Australian Government has provided some redress for survivors, there may well be question marks over whether it was appropriate or fair.

This has been the recurring question throughout the Commission's public hearings; have survivors been treated fairly?

And the resounding answer from both the survivors themselves and, for the most part, from the institutions is 'no'.

My question to Mr Rau is why does he think the South Australian Government has any less of a moral responsibility to abuse survivors than any other institution?

This decision by South Australia will not only disadvantage survivors in that state but also jeopardises access to justice through a national scheme for others across the country.

For the record the Catholic Church's commitment to supporting a national scheme is taken in the knowledge that its exposure is potentially \$1 billion of additional payments over the next ten years.

### **Legal**

And now to go to some of the legal issues facing the Church.

Too often it seems decisions concerning negotiation or litigation have not been firstly assessed through the prism of moral responsibility, Christian principles and values.

Rather, the default adopted by the Church has been that which the law permitted or limited.

And if a settlement was reached discussions must be private, confidential and kept out of the public arena. Survivors were often gagged, forbidden from discussing the outcome of their claims.

For many this smacked of yet another attempt to cover up the truth.

And so the Church leaders have taken very clear and decisive steps to remove some legal hurdles for survivors wanting to take an abuse claim against a church entity to court.

One such hurdle is the unincorporated structure of many faith-based institutions, including the Catholic Church.

Unincorporated associations are not legal entities, with the result that they cannot be sued.



This was the problem that ultimately defeated Mr John Ellis in the proceedings he brought against the Archdiocese of Sydney.

The agreed position of Church leaders now and reiterated by many, including the Archbishops of Melbourne, Brisbane and Sydney is that in the case of child sexual abuse, they will assist in the identification of the proper person or body against whom proceedings may be brought.

If this approach is adopted by all dioceses and religious congregations, the old expression 'you can't sue the Catholic Church' and the problems of the kind Mr Ellis faced should become a thing of the past.

Changes have also been agreed that will extend the time limits survivors have to bring a claim in the courts.

With implementation of these reforms survivors, in theory, should be able to seek justice through the courts, if they want to, without one hand tied behind their back.

For many survivors, however, court processes will continue to be an unsatisfactory way of pursuing redress for damage arising from child sexual abuse.

### **Independent Church entity**

We've looked at compensation and legal reform. But there's more that needs to be done within Church structures.

We are in the process of establishing a new independent Church entity that will set, monitor and report on best practice child protection standards across dioceses and congregations.

The plan involves a new body working in tandem with existing statutory requirements to strengthen child protection measures in those parts of the Church that are not currently regulated.

Importantly, the entity will not double up on existing requirements in our schools, hospitals and welfare organisations, but will augment current practices to ensure there are no gaps and children are safe.

### **Policy reform**

Through the Truth Justice and Healing Council, Church leaders have also made a range of recommendations dealing with public policy reform.

We have advocated improvements to working with children checks, out of home care, reporting to police, child safety in schools, victims of crime, redress and more.

I feel confident in saying that among the many institutions that are now coming before the Royal Commission the Catholic Church has played an important role in identifying problems and proposing solutions.

### **Action on the ground**

And while there is a raft of policy work being undertaken by the Commission and across-the-board reform within the Church there is also much work happening on the ground in individual dioceses and congregations.

Archbishop Philip Wilson in Adelaide was the first to instigate a child protection council supported by a child protection office in the Catholic Church in Australia. His work has served as a model.

In September, the Australian Province of the Society of Jesus released a major new children and vulnerable adults safeguarding policy.

The Archdiocese of Brisbane has employed a full time child protection officer and upgraded the position of Queensland Director of Professional Standards from a part-time to full-time position.

Here in Canberra the Archdiocese has recently set up a safeguarding office with a new coordinator.

The Christian Brothers Oceania has re-examined around half of past settlements to former child residents in its Western Australian agriculture homes and orphanages.

Perth Archbishop Tim Costelloe has engaged a new safeguarding project coordinator and also initiated a new project which will establish child protection officers in each of the Archdiocese's 105 parishes.

The Archbishop of Melbourne, Denis Hart, has engaged a retired Federal Court judge to review the compensation payments process of the *Melbourne Response*.

The Marist Brothers are also re-visiting past redress settlements to ensure they are fair and reasonable.

The Archbishop of Sydney, Anthony Fisher, recently employed a new child protection officer as part of a widespread Archdiocesan review.

This is just a snap shot of some of the many new initiatives within the Church over the past few years. I'm confident there will be many more to come.

### **Coming up**

As I mentioned earlier, within a month the Royal Commission will begin yet another examination of Church-based institutions, firstly in Melbourne and then back to Ballarat in the New Year.

These will be the 11<sup>th</sup> and 12<sup>th</sup> times the Commission has examined the Catholic Church.

While the focus of the Commission has been sharply on our Church, we cannot succumb to the inevitable fatigue these hearings bring to the public consciousness.

And neither can we succumb to a feeling that the Royal Commission or the media is out to 'get the Church'.

The facts are we are at the very centre of the Royal Commission because collectively the Catholic Church is responsible for more abuse than any other institution in Australia, public or private.

We are the focus because our history of child sexual abuse is shameful, corrosive and complicit.

It is spread across at least 60 or 70 well documented years and very likely decades more.

It is littered with examples of cover ups and crimes and of Church leaders failing in one of the very basic tenets of their calling, to care for and protect the most vulnerable.

But now, although it must never be considered a consolation, we are learning that institution after institution has mishandled and covered up abuse and unjustly dealt with victims.

For too long the depth and scope of institutional child abuse in Australia has been hidden from the community. The extent of the problem is really a damning indictment on so many of our trusted organisations.

**Conclusion**

The child sex abuse scandal has challenged the collective conscience of our Church.

It has forced us to question our awareness of the working assumptions and the values of our Church's institutional structure, its processes, culture and modus operandi.

It has tested our understandings of what is right behaviour, truth telling, honesty, responsibility to others, duty and human respect.

This experience is now the basis for judgement.

How can moral leadership, either by superiors or by individuals in responsible roles, facilitate a collective conscience which is based on the Gospel and not one determined by secular or institutional ways of thinking and behaving?

In Australia the Catholic Church has a unique opportunity.

The Royal Commission is driving change and demanding answers. Not just from the Church but across the community.

We should embrace this opportunity to re-establish the Church as a credible organisation, willing to acknowledge failings, accept criticism, and put in place reforms and move forward.

Of course this is a difficult and confronting process, one that requires a determination and resolve, born of a dual commitment to justice for those who have been abused, and the protection of children in our Church now and in the future.

Our history demands nothing less from us.

---

**Contact:** Michael Salmon 0417 495 018