

**Submission to the Legislative Committee: Enquiry into the Childrens' and Community Services
Amendment Bill 2019**

Dear Honourable Members

I am an Australian of the Roman Catholic faith. I am also a person with a disability who cherishes our freedom to practice our religion and the right to enjoy access, without intrusion, to the most intimate of relationships; that being with God.

Thank you for the opportunity to present my views in regard to the proposed amendments contained in the above Bill, in particular Section 124 AB which seeks to implement the recommendations outlined in clauses 7.3 and 7.4 of the Royal Commission's investigation into Child Sexual Abuse at the institutional level. At the outset, I want to state unequivocally that the Catholic Church treats sexual abuse committed against any child as a serious civil offence. The Church does not condone this horrific offence nor does it treat it as a trivial matter. The Church goes even further, recognising such an offence as a sin, not only against the child but against God Himself. I believe that the efforts of the Royal Commission (RC) are commendable and well-meant but it has become evident that there are several troubling misapplications manifested in the proposed amendments. These are indeed unfortunate and are likely to be a consequence of misunderstandings and dare I say, ignorance of the teachings of the Church. The situation is exacerbated by noticeable omissions, in whole or in part, pertaining to data surrounding the incidence of child sexual abuse and the Catholic Church's responses directly related to it, including a failure to take into account the pre and post 1990 periods. These, along with several other missteps have to be spoken of objectively if we are to avoid enacting a law that is deficient in justice and more seriously, directly violates the right of Australians of Catholic and Orthodox Christian faiths to live in accordance with their religious beliefs without suffering prejudice or discrimination. There are approximately 529,000 Catholics and more than 50,000 Orthodox Christians in our state, comprising predominantly of lay people, not clergy, who will be directly and adversely affected as a consequence of the proposed amendments.

Causes for concern....

Ignorance of what confession means to the lay Catholic or person in the pew is not uncommon among those who are not of the faith. For Catholics, confession is not merely a ritual or a tradition found in the sense of culture but a sacrament which means that it is a principal way through which we commune with God. We believe that the sacraments are not the makings of man nor are they results of arbitrary decisions from any man-made institution. Rather, the Catholic firmly believes that the sacraments were instituted by God in their entirety and entrusted to the Church (See Catechism of the Catholic Church, CCC 1131), which as explained, is more than the clergy alone. Given this understanding, I am confident that the government will appreciate that mandating priests to break the seal of confession, integral to the entire sacrament of confession, is tantamount to doing violence to every Catholic.

Another point relevant to why we, the lay Catholics, reject any intrusion into the Sacrament of Confession (Sacrament of Reconciliation) is that only an ordained priest can administer the sacrament and the person confessing (penitent) receives the graces from God through the person of the priest. In

the Sacrament, the priest absolves my sins in the Person of Christ and therefore has no authority to do anything other than what God has authorised. The seal of confession is not his to break nor to arbitrate. It is this solemn vow which the priest takes that offers this reassurance of privacy giving me the confidence to bear my soul to another person and to no other. Without the seal remaining intact, I would be left to battle with my psychological and spiritual wounds deprived of the very source of strength, healing and consolation essential to my well-being. I, like any other penitent, would be doubtful of the privacy which safeguards my innermost confessions if the seal of confession were to be compromised in any way.

As a person with a disability, my experience of isolation, as it is for many others with disabilities, is more than a physical reality. Our need to speak of our trauma, the sins that arise from the mental anguish and the shame which paralyses us is poured out to God with whom we commune in the Sacrament. For many Catholics with disabilities (possibly numbering over 150,000 in WA), the proposed amendments threaten to deprive us of this lifeline.

I feel that the Minister Simone McGurk has done me and the Catholic community in Western Australia a great disservice and injury. In an article published in *The West Australian* (dated May 17, 2020), the Honorable Minister spoke in a way which presented a “false dichotomy”; suggesting that if the Church upholds the seal of confession, then it condones child sexual abuse. This statement borders on irresponsible opinion not found on factual information and a reckless disregard of the context within which the Archbishop had explained how the Church is responding to the grievous offence of child sexual abuse. The statement also gave the public a false impression that the Archbishop possesses the authority to lift the seal of confession when in actual fact, it is contrary to the truth. I believe the Royal Commission recognized this limitation as outlined in its recommendation 16.26 in the same report. This has had the unfortunate effect of engendering an environment of hostility towards Catholic Australians, something which is regretful since this drives a wedge into the heart of community and casts a shadow of doubt over the entire Catholic community’s compassion for children. Public statements such as these, intentional or otherwise, made by state leaders are personally offensive, discriminatory and divisive to our West Australian society. Furthermore, when this implied accusation is made against the Catholic Church, it in actual fact makes the charge against the entire body of Catholics, the larger part of which is the laity.

The government and in particular the Minister would have done well to have held consultation/dialogue sessions with the Church in order to gain a clear understanding of its religious practices, the limitations of authority of the Archbishop’s office, the policies and measures taken in response to the RC’s recommendations, the data tracking the downward trend of child sexual abuse incidences post 1990 in the Church and what factors contributed to these improvements as well as other issues that could have forged a collaborative relationship to establish safer environments for all our children. Instead, what we have are biased statements and grossly unfair amendments that demonstrate a troubling level of ignorance and a lack of respect for the Catholic community.

Conclusion....

As a practicing Catholic and citizen of this great nation, I pray that the state government listens, guided by objective reasoning, to the voices of its Catholic constituents and to many other people of goodwill,

as it deliberates a bill proposing to enact laws that are riddled with misunderstandings of the Catholic Church's teachings, gaping holes in the knowledge of who the Church is, failure to appreciate the Church's responses to the RC's recommendations and the widespread adverse impact of the proposed amendments on the diverse sections of Catholic laity. We, as any person of goodwill, desire to protect our children from any form of abuse and want to work with civil authorities but this cannot exclude the respect of our religious beliefs and the right to practice our faith without unfair impositions by the state. Child safety and the Church's right to uphold its Sacred Sacraments which includes securing the integrity of the seal of confession, are not diametrically opposed to each other. They are not incompatible positions and they definitely do not constitute a dichotomous issue.

As a person with a disability, I am acutely aware of my need to practice my faith and to commune with God through the sacraments of the Church. My freedom to practice my faith without discrimination is central to my well-being and as an Australian citizen. A sacrament cannot be valid if it is hindered in part or in whole, nor can the sacrament be received if priests are unavailable due to the imposition of this proposed legislation. The ordained priesthood is at the service of the laity and is absolutely necessary for the latter's practice of the Catholic faith (See Catechism of the Catholic Church CCC 1120).

In summary, this proposed bill to mandate ministers of religion (RC recommendation 7.3) to report any incidence cannot be properly implemented if there are no provisions for exceptions where such reports may inflict further injury to the person sharing his or her experiences of child sexual abuse. Furthermore, it is objectionable to mandate a priest to report what a penitent confesses during the Sacrament of Reconciliation (RC recommendation 7.4). This is between the penitent and God and therefore the proposed Act, Section 124 AB, particularly where it seeks to break the seal of confession is an unjust law. I call on the state government to recognize this as discriminatory and to abandon this violation of Catholics in our great state.

Yours faithfully,

Kenneth Anthony Phua

Date: 23rd July 2020