Issues paper No 6

Issue 1.

One advantage of a formal redress scheme is that it provides a formal framework for the full acknowledgement of the abuse by institutions, and admission that the Catholic Church and its agencies takes full responsibility for providing redress.

The disadvantages of a redress scheme like Towards Healing is that they lack credibility and transparency when controlled by Church authorities themselves, and are prone to be tokenistic, legalistic and self-serving.

Civil litigation as it stands is also limited in its capacity, as the Church has been shown historically to be a vicious litigant that denies justice.

2.

Redress schemes do not work when the claimants have to undergo combative legal processes, are subjected to unfair criticism and social stigma, and are almost without exception affected by emotional and psychiatric disability.

3. Options should be available on a case-by-case basis. For some, group support and education are appropriate, for others only individual therapy is appropriate. There should be community-based, rehabilitative services, supported work experience opportunities and mentorship to enrich their emotional functioning and productive life.

My own view is that funding for the support of abuse victims could be funded by legislative changes that would examine tax and property concessions with a view to creating a national working fund for assisting these sufferers.

4. This is an important issue for discussion. Funding involving government grants for those judged to be so disabled by their abuse that lengthy therapy or supported work environment are essential to make progress. This body should be an independent statutory authority, totally independent of religious institutions, and working in alliance with Child Protection, parenting and health care organizations.

5. Given the history of the past 30 to 40 years, I have no confidence that any church group could be entrusted with this responsibility. The words of the Towards Healing are hollow when the actions of the past remain hidden, and the responsibility for redressing these issues cannot be given to the institutions responsible for the ‘formation’ of the perpetrators. The word ‘strive’ is a word open to interpretation – the church makes a firm commitment to strive. The church has been forced to come forward as a reaction to the outrage in the community at the extent and intensity of the abuse of those in their care. The collective wisdom of parliaments, government and non-government experts, community input and the institutions can produce working model that would be funded through the resources of the institutions and government. For example, an equivalent based on a Futures Fund or Research pool of money where the property and financial reserves of these organizations/foundations would be required to make restitution to those who were criminally assaulted when in the care of these institutions.
6. Clearly, a national redress and compensation scheme should be mandatory because avoidance of responsibility is endemic in institutions. Secondly, the resources of the religious organizations are considerable when taken as a whole, yet there are some with few resources as their numbers and functions decline. It should also be mandatory because institutions will transfer their resources into untouchable forms through using their privileged positions as charities, not-for-profit, trusts and foundations to avoid making restitution. It was always a tenet of moral theology, as I understood it, to confess to wrong, to express contrition and to make restitution. I don’t recall the specific term ‘redress’ but I suspect it is used to weaken an active responsibility.

7. Claimants should maintain their personal rights as members of the community to pursue civil litigation because the institutions have no basis for being trusted as a result of their own attempts to cover-up or resist efforts by victims to be acknowledged and compensated.

8. This is a major reason for a national scheme being desirable with an independent statutory authority funded through drawing firstly, on the assets and earnings of the very organizations that are responsible for the abuse, and secondly, by having access to health and welfare processes through Medicare or other services needed for their mental, emotional or physical health.

9. It is my experience that the compensation through the courts model is not one to be followed. It is very slow, expensive, dominated by legal process, and dehumanizing. Expert assessment of claims and the impact on the abused should follow the model of disability entitlement where capacity and functioning of the person is established through investigation and reporting. The obvious objection to this process is about those making factitious claims. The actual rate of factitious claims is very low, and it is better to live with that possibility, than to create a process where victims are put through increased suffering, such as occurs in the work and traffic injury jurisdictions.

The kind of process I am arguing for is a community model not a legal model whereby victims have a voice, the institutions listen with understanding, make a formal apology, and make restitution. This could take the form of monetary compensation, or some other form of negotiated benefit – job training, education grant, long-term lease of property.

10. Re verification or proof of sexual abuse of children, this is a disgraceful concept in my opinion. In my sister’s case, occurring so long ago, there are no witnesses of the abuse, although there are witnesses of the kind of world we lived in where there was no supervision, no accountability, no questioning, no working with children registration, and plenty of evidence of cover up, transfer of perpetrators to repeat and repeat their abuse. Commonsense suggests that there will be some people who might make factitious claims, but this risk is far outweighed by the risks that the guilty remain unpunished, and that genuine suffering is not acknowledged. The very concept of asking for proof or verification from those who were preyed upon as children is offensive, especially when these controlling and frightening perverts maintained their fearful power by their threats and their continuing presence as figures of goodness and morality in the everyday lives of the victims.

Forget the formal legal process in the cases of perversion of children as it has resulted in institutional abuse being allowed to continue. Work out another way of listening to
victims, and re-construct the truth through investigative processes. In my opinion, this should be a cooperative process not a contested process.

11. Legal and medical (and related services) are essential to support anyone who is seeking redress for chronic emotional and psychological problems associated with sexual abuse by those responsible for them as clergy, teachers, carers etc. There is a pattern of persistent recollections, guilt, trauma, disturbed sleeping and mood, and posttraumatic symptoms (nightmares, panic, hyperalertness). In short, there is a continuum of disability ranging from ‘almost normal’ to ‘emotionally wrecked’. There is a need for continuing support. Recommendation would be for open-ended access to advice and counselling on the basis of 6-10 sessions in any year for this specific issue.

12. Regarding financial compensation for abuse victims, the question is not whether financial compensation has already been given but rather what are the continuing needs of the traumatized claimant. The scheme ought to have a flexible approach to restitution that would be directed at making restitution on a case-by-case basis, and continuing to provide support for the rehabilitation process. I would not limit access on the basis of a previous award since there is evidence that previous processes have been unfair and morally indefensible.

It is my personal hope that the Royal Commission into Institutional Responses to Child Sexual Abuse in Australia takes the opportunity to make practicable recommendations that will provide a working model to address every feature of child sexual abuse in our community.

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