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1st July 2016

Submission to the Royal Commission into Institutional Responses to Child Abuse

Re Issues Paper 11: Catholic Church Final Hearing

Introduction: This submission addresses in whole or in part the following issues:

- *Issues related to the individual leadership of Catholic institutions.*
- *The current and future proposed approaches of the Catholic Church authorities to (a) responding to child and adult victims and survivors of child sexual abuse, including secondary victims, (b) responding to individuals subject to allegations of child sexual abuse.*

- 1 As soon as he became Archbishop of Melbourne, Dr George Pell instituted a set of measures to deal with serious child sexual abuse by clergy. He set up an independent commission to deal with complaints by those who did not want to take legal action. The history of these events relates to, and is illustrative of, issues pertaining to the individual leadership of Catholic institutions. In its general conclusions on redress in Case Study No 16, the Royal Commission notes the role of lawyers in relation to the interests of the victims and the fact that the Melbourne Response was heavily dominated by lawyers and traditional legal process. It might be suggested that, in instituting a new scheme within a church institution, with its inbuilt tendency to clerical processes, it was appropriate that it be based upon the long tradition of inquiry, investigation and fact-finding found in the law. Not surprisingly, the Royal Commission's own conclusions on redress bear the stamp of that same legal culture as shaped the Melbourne Response.

- 2 Whatever the criticisms of the operation of the Melbourne Response, proper weight should be given to its objective and evidence-based approach.
- 3 It was headed by a respected Queen's Counsel from the Melbourne bar. The objection that it could not be independent - because it was created by the Archdiocese - ignores the wide respect in which the Commissioner was held and the willingness of leading members of the Melbourne legal community, Catholic and non-Catholic, to support the initiative. Of those who became members of panels created to assess compensation payments, two were to take office as Governors of Victoria and another as a High Court judge. These were not people who would be party to a sham or associate with a spuriously independent commission. They were prepared to lend their prestige and professional competence to Dr Pell's initiative to deal with child sexual abuse. This itself is powerful evidence of their confidence in his initiative to deal with this evil. Their judgement was supported by the fact that the then-Premier Mr Kennett and senior police supported the initiative.
- 4 In addition, Dr Pell set up a permanent independent counselling service for victims and their families.
- 5 Any findings by the Royal Commission should recognise the broad community support, at the highest levels of political life, the law and the police, for the steps taken by Dr Pell as soon as he took office.
- 6 It should be recorded that Dr Pell's initiatives were taken some eight years before the scandals of the Boston Archdiocese, so vividly portrayed in the film Spotlight, came to light. Dr Pell's initiatives were a repudiation of the systematic cover-up and betrayal eventually exposed in that diocese, and in many others around the world.

- 7 By any measure, Dr Pell was years ahead of his time in his willingness to entrust to people outside the clerical circle and eminent in their secular callings the task of investigating, and compensating for, the wrongs committed.
- 8 The key findings of the Royal Commission carry great weight as to the operational deficiencies in the Melbourne Response. However this does not mean, nor should it be the case, that the overall architecture of the Melbourne independent commission is one to be dismissed out of hand. It should be assessed for the present purposes (that is, as an aid to analysing the current and future proposed approaches of the Catholic Church authorities) within the context of the reaction of the Melbourne community to scandalous events 20 years ago and the need for dealing with them as a matter of urgency. On this point, it is hardly a valid criticism that the Melbourne Archdiocese did not wait for *Towards Healing*, and so the Catholic Church throughout Australia did not have a uniform, national response. The benefits or otherwise of a "national" response can only depend upon how effective the local rather than national measures were. There is no necessary intrinsic virtue in being "national".
- 9 Many in the community have gained the impression that the questioning of Dr Pell before the Royal Commission was lacking in a measure of judicious open-mindedness. Such open-mindedness would readily acknowledge the ground-breaking work he did in Melbourne in the 1990s as Archbishop.
- 10 Whatever overarching body the Royal Commission may recommend to deal with child sexual abuse at the national level, the following arrangements should apply at the local level:
 - a. Each individual organisation (be it a state-run institution, church-run institution, sporting federation, military body, etc) will need to have its own structures to

supervise, scrutinise and discipline its members. (In this regard, the structures introduced by Dr Pell in the Melbourne Response form a valuable model. In particular, the principles which seem to have guided the Melbourne Response, and which are set out in paragraph 11 below, could be adapted for use in other institutions.)

- b. In its General Conclusions on Redress in Report on Case Study no 16, the Royal Commission says that the method by which payments are determined should be known to all and consistently followed. To which it should be added: As a matter of equity and fairness, each individual organization (be it a state-run institution, church-run institution, sporting federation, military body, etc) must be required to provide the same level of compensation, relative to the individual circumstances of the claim, that every other organization is required to provide.

11 The system set in place by Dr Pell, notwithstanding the weaknesses which he has freely admitted, establishes certain principles which should be maintained.

- a. The process of investigation and compensation should be separate from the office of the executive head of the relevant organization which, in the case of Catholic Church, is the office of the Archbishop.
- b. Further, the process should be conducted by those who are outside the clerical circle, and thus free of the charge of institutional bias.
- c. The process should be conducted by professional people – not necessarily members of the Catholic Church. (As Archbishop, Dr Pell ceded to lay members of these bodies, both Catholic and non-Catholic, the assessment of the complaints, the compensation of the victims, and thus consequentially the findings against members of the clergy.)

- d. Further, notwithstanding the rights of clergy under canon law, the protection of children should have the highest priority. Dr Pell's willingness as Archbishop to deal quickly with the demented conduct of Father Searson, albeit in the teeth of appeals to Rome by the latter against his sidelining, is an example of this priority.
- e. Finally all of this should be conducted within a framework of confidentiality which respects (a) the wish of any victim for privacy, (b) obligations to report matters to police and child protection authorities, and (c) the need for an accused person (a priest or religious) to be accorded natural justice (i.e. the right to know what may be alleged against him).

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