

Submission in relation to Issue Paper Number 6 - Redress Schemes

Greg Rooney

I refer to my submissions in relation to Issue Paper Number 2 'Towards Healing' that deals with this issue and would like to add the following:

In my view the fundamental question to ask when considering proposed redress schemes is this:

Is the redress scheme for the benefit of the institution or the victim of the abuse?

The reason that this is important is that the institution and the victims have quite different and often opposed needs.

The Institutions

For institutions the most visible manifestation of this unpleasant issue of historical sex abuse is represented by a list of names on their books of people who have been abused.

Because of the passing of time the perpetrators have either left the institutions, in jail or more likely to be in nursing homes or dead. The institutional leaders at the time are also more likely to be in nursing homes or dead. The only people left standing are the victims of the abuse who were often much younger.

Therefore this list of names has become the visible manifestation of this terribly destructive issue of institutional sex abuse that those institutions must deal with.

It is therefore easy to see how "the problem" of how the institutions deal with historical or sexual abuse becomes the problem of how to deal with this list of names. This has led to victims feeling that they have become the problem.

Sometimes complainants feel that those around them treat them as if they are the problem. For most, the effects of the original abuse have been something that they have lived with for decades and will have to manage for the rest of their lives. They have a problem but they are not "the problem". From the complainants' standpoint, they have done nothing wrong. It is the perpetrator and/or the Church that have behaved wrongly. They can often become very offended when they feel that those around them just want everything to be brought to an amicable and acceptable conclusion. The sense is that this desire to fix things up is really meeting the emotional needs of the helpers [and the institutions] rather than the complainant.....

.....However, there are occasions where there is a sense from the [churches'] lawyers and from some clergy that they wish these sexual abuse cases would simply come to an end. The stress felt by the clergy in having to deal with the dishonour that has been brought on the Church by colleagues they have known for years causes a great deal of pain and

angst. It can lead to feelings of wanting the complainants to just go away, to finish.
(Rooney & Ross 2007)

It is understandable that the institutions have a great desire to clear the books, to close the files, to put them away in storage in an industrial warehouse and bolt the door so as to hopefully end this sorry chapter that seriously threatens their existence.

The desire for an efficient, clean and transparent process with clear timelines (the most important being the date of completion) is most attractive. A process that can bundle everything up neatly, tie a string around it and file it away (*similarly, judges and court administrators constantly tinker with practice directions and processes to expedite the closure of cases*). Of course it will be designed with proper processes with as much justice and equity built in as is humanly possible. It will even try and measure fairness. It might have set amounts of compensation to make it even tidier. It will have a start a middle and an end and most importantly an outcome or solution.

For it is the focus on the solution that is at the heart of this approach.

The Victims of Abuse.

As someone wise once said *"life is not a solution"*.

For the victims of sexual abuse there is no start, middle or end. There is no tidy wrapping up or closing of the books for them. There is no solution. For them, like everyone else, life is just a process.

It is important for the victims of abuse to have some reference point with respect to the abuse other than the incident of abuse itself in the 1950s, 60s or 70s whenever it occurred. It is therefore important that there is a process for those, who are ready for it, to meet with the current representatives, to have an acknowledgement and recognition of what happened, to get a formal apology and to receive a tangible representation of an apology in the form of money and other assistance.

The reason that it is important is that part of the damage of the original abuse is the shattering of the young person's boundaries. As they subsequently moved into their late teens and early 20s this shattering compounds and often leads to a shattering of their social boundaries leading to drug addiction and self harm.

If they survive into middle and late adulthood they carry with them their internalised shattered boundaries. These are reignited by constant publicity of abuse issues in the media, the Royal commission and the fact that with ageing, short-term memory starts to fade and long-term memory kicks in. The wounds that have been suppressed are open again.

So a victim focused redress scheme would encompass a process that would help repair that initial broken boundary. So the 2014 experience of meeting with the representative of the institution, the apology and the payment of money would overlay the 1950, 60 or 70 experience. It is then with the help of experienced counsellors that the victims can continue the slow process of moving forward with their life but from a more solid base than that of the initial sexual abuse.

I refer to my earlier submission in Issues Paper Number 2 where I stated that the real power and the effect of Towards Healing, Healing Steps and other pure mediation approaches if handled sensitively, is that it overlays a 2014 experience over the 1960 experience of being abused (*I am not referring to retired judges and senior legal council's hip and shoulder directive approach to mediation*). The 64-year-old is able to bring the internalised 11-year-old to the facilitation. With the help of skilled counselling this can start the process of reintegrating that part of them that was shattered by the original sexual assault. It can help reset the boundaries.

A victim focused redress scheme does not have a tidy end. In fact there is no end as it is just one step in a continuing process. However, to some extent, it is important that there is a defined focal point to help ground the victim in the present. It is important that the mediated meeting between the institutional leaders and the victim take place as quickly as possible and that it is tailored specifically for the victim and their family. That at the completion of the meeting there is something of substance for the victim to help in reconstructing that shattered boundary. Something that grounds them in 2014.

There must be a feeling that this is their process rather than being one member of a class action production line or tribunal. A Tribunal that is neat and tidy, transparent and outcome driven. Where the cheque is delivered in the mail with a written letter of apology, thank you very much. File closed, call the next matter please.

While it might be of some help to know that there is a generally accepted range of appropriate payments for these cases it is only one small part of the bigger picture dealing with the lifelong effects of a shattering of their sexual boundary in their youth. No amount of money can compensate for this loss. Money is not the solution.

It comes back to the comment I made in my submission to Issues Paper Number 2 with respect to the difference between Melbourne Response and Towards Healing processes in the Catholic Church context:

I would suggest that there are two distinct approaches within the Catholic Church on how to deal with historic sexual abuse matters.

The first is that these are serious and important issues that have to be dealt with quickly and efficiently so that the church can go back to doing what it normally does. It is basically an administrative and a liability problem caused by past church failings and as such it needs an equitably based administrative solution. The Melbourne Response is a product of that approach. It is a solution based approach.

The second approach is that how the church deals with the victims of these abuses is at the centre of the churches reason for existence and is the most important moral and religious work the church can do. The integrity of the process is paramount in this approach. The process focuses on the victim's needs rather than that of the church. It is built on a facilitative process in which there is a meeting between church leaders and the complainant at a human and personal level. That church leaders accept personal responsibility on behalf of their dioceses or order; that they personally explain how this has happened and why; that they apologise and work with the complainant to help them move forward with their lives in a meaningful way. This meeting includes a face-to-face negotiation with a senior church leader about financial reparation. The Towards Healing response is a product of that approach. It is a process-based approach.

So the question for the commission to answer is:

What is the purpose of and for whose benefit is the proposed redress scheme directed to?

Greg Rooney

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Reference: Rooney, G. Ross, M. Mediating Between Victims of Sexual Abuse and Religious Institutions (2007) 18 Australian Dispute Resolution Journal 10. Sydney: Thompson Law Book Company, 2007