Royal Commission into Institutional Responses to Child Sexual Abuse

By Email to: redress@childabuseroyalcommission.gov.au

Dear Commissioners,

Re: Redress and Civil Litigation Consultation Paper

Firstly, regarding eligibility for the redress scheme, the Royal Commission is inclined to think that the best approach is to limit the redress scheme to past abuse of living persons. Many people think that the main reason why many institutions appear to have covered up child sexual abuse crimes was to protect the reputations of the institutions; I posit that other main reason may have been avoiding paying compensations.

If the redress scheme is limited to living persons the Royal Commission would miss an opportunity to make a strong contribution to change public perceptions about what justice means regarding redress as some institutions would escape proper justice and would reap the rewards of what seems to be cover ups of child sexual abuse crimes for long enough until the survivors passed away. I propose that, at a minimum, deceased survivors that were found by a Criminal Court Judge to be pedophilia victims in an institutional setting in the last few decades be included in the redress scheme. Compensations should go to their families or relatives.

Secondly, regarding limitation periods, and considering that the average time for survivors to disclose for the first time their criminal abuse seems to be just above 20 years, I propose a limitation period of 32 years from the time the survivor turns 18 years of age. That means survivors could start civil proceedings against institutions before they turn 50 years of age. This change should apply retrospectively; otherwise institutions would be rewarded for what seems to be cover ups of child sexual abuse crimes. Shocking cases such as that of a priest in Queensland that confessed to at least 1,500 sexual assaults against children with the full knowledge of about 30 priests over a 25-year period (account) demonstrate that institutions should not escape civil proceedings for what appears to be institutional cover ups during the last few decades.

Thirdly, regarding the duty of institutions, I support the second option for reform, that is, institutions could be made liable for child sexual abuse committed by their employees or agents unless the institution proves that it took reasonable precautions to prevent this abuse. This change should apply only prospectively so that it does not conflict with a redress scheme.

Regarding whether clergy pedophilia can be considered conduct in the course of employment, the Royal Commission may be aware that the Catholic Church has argued in several jurisdictions around the world that Dioceses should not be liable because Catholic priests should not be considered employees of the Dioceses. This reveals the extent to which some institutions appear unwilling to accept responsibility. Legislation should be changed to make it clear that priests, rabbis, imams, etc., are employees of their religious organisations.

