

Royal Commission into Institutional Responses to Child Sexual Abuse

Panel 3 – Structure, governance and culture

1. Issues contributing to occurrence of abuse and affecting the institutional response:

- It would be easy to write off the problem of child sexual abuse committed by Catholic Church personnel and the poor responses to the abuse as problems of ‘a few bad apples’, but the problems were institutional and cultural.
 - It is also simply not true that the discovery of the problem of child sexual abuse within the Church has been quite recent (from the late 1970s onwards). Bishops had been receiving complaints of sexual abuse from parents for many years and the problem had been repeatedly identified across the centuries.
- a. the Catholic Church’s structure and governance, including the role of the Vatican; and*
- b. issues related to the individual leadership of Catholic institutions*
- The Church’s governance structure can be best understood as a mixture between ecclesiastical community and feudal principality. The theology of the Church particularly after Vatican II, reflects the former. The governance structure of the Church reflects the latter and is rather literally medieval.
 - While the Pope has supreme authority, under direction of the Pope, a bishop has complete legislative, executive and judicial authority within his own diocese, subject to canon law.
 - The modern bishop shares decision-making power with delegates, advisory bodies and professional staff only to the extent he does so voluntarily.
 - Religious orders are likewise relatively autonomous, answerable to the Pope or (often) the international leadership of their order.
 - There is also not a hierarchy of governance or authority within countries or regions among archbishops and bishops.
 - Using the analogy of a corporation, this means there is no effective senior management structure under the CEO (the Pope) to act as an intermediary and direct the middle managers (bishops).
 - It follows there is no management or collective decision-making structure within the Australian Catholic Church beyond the conferences of bishops and religious leaders and a bishop or religious congregational leader is not bound to follow the policies made by majority vote of those conferences.
 - This means that while dioceses and orders may agree on a common process or sign up to a collective protocol or submission, the outcome and implementation of the process is a matter for each bishop or leader of a religious order, unless a local canon law rule is established (see section (d) below).
 - Within the Australian Catholic Church, there is also a greatly varying degree of professionalism in the management of different dioceses and orders (relating to both size and resources).
 - As a governance structure for a worldwide Church in the 21st century, it leaves much to be desired.
 - Further, bishops and religious order leaders come and go. Some are excellent, others indifferent and others worse than that. There is also a lack of general preparation for leadership and – in some cases – a lack of capacity among bishops and religious order leaders.
 - In relation to the issue of child sexual abuse:
 - Responses to victims and dealing with alleged offenders are a matter for each individual bishop or leader.
 - While bishops and religious order leaders may make a commitment to the Australian people (for example, to a national protocol like *Towards Healing*), there are enormous variations within the leadership of the Australian Catholic Church on their approach to the problem of clergy and religious child sexual abuse and their willingness and capacity to implement that commitment whole-heartedly.

- This results in inconsistent outcomes in terms of responses to victims and alleged offenders.
- While bishops and religious order leaders may make a commitment at a point in time, this cannot bind their successors. That is the governance problem at the heart of Catholicism.
- Below the level of the bishops, there is also a lack of structure in the field to maintain the accountability of priests, who are only genuinely accountable to senior clergy.

c. mandatory celibacy

- While it is contested and there is no clear evidence of a direct causal link between a commitment to celibacy and the sexual abuse of children or adolescents, I believe that celibacy has played a significant role in fuelling the propensity of some Catholic priests and male religious to abuse children.
- The link with sex offending against children and adolescents by priests and celibacy may indicate a perfect storm of several factors coming together, where those priests are not ‘true paedophiles’ (ie, attraction to pre-pubescent children). For example:
 - Loneliness, lack of intimacy and seeking affection and intimacy where one can find it (such as in a school, where a member of a teaching order).
 - Often the abuse that one sees in the Catholic Church context is homosexuality leading to the abuse of teenage boys (rather than ‘paedophilia’ as such), connected with issues of situational access and offending. There are similar patterns in the Anglican Church.
- It is also no doubt the case that fifty or more years ago, priests and religious were not nearly as well prepared for a life of celibacy as they are now, and nor as well-supported to lead that life. I understand that in Australia selection processes are more rigorous than in the past, and men embark upon the path towards the priesthood at a much older age than they once did.
- While these changes are all to the good, I would caution against over-confidence that this resolves the problem. As the Catholic Church finds fewer young men willing to enter the priesthood and demand is greater than supply, standards may drop. The Australian Church is also increasingly reliant on importing overseas priests – how exacting are the formation and selection process for those priests?

d. Canon law

- Canon law represents a legal and cultural problem in responding to child sexual abuse.
- As a legal problem, canon law is inadequate for dealing with investigating child sexual abuse and dealing with abuse by priests and religious where there has not been a criminal prosecution or conviction. An effective investigative and disciplinary system for alleged child sexual abuse must operate in a timely manner, subject to the requirements of procedural fairness.
- There is room in canon law for the Australian bishops by quorum to establish locally applicable canons (‘essential norms’), so long as these norms are not inconsistent with international canon law.
- As a cultural problem, the Catholic Church is to some extent a law unto itself. The Church has a long heritage of being self-governing and dealing with problems internally since before the emergence of the modern nation state. With that history, there remains an attitude that the Church, still has primary authority over its priests and religious through the Church’s own legal system.
- That attitude means that it may not defer to the nation-states of the countries in which its priests or religious reside except to the extent that it has to do so. While bishops would not be in breach of canon law if they were to report complaints of child sexual abuse to the civil authorities, in a jurisdiction where there is no or limited mandatory reporting requirements, this culture of secrecy remains.

My views on the issues in questions 2 and 3 are addressed above.