

Friday, 24 July 2020

Attention: Legislation Committee, WA
Re: Inquiry into the Children and Community Services Amendment Bill 2019

Dear esteemed committee members,

I am writing to you as a Catholic who has come into the Church only in 2014. Before this time, I spent most of my life as an agnostic. I am a husband and a father to four children, from 16 to 4 years of age. I am a dentist and have been in practice for 22 years, the last 20 of which has been here in Western Australia. I care about the well-being of my family, my patients, and the broader community, especially those that are at most risk.

I am writing in response to the proposed amendments to the Children and Community Services Bill, specifically the section that requires a Catholic priest to report any suspicion of child sexual abuse even if it means breaking the seal of Confession. Failure to comply will see the priests prosecuted and potentially imprisoned with a record.

Needless to say, I have grave concerns about this proposal. Aside from the infringement of religious liberty and the free practice of faith, I have concerns that this is a 'bad law'. What do I mean by a 'bad law'.

While I do not confess to be an expert in the legal field, and while there can be many definitions to that term, I would propose that a 'bad law' also includes the following criteria:

1. One that is oppressive
2. One that is unenforceable
3. One that is open to abuse

OPPRESION

By introducing this law which compels priests to break the seal of confession, the state will oppress the religious liberties of not only the priests but also those of the faithful. While there may be many in the committee who cannot and will not seek to understand, the Sacraments are crucial to the lives of the Catholic faithful. We believe that it not only helps us in the eternal but also helps us be better people within the community.

I think we can all agree that there are those who have failed to live up to these ideals. What has made it worse is these atrocious acts have been committed by those that have answered a call to be faithful and those that we have come to trust. But the Sacraments go beyond the failure of the few. Just as we see the failures of the few in other 'professions', we do not hold the entire profession accountable, nor do we malign an entire group for the short-comings of a few. We only need to see the situation in the United States, in particular their reaction to law enforcement officials, to see the ramifications of this position!

Again, stressing that we are not in any way justifying the actions of those that clearly ought to be incarcerated, what this law will do will be to force men who have dedicated their lives to God and His people (the overwhelming majority of whom are good men) to abandon their faith and place them outside the Church and outside of 'communion' with God. This is a fate 'worse than hell' to coin the colloquial phrase because that is exactly where it will lead them.

UNENFORCEABLE

This proposed law which makes it a felony not to report any notices of child abuse even in the confessional is ultimately reliant on the reporting of two parties - the confessor and the penitent. This comes close to using various 'hearsay' laws in the broader context.

In the case of 'hearsay' there are instances of misunderstanding or miscommunication and in the case of a confessor, they may not even recall what has been said. The latter, we believe is a special charism that priests receive on their ordination to hear but not listen. This enables the grace and mercy of Christ to flow through them to those that seek healing. Can you imagine them personally 'taking in' everything that they hear in the confessional? As representative members in the community, I am sure that you know a little about how that feels when dealing with distraught members of the public, and in the case of the clergy, this can be magnified as they seek to heal the souls of those that are troubled.

In addition to the 'hearsay' aspect, what burden of proof would be used in any reported cases? The confessor might genuinely not have heard any reports, or they might report something that is inaccurate (on the occasion that they do make a report).

Furthermore, the penitent may not want what they confessed reported. There is a very good article that has been written by Mr James Parker, who was a victim of abuse himself, defending the sanctity of the Confessional Seal (<https://mercatornet.com/how-the-seal-of-confession-can-aid-child-sex-abuse-victims/64898/>). In this article he speaks of how abuse survivors actually rely on the seal of confession to heal post-abuse. He goes on to tell his own story, a story of someone in despair and on the brink of suicide, and despite not being Catholic, he turned to the confessional where he found healing. This ultimately led him to making a report to the *relevant* authorities and justice was thus achieved through the proper channels. To take all that away would be to proverbially 'cut off ones nose in spite of one's face'.

There is a tendency to go by the 'we can enforce anything' rule nowadays. The problem with that is that it can become a witch-hunt in which a particular group are pursued to satisfy the whims of the 'current' situation for either political or popular gain. Justice is definitely not served in this case.

OPEN TO ABUSE

Following on from the idea that this would be an unenforceable law, there is the very real risk of abuse of the law itself.

What is to stop someone who has a grudge against a priest or even the Church as a whole from going into the confessional, reporting an abuse and then going to report that it has not been reported, as it may be the case?

Sure, it can be suggested that justice in these cases would be ultimately served and the truth would be revealed. It would actually be extremely naive to think that it is as simple as that. We have seen time and again that no matter what the outcome of any judicial process is, the process is just as important. Unfortunately, in the age of modern media, and the wide access to it, the process can be corrupted, as well as lives destroyed, on all sides, by the very process that is meant to bring justice and healing to all concerned. This can lead to the very real possibility that the process will come into question, by all concerned, from all 'sides', which once again would make justice unattainable and protection moot!

CONCLUSION

As I mentioned in my opening, I am a father of four young children and there is nothing that I would not do to keep them safe. The Catholic Church has implemented many initiative to achieve this end in the context of the Church. There are days where I have commented that this has been 'too much' but have come to realise that it has been an important step to ensure that those vile actions against children do not happen again.

I also support the government doing its part to stamp out these atrocities, but any action should be respectful of not only the beliefs of the faithful, but also the realisation of positive change - not merely the appearance of change for gain, political, personal or otherwise. As the saying goes 'good laws make easy cases', so we believe that good laws make for substantial and real change which achieves the ultimate goal of justice, equality and freedom. It is sad to say that this proposed law may not be successful on any of those counts.

My recommendation is for the committee to work with the Church, to seek an understanding of the faith and to present its own case. It is this spirit of co-operation that will achieve much, much more to eradicate this scourge that has not only snuck into the Church but is also a very real problem in all areas of the community.

I thank you for your time and make myself available to you should you need to discuss this further.

Mary love you and the Lord bless you and keep you.

Dr Michael K Chong BDS (Adelaide)