

**Catholics for Renewal Inc.**

[www.catholicsforrenewal.org.au](http://www.catholicsforrenewal.org.au)

Presentation at Public Hearing of *Inquiry into The Handling Of Child Abuse by Religious and Other Non-Government Organisations – 23 Jan 2013*

***Inquiry Into The Handling Of Child Abuse By Religious And Other Non-Government Organisations***

*by*

**The Family and Community Development Committee of The Victorian Parliament**

**Presentation at Public Hearing by Catholics for Renewal Inc – 23 January 2013**

*“The church is tired . . . Our culture has become old, our churches and our religious houses are big and empty, the bureaucratic apparatus of the church grows, our rites and our dress are pompous.*

*“The church must recognize its errors and follow a radical path of change, beginning with the pope and the bishops. The pedophilia scandals compel us to take up a path of conversion.”*

*“The church is 200 years behind the times.”<sup>1</sup>*

1. Catholics for Renewal respectfully endorses this assessment from the late Cardinal Carlo Maria Martini SJ, expressed some weeks before his death on 29 August 2012, a man who many consider would have been elected Pope in 2005 if it were not for his degenerative illness<sup>2</sup>. This was the considered judgement of a dying man, an eminent member of the hierarchy, leaving a deliberate

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<sup>1</sup> Cardinal Carlo Maria Martini, 8 August 2012, reported in National Catholic Reporter, 4 Sep 2012  
<http://ncronline.org/blogs/ncr-today/translated-final-interview-martini>

<sup>2</sup>Belfast Telegraph, 3 Sep. 2012 <http://www.belfasttelegraph.co.uk/news/world-news/vatican-is-rocked-by-cardinal-martinis-damning-words-from-beyond-the-grave-16205822.html> - ixzz2G73QteH0

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message and legacy for the Church.

2. The Catholic Church has grave defects in its governance, which are horribly illustrated in the institutional response to child abuse in its ranks, a view shared publicly by Cardinal Martini and many others, including at least two Australian bishops, Patrick Power (sub.<sup>3</sup>, para 98) and Geoffrey Robinson (sub., paras 20-22). **Our submission identifies and focuses on a direct relationship between the Church's handling of sexual abuse and dysfunctional aspects of the Church's governance.**

3. Catholics for Renewal Inc, established in April 2011, is a national community-based group of committed Australian Catholics seeking renewal of the Catholic Church so that it is Christ-like in all respects, in the pursuit of its mission and in its governance. We express concerns shared by many Catholics regarding the governance of the Catholic Church, and do so in keeping with our duty as members of the Church<sup>4</sup>.

4. We received the support of more than 8,000 Australian Catholics in signing an Open Letter to Pope Benedict XVI and the Australian Bishops in 2011 (copy attached), expressing a number of concerns about the Church's spirituality, governance and practices. The letter included the following statement:

*"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."*

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<sup>3</sup> Note: Text references to 'sub.' refer to relevant paragraphs of the formal submission to the Inquiry by Catholics for Renewal Inc., September 2012.

<sup>4</sup> cf. Canon Law, 212, para 3: "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."

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### **Focus of Catholics for Renewal submission**

5. Our submission (lodged Sep 2012) focuses on the Catholic Church, although much of what we say may apply to other organisations within the Inquiry's terms of reference.

6. Society should be able to expect much more of the Church than of secular organisations. As Pope Benedict said in his first encyclical in 2006, "*The entire activity of the Church is an expression of a love that seeks the integral good of man*"<sup>5</sup>. Similar assertions are made in the submission to this Inquiry from the Catholic bishops of Victoria and the representatives of the Catholic religious orders, congregations and societies<sup>6</sup>. The handling of the abuse scandal by Church authorities is a shocking denial of this sacred mission. The Church's governance standards and structures, illustrated in its handling of the sexual abuse scandal, do not even aspire to the accountability and transparency values of secular organisations.

7. We are committed Catholics who believe that it is imperative for this Inquiry to consider the Church's governance inadequacies; we speak frankly of our Church's failings, in the interests of justice to victims and in seeking renewal of our Church. We are concerned for the victims of clerical abusers, and we are concerned for the mission of the Church. We represent views increasingly common among Catholics in Australia today, and indeed across the world, including many bishops and priests who are constrained by rigid requirements of obedience from taking appropriate action within the Church.

8. We note that there have been many expressions of sorrow from the official Church for sexual abuse by religious personnel, but not for the Church's own betrayals of trust in seeking to protect the abusers and its own reputation. When in Sydney in July 2008, Pope Benedict XVI said the deeds of clergy

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<sup>5</sup> Pope Benedict XVI, 'Deus Caritas Est - On Christian Love', para 19, 2006

<sup>6</sup> *Facing the Truth*, P 6

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responsible for abuse were a grave betrayal of trust that had caused great pain, had damaged the Church, and deserved unequivocal condemnation<sup>7</sup>. He regrets the deeds of clergy and damage to the Church, but he does not mention or apologise for the many self-protective and immoral decisions in concealing those deeds.

9. Such expressions of sorrow do not go far enough. What is missing is any apology for the serious wrongs beyond the actual abuse of children, namely instances of Church authorities concealing cases of child abuse, taking decisions to protect the Church and the abusers resulting in further cases of abuse. These decisions demand explanation and accountability.

10. The official Church submission to this Inquiry from the Catholic bishops of Victoria and the representatives of the Catholic religious orders, congregations and societies adopts the title '*Facing the Truth*'. In our view, the full truth goes somewhat further. Church authorities have failed to acknowledge that criminal offences were covered up, that the cover-up was perpetrated across the world, or to address the Vatican involvement in that cover-up. In the circumstances, it is not surprising that Church authorities have not considered the governance dysfunctions that allowed such institutional betrayal of trust. Until these serious governance deficiencies are exposed, admitted and corrected, society and its governments can have no confidence in the Church's corporate citizenship.

**11. The purpose of our submission is to identify relevant serious deficiencies in the governance of the Church, a step towards ensuring such harm cannot be perpetrated again.**

12. We, as people of the Church, want Church leaders to acknowledge the systemic inadequacies in Church governance structures and practices that

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<sup>7</sup> The Guardian, Saturday 19 July 2008, <http://www.guardian.co.uk/world/2008/jul/19/catholicism.religion>

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enabled such abuse under their leadership “throughout the world”<sup>8</sup>, inadequacies which have not been addressed.

13. The people of the Church are the Church. As Port Pirie Bishop Greg O’Kelly SJ stated recently:

*“The Catholic Church is you and I, our families, those who sit in our congregations, those who taught us, and so on.”*<sup>9</sup>

14. Inaction or silence regarding the institutional Church’s own failings makes the Church complicit in the scandal. **Catholics for Renewal is committed to justice for victims of such terrible abuse, and to reform of Church practices and governance arrangements so that the root causes of the abuse scandal can be addressed**, and the Church renewed in the spirit of its mission.

15. We are also concerned for the grave collateral damage through association done to the reputation of the many good people and good works of the Church. We deplore the sexual abusers and those in authority who protected them, and who sought to protect the image and reputation of the Church at grave cost to children. We acknowledge and praise unreservedly the many good priests and bishops of the Church who have been shamed by their colleagues and by the inadequacies of our Church’s institutional governance, and who have been silenced by the highest Church authorities. We acknowledge the people of the Catholic Church, lay people and clerics who play a substantial role in serving Victorian communities, in undertaking good works, whose reputations have been prejudiced by dysfunctional governance of their Church, particularly in its response to sexual abuse

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<sup>8</sup> cf. *The Melbourne Response* (first para of introduction): “This is a terrible time of suffering and self-examination as the full extent of sexual abuse by Catholic priests, religious and lay workers continues to emerge, not only here in Australia, but throughout the world”.

<sup>9</sup> Bishop Greg O’Kelly, Pastoral Letter to the Christian Faithful of the Diocese of Port Pirie, ‘*A Church in Dismay*’, 20 Nov. 2012

## **Governance of the Catholic Church**

16. The Catholic Church is centrally governed from the Vatican in Rome.

17. In April 2010, Fr Hans Kung, an internationally eminent theologian who served as an expert 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>10</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 (1981-2005) {note: now Pope Benedict XVI - CfR} . . . Ratzinger himself, on May 18th, 2001, sent a solemn document to all the bishops dealing with severe crimes . . . , in which cases of abuse were sealed under the “secretum pontificium”, the violation of which could entail grave ecclesiastical penalties.”*

18. Given that the *“entire activity of the Church is an expression of a love that seeks the integral good of man”*<sup>11</sup>, Church authorities should instead have acted immediately to protect children; and any global direction should have required that all evidence of child abuse be reported to the civil authorities.

19. Cardinal Levada, Cardinal Ratzinger’s successor as Prefect of the Congregation for the Doctrine of the Faith, has now belatedly issued a global direction on 3 May 2011 stating, inter alia:

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<sup>10</sup> Hans Kung, The Irish Times, Fri. 4 April 2010

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

<http://www.associationofcatholicpriests.ie/2012/05/hans-kungs-letter-to-bishops-is-worth-re-reading-chris-mcdonnell/>

<sup>11</sup> Pope Benedict XVI, op.cit.

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*“ . . . the prescriptions of civil law regarding the reporting of (crimes of sexual abuse of minors) to the designated authorities should always be followed.”<sup>12</sup>*

20. Cardinal George Pell has provided a commonly understood view of the hierarchical governance of the Catholic Church as currently practised:

*“Under Christ Our Lord, the papacy is at the head of the world-wide communion of faith, hope and love, a system where bishops promise obedience to the Pope and priests promise obedience to their bishops.*

*For us the papacy is . . . the longest surviving monarchy in the world . . .”<sup>13</sup>*

Cardinal Pell’s description is at odds with the emphasis in *‘Facing the Truth’*, which says, inter alia:

*“The bishops report to the Pope personally every five years. However, their power is personal, and received from God, rather than delegated by the Pope.”<sup>14</sup>*

21. Dr Marie Keenan’s ground breaking work in clerical child abuse in Ireland, published in 2012<sup>15</sup>, locates the crisis of sexual 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 (sub. para 28). Keenan suggests 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>16</sup> The problem for the Church appears rooted in the attitudes inculcated in the seminary system that creates a closed, secretive,

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<sup>12</sup> Congregatio Pro Doctrina Fidei, [Circular Letter to assist Episcopal Conferences in Developing Guidelines for dealing with cases of Sexual abuses of Minors perpetrated by Clerics](#), issued by Cardinal Levada, Prefect, 3 May 2011

<sup>13</sup> Cardinal George Pell, Speech Of Welcome at Opening Of Domus Australia, Rome, by His Holiness, Pope Benedict XVI , 21/10/2011 <http://www.parra.catholic.org.au/news---events/latest-news/latest-news.aspx/domus-australia-opening--cardinal-s-speech.aspx>

<sup>14</sup> *Facing the Truth*, “Nature of the Governance of the Pope” in 4.2

<sup>15</sup> Marie Keenan, *Child Sexual Abuse and the Catholic Church: Gender, Power and Organizational Culture*, Oxford University Press, New York, 2012,

<sup>16</sup> Keenan, op.cit. P.41

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clerical world that is responsible only to itself, and sees itself as beyond the reach of the state's legal system.

22. As Cardinal Pell observes, the governance philosophy and practices of the Church involve a strong requirement of ultimate obedience to the Pope, involving we believe a level of loyalty that can arguably be seen in practice as blind obedience. Keenan speaks of “a failure of leadership and of the relational governance that went right to the top”<sup>17</sup> and observed,

*“the role of obedience in the current crisis of child sexual abuse cannot be underestimated”* (sub. para 46) and that *“obedience is one of the central features of governance for the . . . Church in exercising authority”*<sup>18</sup>.

23. Some Church leaders in Victoria have implied that under Church governance arrangements, these are matters primarily for the local Australian church and individual dioceses. In doing so, they implicitly reject clear evidence to the contrary, denying the role of the Vatican in covering up the incidence of child abuse throughout the Church. However, that ultimate authority in Rome has apparently not disciplined any church authorities involved in the improper protection of sexual abusers and exposure of children to harm.

24. The Cummins report observed that:

*“a good organisational approach to risk management of child abuse would incorporate an understanding of . . . (h)ow **theological beliefs and church structures that engender and maintain patriarchal views** (bolding added – CfR) can operate to undermine the ability of a victim to speak up, and to expect that appropriate criminal action can take place”*<sup>19</sup>

There appears to be no evidence of Church authorities carefully examining the role of *“theological beliefs and . . . structures that engender and maintain*

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<sup>17</sup> *ibid*, 214

<sup>18</sup> Keenan, *op.cit.* P. 156

<sup>19</sup> Cummins report, Report of the Protecting Victoria's Vulnerable Children Inquiry, Jan. 2012, 14.5.2

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*patriarchal views*” in the sexual abuse crisis, or questioning its system of governance.

25. To summarise, the Catholic Church’s system of governance is based on strong centralised global control with ambiguous local decision-making, no commitment to transparency or accountability to its members, gender bias, an inappropriate and anachronistic culture and structure, and institutional self-preservation (sub. para 54). It comprises a solely male ordained hierarchical structure of autocratic governance, exercised through compulsorily celibate bishops, often socially isolated and increasingly aged, with no effective communication or engagement with the membership, and under the supreme control of a papal monarch demanding strict obedience. It is, to say the least, a very dated system of governance, 17<sup>th</sup> century in origin, which does not approach modern standards of good governance - or established Australian values - of transparency, inclusivity and accountability (sub. para 45).

26. Catholics for Renewal asserts that the Church’s governance structure makes it impossible for its decision makers adequately to understand, respond to, and learn from the social and spiritual experiences of the people of the Church. The decision makers are remote from and not accountable to the people of the Church (sub. para 55).

27. Civil democratic governments should not rely on Churches and non-government organisations to police themselves on matters affecting the good of society, particularly when those organisations lack accountability. A leading Australian Catholic social commentator, jurist, academic, and Jesuit priest, Father Frank Brennan SJ, recently observed regarding sexual abuse and the Church:

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*“Clearly, the Church itself cannot be left alone to get its house in order. That would be a wrongful invocation of freedom of religion in a pluralist, democratic society.”<sup>20</sup>*

**28. The Catholic Church’s governance must be reformed or there will be further decision making that could hide sexual abusers or otherwise be prejudicial to the common good of our civil society.** We Catholics don’t expect the State to clean up the problems inherent in the church’s governance structure – that is our job – but nowadays in a democratic polity we do expect the State to demand that the church conform to the law and values of civil society.

29. The major responsibility for reform lies with the Church itself given the proper limitations on a government’s ability to force internal changes on voluntary organisations. However, legislative reform in areas of civil authority is necessary. This Inquiry can also be an influence for change by reporting publicly, as required by the terms of reference, on whether changes to *“practices, policies and protocols in such organisations”* are required.

30. The evidence of Professor Parkinson to this Inquiry provides a salutary warning that a defensive approach continues in the Church in responding to clergy sexual abuse; Professor Parkinson said that he was *“afraid that the cover-ups go to the highest levels”<sup>21</sup>*. Only the State is capable of ensuring the proper exposure of child abuse and prosecution of perpetrators in the interests of vulnerable children.

31. We believe that public identification of governance deficiencies in organisations such as the Catholic Church will contribute to progressive

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<sup>20</sup> Father Frank Brennan SJ, Law and Justice Oration, at the Law and Justice Foundation 2012 Justice Awards Dinner, Wednesday 31 October 2012, Parliament House, Sydney  
<http://www.eurekastreet.com.au/article.aspx?aeid=33917>

<sup>21</sup> Professor Parkinson, evidence to Inquiry 19 Oct 2012, P. 7-8

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change. Given the imminent federal royal commission in this area, we expect that this Inquiry's views on such governance deficits would also be taken up at a national level.

32. We will discuss further the systemic and practical approaches that governments can implement to improve systems of governance and organisational culture that lead to inadequate responses to child abuse in religious and other NGOs.

### ***Towards Healing and The Melbourne Response***

33. The Catholic Church in Australia has taken some steps since 1996-7 to improve its handling of sexual abuse complaints through *The Melbourne Response* (covering those exercising ministry in the Melbourne Archdiocese who are under the authority of the Archbishop of Melbourne) and *Towards Healing* (covering all others exercising ministry in Australia, including Melbourne in the case of religious orders and congregations). To our knowledge, both protocols are managed conscientiously within their mandates, but we have concerns with those mandates, and we have concerns with these protocols conflicting with the broader justice system.

34. We have been asked by the Committee to provide information on "*differences in approaches adopted by Towards Healing and the Melbourne Response in handling complaints relating to child abuse*". We have attached an appendix reflecting our understanding of the differences and commonalities to assist in a broader appreciation of how these protocols deal with complaints of abuse.

35. *Towards Healing* contains the principles in responding to complaints of abuse against personnel of the Catholic Church in Australia by which the

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performance of both the complaint handling protocols may be judged. *The Melbourne Response* has adopted those principles.

36. We believe it is now timely for the Archdiocese of Melbourne to adopt a common system with the rest of the Catholic Church in Australia. The traumatic prospect of complaining is made more confusing to a Melbourne victim, whether a child victim, parent, or grown-up victim, by *the Melbourne Response* covering solely allegations against persons "*under the control of the Archbishop of Melbourne*", given that religious orders in Melbourne are under *Towards Healing*. The task is even more daunting for a victim where a religious order is exercising a parish ministry under the control of the Archbishop of Melbourne.

37. *Towards Healing* and *The Melbourne Response* in practice have dealt mainly with complaints of child abuse raised some years after the abuse, when the victim has reached adulthood. The protocols are not an effective means of identifying current crimes of abuse or preventing further abuse. A complaint normally identifies only one victim of the alleged abuser, namely the complainant; that abuser may have abused many others before that one victim as an adult eventually lodges a complaint.

38. These internal Church investigations are not criminal investigations, are not necessarily aware of other possible victims of the same alleged abuser, and do not ensure the prosecution of criminal offenders. These are internal complaints processes that should be a pastoral and just response to complainants. However, they purport to deal with confirmed offenders privately outside the criminal justice system, and consider evidence of criminal activity not available to the police, evidence that would require police investigation under civil law. A formal police investigation would of course investigate according to law, and seek to identify other victims and to prevent further assaults by the alleged abuser.

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39. Statistics of complaints through *Towards Healing* and *The Melbourne Response* are of limited value in that they confirm a horrifying but conservative number of past cases, and a minimal record of abuse incidents by individual abusers. Child victims of clerical sexual abuse are most unlikely to come forward as children at the time of the abuse (and will be in fear of telling even their parents of violation by a priest), and will be reluctant to come forward even as adults. The Whitlam Report released last week noted that in Moree, NSW, parents had been “*reluctant to notify police because they did not want to embarrass their children or the church*”.<sup>22</sup>

40. The Church’s complaints protocols are not the Church’s only source of information of possible child abuse in its ranks. The Church can also become aware of abusers in its ranks through internal processes and intelligence, but has apparently chosen not to report any of these to the police (sub. para 39).

41. In our view, any Church complaint handling process should be focussed primarily on pastoral care of victims. A new national Code of Conduct should focus on pastoral care and prevention measures with clear standards of appropriate behaviour in all interactions with children and young persons.

42. If further clerical abuse of victims is to be minimised, evidence implicating suspected perpetrators must, whenever possible, 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 means to identify them and to report them to civil authorities.

43. We do not believe the Church’s process changes in response to the child abuse scandal in Victoria, or nationally, or globally, are adequate to prevent

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<sup>22</sup> ‘Whitlam’ Report commissioned by the Bishops of Armidale and Parramatta on “F”, released January 2013 <http://www.parra.catholic.org.au/news---events/latest-news/latest-news.aspx/report-by-the-hon-antony-whitlam-qc-released.aspx#.UPdMHPxps1Y.email>

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the recurrence of immoral decision making in the context of a dysfunctional system of governance that betrayed the Church's mission and the trust of so many, and ruined so many lives.

### **Legislative Reform**

44. We have recommended legislative reform in the area of reporting of child abuse crimes. The Inquiry's terms of reference include a requirement for the Committee to report:

*“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”.*

45. 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* to mandating religious personnel to report reasonable suspicion of child abuse. The *Cummins Report* proposed after careful analysis that religious personnel should be mandated under the Crimes Act, specifically rejecting welfare reporting as inadequate.

46. Under both *The Melbourne Response* and *Towards Healing* in all States but NSW, the Church 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. An informed community would in our view regard such a situation as unacceptable. The job of the police, and the responsibility of governments, is to apprehend and deter criminals, particularly those who may be a continuing risk to the community.

47. In NSW, the Church has expressed its commitment to complying with the law requiring reporting of all reasonable suspicions of child abuse to the police whether complaint-based or not, but will not do so in Victoria where there is

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not a statutory requirement. The arguments against reporting in Victoria are apparently not supported by the Catholic Archdiocese of Sydney. The Sydney Archdiocese does not rely on statutory requirements in its clear statement of principle:

*“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. **‘Towards Healing’ is NOT a substitute for a police investigation**” (emphasis in original)<sup>23</sup>.*

Nor is *The Melbourne Response*.

48. Whilst statutory change is urgently required in Victoria, there is in fact no moral reason why the Church, of its own initiative, could not adopt civil criminal reporting immediately.

49. The Cummins Report recognised that mandatory welfare reporting, primarily focussed on the welfare needs of at-risk children rather than the reporting of sexual abusers, was inappropriate for preventing the concealment of child abuse within religious organisations, and stressed the need for mandatory criminal reporting. Catholics for Renewal agrees and emphasises that this responsibility to report to the police should apply to all religious personnel at all levels, from clerics to cardinals (sub. paras 61, 62).

50. The Victorian bishops and religious orders’ representatives have now suggested in their submission the extension of mandatory welfare reporting to clergy and other religious personnel as mandated professionals<sup>24</sup>, an option specifically rejected by Cummins.

51. The welfare mandating of “clergy and other religious personnel” to report at-risk situations to DHS would be inappropriate, inefficient and inadequate.

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<sup>23</sup> Catholic Archdiocese of Sydney, ‘*Sexual Abuse - The Response of the Archdiocese of Sydney*’ undated, P.7 (reported in *The Australian* 24 August 2012 and *CathNews* 24 August 2012 )

<sup>24</sup> *Facing the Truth*, 15.3

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Clerical sexual abuse of children is a distinctively insidious crime that should not be lost in an overloaded welfare system. It should also be noted that most clergy and other religious personnel would not have the necessary qualifications and training of other mandated professionals, nor sufficient dealings with children to warrant being mandated under the welfare legislation to identify at-risk children and trigger State child protection mechanisms. The Secretary of the Department of Human Services, Ms Gill Callister, provided advice on this issue in her evidence to the Committee on 22 October 2012 and observed:

*“mandatory (welfare) reporting is designed to capture instances where children are at risk in their family“.*

52. It is noted that some religious professionals are already welfare mandated in their professional roles, and the requirements of the Working with Children Act 2005 already apply to persons in religious organisations who work or volunteer with children and young people. These are appropriate welfare arrangements that serve to underline the quite different purposes of mandatory criminal reporting.

53. In their submission to this Inquiry, the Victorian bishops and religious orders’ representatives acknowledge failures to some extent:

*“The Church acknowledges that prior to the introduction of The Melbourne Response and Towards Healing, it did not respond appropriately to some allegations of criminal conduct. This was a mistake. The mistake was compounded because the manner in which the Church dealt with the allegations was sometimes ineffective. With great regret, the Church acknowledges that there have been instances in the past where further abuse could have been prevented by more effective action against offenders, and where inadequate support was given to victims.”<sup>25</sup>*

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<sup>25</sup> Facing the Truth, 16.6

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54. Catholics for Renewal welcomes this acknowledgement, but it is understated. “(F)urther abuse” was in fact facilitated by Church authorities’ decisions to move abusing priests to new postings thus putting more children at risk. *Facing the Truth* fails to explain how such ‘mistakes’ could occur in a Church committed to the highest Christian values. *Facing the Truth* also fails to identify or propose any reforms of the dysfunctional governance structures and processes that allowed such grave ‘mistakes’.

55. In addressing the possibility of mandatory criminal reporting, the Catholic Church proposes three constraints in any mandatory reporting regime:

1. Concealing the identity of the complainant from the police – Catholics for Renewal does not agree that a private and conflicted organisation should have such a power and believes that the police can handle such situations discreetly and with sensitivity to the interests of the complainant. Again, the Secretary of the Department of Human Services provided advice on this issue in her evidence on 22 October 2012. Ms Callister stated, inter alia:

*“... often what happens is the police will then speak to that child or young person, and sometimes they will go ahead with a statement of complaint even though they originally said that they did not want to and other times they will not.”*

Victoria Police has confirmed in evidence given to this Committee<sup>26</sup> that police are trained to interview such complainants with care and sensitivity, and have expressed concern that police should not be hindered by Church authorities in undertaking investigations. We further note that even when an adult is complaining of an historic incident, the perpetrator may still be at large and it is up to the civil authorities, not a private organisation, to pursue justice and protect the community.

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<sup>26</sup> Mr Patrick Tidmarsh, Forensic Interview Advisor, Sexual Offences Child Abuse Investigations Team (SOCIT) and Detective Superintendent Rod Jouning, Sexual and Family Violence Directorate, 9 November 2012 at pages 10-11

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2. An exemption where the child is no longer at risk – *Facing the Truth* seems to assume that only the complainant is at risk, ignoring the high possibility of other past, current and future victims of the same abuser. Also, a duty of mandatory criminal reporting would not be limited to the complaints process but would extend to all sources of reasonable suspicion. Further, as noted above, it may be that a grown-up complainant might identify an aged abuser who remains alive and may be a continuing risk to children, and should be subject to justice.
  
3. An exemption for information received during the rite of Confession – Catholics for Renewal agrees generally with the arguments in the Church's submission for this exemption and sees no net benefit in refusing the exemption, but we are disappointed that Church authorities have not addressed means by which they could be more proactive in demonstrating the Church's intolerance of sexual abuse of children. We suggest that Church authorities be asked to provide any reasons for opposing the possibility mentioned in our (CfR) submission of ensuring that absolution is always subject to the abuser reporting themselves to the police. It is noted that such an arrangement is more likely to lead to the prosecution of abusers, as Confession can be anonymous rendering forced reporting ineffective.

56. The need for mandated reporting at all levels is reinforced by last week's Whitlam Report on 'Fr F' in the dioceses of Armidale and Parramatta. In commenting on that report, Bishop Fisher of Parramatta has said: "*Some members of the Church have committed grave sins and some leaders of the Church have made grave mistakes.*"<sup>27</sup>

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<sup>27</sup> Bishop Anthony Fisher OP, 'Statement to the Faithful of Parramatta concerning the Whitlam Report', 17 January 2013

## **Our Recommendations**

57. Having regard to the matters outlined, particularly the dysfunctional aspects of the Church's governance based on:

- i. centralised global control,
- ii. discriminatory structures,
- iii. inappropriate culture involving limited engagement with members, and
- iv. institutional self-preservation,

we have made five recommendations in our submission, which in brief (see submission for full text) provide:

A. The Crimes Act 1958 (Vic) should require a separate reporting duty where there is a reasonable suspicion of abuse of a child or young person by an individual associated with a religious or other non-government organisation. (We believe that this reporting duty should apply regardless of the current age of the complainant)

B. That the separate reporting duty should define a criminal offence for anyone at any level of a religious or non-government organisation should they fail to report to the Police any evidence of acts of child abuse or suspected abuse.

C. An exemption to Recommendations A and B for the 'seal of confession' if the Church ensures that absolution for sins of child sexual abuse should normally be conditional on a penance requirement of reporting such a serious crime to the police.

D. The Inquiry should make findings about appropriate governance structures for good corporate citizens to ensure accountability and exposure of wrongdoing, accepting that such findings may not all be appropriate for legislation, e.g. religious and other non-government

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organisations should adopt clear and unambiguous modern governance structures, policy and practice and ensure:

- 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 Catholic Church in Australia should adopt one national Code of Conduct covering all Catholic Church workers, including priests and clergy, and one national complaint handling process.

### **The Role of Government in Child Protection**

58. We stated in our submission that 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.

59. Catholics for Renewal accepts the role of the State in governing in the best interests of the community. That role applies particularly to the protection of the State's most vulnerable citizens. The State's legal framework must be adequate to deal with known serious risks to children and legislative safeguards must be put in place to deal with identified risks.

60. As Cardinal Martini observed, "*The pedophilia scandals compel (the Church) to take up a path of conversion . . . The church is 200 years behind the times*".

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Governments have a legitimate and necessary role to play in ensuring that all institutions, including churches, operate in a manner that contributes to a good society. Our recommendations are focused on our Church's need "to take up a path of conversion" in the interests of both Church and State.

61. We have been pleased to note that the work of this Inquiry will continue and no doubt contribute substantially to the federal royal commission. In our view, it is imperative that implementation of this Inquiry's findings not be delayed due to the federal royal commission. We believe that our recommendations propose necessary actions that are properly the preserve of the State.

62. We commend our recommendations for the Committee's consideration and would welcome any questions. Thank you for this opportunity to speak to our submission.

### **PRESENTERS:**

Peter Johnstone OAM (Chairman)

Frank Burke (Secretary)

Maria McGarvie (Member)

### **Notes re presenters:**

Peter Johnstone is a former Director-General of Community Services in Victoria, has led boards of Catholic welfare agencies, and consults in corporate governance.

Frank Burke has held senior positions in Victorian Government administration and the not-for-profit sector in employment conditions, industrial chaplaincy and counselling services. Frank is a spiritual director with an agency of the Catholic Church.

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Maria McGarvie is a lawyer specialising in personal injury law; a mother of four adult children who has played an active role in Catholic Parish ministry; a former volunteer executive member of a family welfare agency, and currently committee member of a community legal service.

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### **ATTACHMENT**

#### **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

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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 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*