

To the Royal Commission into Institutional Responses to Child Sexual Abuse.

Dear Sirs and Madams,

It is praiseworthy that the Commission is bringing forward a redress scheme at this time rather than waiting till the final report is tabled.

This submission addresses the following issues:

the size of proposed money sums as one of the components of the redress scheme;

the affordability of the scheme for governments;

an alternate way to finance the government's contribution;

whether Federal or State governments would be best to administer the proposed redress scheme;

the affordability of the scheme for non-government institutions;

Natural Law and redress;

the proposal to offset past payments against any money sums in future redress;

and the possible involvement of the institutions in allocating services and payments directly to survivors.

The Size of the Money Sums

The Royal Commission in suggesting three possible caps of \$100,000, \$150,000 and \$200,000 seems to be aiming at a compromise in the middle of \$150,000 with a average payout of \$65,000. To go forward with this \$150,000 cap and the probable resulting average money sum of \$65,000 would be to seriously short-change not only the survivors of gross criminal behaviour but would also short change the Commission itself and the wider community, too.

If a man steals a sum of money and returns part of it while retaining the rest, has justice been effected? If he spends the retained portion, is he still responsible to make good the loss?

It has been shown that far fewer survivors of sexual abuse own their own homes than do the general population; that many live with serious health issues. The Irish Residential Institutions Redress Scheme allows for a cap of 300,000 Euros or A\$430,000 by the exchange rate at the time of writing. This amount (or a high percentage of it) would allow survivors of severe abuse to purchase a modest home in most capital cities of Australia. This would go a long way to restoring some dignity and security to the lives of these people together with a tangible sense of care from the community at large. This amount is still well short of some awards that have been gained for severe abuse under Common Law through courts in other countries.

While a stolen life cannot be restored, stolen dignity can be restored long term and I think this should be the aim of any redress scheme.

The Affordability Issue for Governments

I would imagine that the various institutions in their round table discussions with the Royal Commission have raised the issue of affordability. Perhaps it is a case of the institutions invoking the saying that “politics is the art of the possible”. If so, this argument is often proposed by people who limit the number of possibilities presented, none of which are adequate for the circumstances. It also unfortunately has the effect of skirting around the issues of governing principles and full responsibility. Various state, in particular, and federal governments over the years also share responsibility for not pursuing the organised criminality of some religious institutions. But governments inevitably pass the costs onto taxpayers who are not liable themselves and I'm sure the Commission has this in mind.

An Alternate Financing Proposal

There is a way to finance the Federal government's contribution without cost to any taxpayers. It can be financed in a similar manner to how Australia's participation in the First World War and the building of the Indian-Pacific railway were financed; both massive projects for our country at the time. A hundred years ago, the Commonwealth Bank of Australia (which also included the function of what we know now as the Reserve Bank of Australia) financed these projects at no cost to the Australian taxpayers. This was done by the Commonwealth Bank issuing the credit needed against the Australian Government's promise to repay the loan.

All banks create money by issuing loans that are no more than credit entries on their books (or today, in their computers). When banks make loans they do not lend out someone else's money; they create new money. If the Australian government borrows the money from the Reserve Bank (which it still does to some small extent), then any interest owing would return to the government as it is the sole shareholder. As well, the loan need not ever be repaid because the government owes the money to itself.

The resulting injection of cost free money into the economy through the redress scheme would not of itself cause inflation as there are unused resources, labour and productive capacity in Australia to provide for any increased demand without causing price inflation. So, this would stimulate the economy and provide some measure of extra employment and prosperity. It is a win-win situation but to fully understand it, the Commission needs to investigate the issues of credit creation and the regulation of the money supply. Unfortunately, knowledge of this mechanism is not widely known to the average economist, let alone the public. The Federal Treasury Department may not be of any official help here as the issue is clouded by political interests.

A knowledgeable and reputable organisation which can validate the argument above is COMER – Committee on Monetary and Economic Reform <http://www.comer.org/>
Or, the writer would be happy to elaborate further and provide relevant reading material if requested.

I ask that the Commission investigate this alternative possibility for financing the government's contribution before settling on any figure constrained by 'affordability' considerations for the government and taxpayers.

Federal or State Governments?

Regarding whether the scheme should be organised through State or Federal governments, it would be easiest if the Federal Government administered the compensation scheme because it owns the

Reserve Bank and can provide the money needed directly. State governments no longer own their own banks and thus are precluded from readily providing themselves with their own (free) finance.

The major religious institutions involved are well co-ordinated nationally whereas state and federal governments are not so well co-ordinated (and neither they should be). So the interests of survivors would be better represented by one body intervening on their behalf with these institutions. The federal government would possibly be more able to arrange things so that survivors have no need to deal with the offending institutions. These institutions have a fundamental conflict of interest.

The state governments may also encounter a conflict of interest as they are responsible for government institutions that are subject to claims.

The Affordability Issue for the Catholic Church and Other Non-Government Institutions

The institutions directly responsible for the generations of criminal abuse are, indeed, responsible. The Catholic Church has tried to avoid this responsibility in the past by saying, amongst other things, that the priests involved were/are not employees of the Church and that the Church does not exist as a legal entity and therefore cannot be held responsible. Against this is the fact that the Church demands complete obedience from its priests (as do the religious orders of their members) and is therefore claiming and acknowledging authority over them and therefore the Church is responsible for them. The higher the level of control over, the higher the responsibility for.

The fact that the Catholic Church does not exist as a legal entity is itself a legal nicety but this does not deny the reality of its existence. The Catholic Church exists and shares responsibility not only for the actions of individual offending priests but also is entirely responsible for protecting these priests from the law which enabled them to proceed to criminally assault more children. To deny this responsibility is to deny reality, common sense and Natural Law (which, in my understanding, is the authoritative basis of Common Law).

The Catholic Church is reputed to be the wealthiest institution on earth and it is not hard to understand why this might be so. Worldwide, it has over a billion adherents that contribute financially to it. It holds massive real estate assets but most of all it has extensive business and investment assets and the income thereof. The Church pays no income tax and is subsidised in many of its operations in Australia by government.

Four to five billion dollars is a huge sum of money relative to the wealth and income of the average person but it is not so in regard to the Church's Australian budget. To get an idea of the scale of this budget, I urge the Commission to seek from the Federal and State governments the total amount of the subsidies the Church receives every year from these governments. There is no accountability to the governments for this taxpayers' money.

The Catholic Church does not pay tax as mentioned and it publishes no accounts. At the very least the Church and its businesses should be made taxable and to publish accounts if they are to receive public moneys. It should be pointed out that the Catholic Church, in the form of the Vatican, owns its very own bank, the *Istituto per le Opere di Religione* or The Institute for the Works of Religion; otherwise known as the Vatican Bank. They can create money (credit) out of thin air just as any commercial bank can. Money is not the issue for the Catholic Church; power over people and institutions is and they give and withhold money as a lever to that power.

<http://www.smh.com.au/comment/churchs-spending-habits-a-bit-rich-20131102-2wtb0.html>

<http://www.smh.com.au/world/cardinal-george-pell-the-vaticans-financial-watchdog-slammed-for-lavish-spending-20150228-13rf1h.html>

The above two linked articles report on the Church's changing attitude to spending money depending on the circumstances.

The following quote is from a 2012 article in the Melbourne Age-
<http://www.theage.com.au/lifestyle/our-man-in-rome-20120615-204wh.html>

"The Catholic Church is by far the biggest non-government organisation in the country, and since he (Cardinal George Pell – ed.) bestrides it like a colossus, he already wields considerable clout. "Australia is 26 per cent Catholic," he pointed out in a speech he gave in Ireland last year. "We are now the largest denomination, having passed the Anglicans. "We have a huge network of services: we educate 20 per cent of all Australians in our schools, operate 24 per cent of hospitals, we provide 55 per cent of palliative care ... There are also a couple of Catholic universities and an immense welfare system, mostly financed by the government."

An investigation by *BRW* magazine in 2006 put the Catholic Church's revenue in Australia for the previous year near \$16.2 billion, all tax-exempt. It is Australia's biggest private property owner and non-government employer, with more than 150,000 people on its payroll."

Nearly ten years later, it would not be unreasonable to expect that figure of \$16.2 billion in 2006 to be approaching double that now. Plus, it is doubtful that *BRW* had any access to the Catholic Church's passive investment portfolio nor would have any way to make an estimate of its size so the income from it would likely not be part of their \$16.2 billion figure.

The Catholic Church is in a position to pay whatever it needs to.

Those institutions that may go broke as the result of a redress scheme perhaps deserve to do so. Perhaps they need to make way for another organisation to fill the void without the burden of their history. The Commission itself has said, "Redress should be survivor focused. Redress is about providing justice for the survivor, and not about protecting the institutions interests."

The Commission has pointed out that it would be unfair to many survivors if there were differences in redress money sums depending on the institution or locality involved. But it would be equally unfair to all survivors if the amount of redress were to be lowered and determined by the financial situation of the institution with the least declared assets and income.

The present institutions have had ample opportunity to behave appropriately and have failed to do so. These religious institutions forfeited their credibility as religious and charitable organisations when they allowed their staff to continue to commit these monstrous assaults on children; when they went directly against the teachings that they preach to their congregations and their victims; when they prevaricated in awarding adequate and timely compensation. If these institutions are arguing that the payments be lowered to lessen the hardship on themselves, then this is the logical fallacy of special pleading and the effect is to avoid their full measure of responsibility and culpability. This is short-changing everybody including themselves.

If these organisations were to fully commit to redressing the harm they have done to the best of their ability, then they would breathe new life and new Christianity into their organisations. They will become poorer materially but they will be richer spiritually and so will the community they serve. That is, after all, their goal, is it not?

Natural Law as it Applies to Redress and the Wider Community

I understand that the Commission is composed of some members of the legal fraternity including judges but I beg your indulgence as I would like to elaborate a little on Natural Law and how it applies to the proposed redress to illustrate my thinking on how the present suggested proposal would short-change both the Commission itself and the general public.

Natural Law is the recognition of the laws that govern our world. They are universal, constant and immutable. More specifically, they govern the consequences of actions. These laws apply to such things as gravity, thermo and electro dynamics and they also apply to such things as human behaviour. If Natural Law did not govern the consequences of human behaviour, study in the field of psychology would yield no applicable results: the words of Jesus would contain no wisdom or guidance; and without a consistency of cause and effect, conscience could not be a guide nor could we have a consistent sense of right and wrong and therefore there could be no common sense. None of the above would have any meaning or application. We would be socially rudderless.

A society that acts in accordance with Natural Law will be, for the most part, peaceful and just. A society that acts in contravention of Natural Law will exhibit systemic injustice, exploitation and contradictory and hypocritical behaviour. Natural Law in regard to human behaviour is based on the maxim that each individual has complete authority over themselves. "All men are created equal". It follows then that each person does not have authority over another individual and therefore has no right to do harm to others.

Therefore, if someone imposes their will on another to exploit them (as opposed to defending themselves), they are committing an offence and they are responsible for restoring, as much as is possible, that person or their property to the state it was before the offence or to provide some sort of equivalency. All exploitation results in a theft of one sort or another. Natural Law requires the theft to be remedied regardless of the legal requirements so as to limit the ongoing social repercussions of the initial harm.

If this is not done then not only will the victim suffer but so will the perpetrator and also the wider community because they are all now living in a society that is no longer abiding by the rules of this creation and further repetition and social chaos will inevitably follow for all. And, indeed, we are living in just such a society. It is no different to living and thinking as if gravity did not exist. It is a delusion and it has brought harm and will lead to further harm. If exploitation is not remedied, the harmful effects continue to ripple through society.

In recent years, we had the occasion of "Sorry Day" in recognition of the abuse suffered by generations of Aborigines. At the time, this recognition offered some measure of dignity to the Australians of aboriginal descent but it offered no restitution, no help in overcoming the debilities that still leave many of them in undignified and often degraded circumstances. We all suffer from this lack of action because this demonstration of a lack of care, enough care, means we are living in a society that does not care enough; where we cannot rely on compassion in times of need. Indeed, this sorry history of sexual abuse that the Commission is dealing with has come about fundamentally through too many people, from parents to institutional and community leaders, not caring enough. This is a relatively recent phenomena in human history.

For 99% of human history, we lived in traditional or tribal societies whose survival was predicated on care for other society members. This is the practical survival basis of the human capacity for compassion. Traditional societies did not operate on the basis of punishment with police and jails for the perpetrators and nothing for the victims. They operated largely on Natural Law; restorative justice. These societies were sustainable over many millennia because they acted out of care for the sick, the injured and the aggrieved. These societies worked. Our society demonstrably does not

because it does not care; or, at least, not enough. Responsibilities are avoided. The result, regardless of how legal it may or may not be, is ongoing abuse at all levels of society. The more power is concentrated and the more unaccountable it is, the more the abuse.

The reason for this is that not all members of the human race have compassion or a sense of responsibility. These people have been variously described as psychopaths, sociopaths, Machiavellians, and narcissists and research indicates they account for approximately 5% of our population. They lack a conscience and therefore lack the capacity to empathise or to care for others. These people of no conscience or empathy are attracted to positions of power over others and have captured our institutions over the centuries and have set the uncaring and competitive tone of our culture. They reject natural justice and retreat into legalistic forms and arguments of relative morality and offer the option of the 'lesser evil'.

██████████ instituted a legal response to the flood of abuse claims instead of a caring and restorative response as the principles of his own religion dictate. He instituted a system which offered an entirely inadequate sum of money on the basis of 'take it or battle us in court'. The money was accepted under duress, in other words. I would urge the Commission not to fall under that same spell that fore-shortened justice is still justice. It might seem to have some merit intellectually but once you have suffered it personally, you know the truth. You know it in your bones that it is just more injustice.

Offsetting Past Payments from Institutions

I applaud the Commission for considering survivors to be included in the redress scheme who have already received payments from various institutions. This was a major deficiency in the recommendations of the Victorian Parliamentary Inquiry. The Commission puts forward the possibility of offsetting any previously gained payment from institutions against any further redress money sum.

The sums paid were not compensation for the abuse, though. The Commission acknowledges them as 'Ex Gratia' payments and, indeed, in my case at some point the Catholic Church described my payment as 'Ex Gratia'. But, in fact, it wasn't. Certainly in my own case, the payment was clearly by the document in exchange for nothing more than the Deed of Release of legal responsibility; my right to sue them, in other words.

Given that the Church put many survivors through additional trauma by engaging in their 'compensation' process after they were well aware that survivors were describing it as traumatic, I think it is reasonable to assume the Church had another agenda in play. At what number of repetitions of injurious behaviour does a court dismiss a defendant's claim of innocence of intent? The first? . . . the second? . . . the tenth? . . . the hundredth? "By their fruits ye shall know them".

I think it would be unfair to reward that behaviour of the Catholic Church by offsetting that amount against a future money sum. It would be fairer to treat the past payments as being compensation for the Church's treatment of survivors during the Church's process and not being for the original harm done.

Alternatively, the Commission could offset past payments against future redress as proposed but take into account the additional harm and the betrayal of trust for the second time in assessing the award amount.

Future Involvement of Institutions in Providing Assistance Directly to Survivors

It is imperative for the well being of survivors and for the recommendations of the Royal Commission to be carried out in the spirit in which they were authored that the offending institutions be given no leverage over survivors through the direct provision in the future of benefits or services and that these are provided entirely by the government (at the cost of the institutions concerned). There is a clear, if not blatant, conflict of interest here for the institutions.

In Summary

This sorry state of affairs in the Church and also in the wider society where legalism replaces compassion, where half truths, hair splitting, euphemisms and plausible denial replace truthfulness seems to be getting worse. Perhaps the worst aspect of this is that many otherwise compassionate people follow the example and justifications of these leaders of our institutions making the situation in our society infinitely worse and society's further destruction far more inevitable.

To counteract this self-destructive drive in our society, the community needs an example to follow; an example that our religious institutions have failed at. The Royal Commission into Sexual Abuse is in an ideal position to show the way in restoring a dignified life to the many victims of our religious institutions. Half measures will not be effective.

Physical and psychological problems caused by the abuse has left many survivors in poor financial circumstances without the resources to ever improve them. \$65,000 will help, of course, but it is unlikely to markedly change many survivors lives for the better in the medium to long term which should be, I suggest, the aim of any redress program.

A far more substantial sum of the order of \$400,000 (with an appropriate increase in the average payment) in line with the Irish scheme is needed to restore a measure of dignity together with the option for recipients of financial advice in how best to manage the money for the long term.

Offsetting past payments against future money sums will be unfair in many cases given the Church's persistent pursuit of its practises in face of the knowledge that it was causing further harm to survivors.

If the Royal Commission wants to have long term beneficial consequences in the lives of the survivors and the wider community from their actions (and I believe it does), then the recommendations need to be in line with Natural Law. There is no other way. In doing so it will fully justify the faith that so many have in it. This course will remain a model of humane and ethical behaviour for the nation to follow in the years to come.

The Royal Commission is to be lauded in suggesting open ended support for psychological counselling but I ask, in recognition of other related chronic physical health problems that this support be extended to other medical care not covered by existing social services.

I endorse the option of the Federal Government forming a body to manage the redress scheme for

the uniformity and fairness issues that the Commission has laid out. Plus, the Federal Government is better suited than state governments to deal with institutions who are better organised on a national basis.

The Federal Government, as sole owner of the Reserve Bank, is in a unique position to finance a much larger money sum for survivors. This larger sum can be provided at no cost to the public and I urge the Commission to investigate this option.

The Federal government has less potential than the state governments for a conflict of interest.

Thank you for this opportunity and for your consideration of this submission.

Yours sincerely,

