

## **SUBMISSION TO INQUIRY INTO CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019**

Dear Committee

At the outset, I would like to unreservedly state that I believe sexual abuse of a child is abhorrent.

I am aware of the horrible wrong-doings committed by many within Catholic institutions in Australia (and worldwide) against children and was therefore very relieved to learn that in Australia a resolution was sought by establishing the Royal Commission into institutional responses to child sexual abuse, as way back as 2012. The report and the findings are based on data and recollections that date as far back as the 1920s, and the time for a changing this “depraved behaviour and systemic, sick culture in society” is long overdue. Unlike diseases, where a vaccine is very often the way to rid society of an accursed disease, this is a complex issue. There is definitely the need for effective government regulation, and the work undertaken by the Royal Commission to gather and collate information towards seeking a resolution of this disaster is most appreciated.

The Catholic Church in Australia has taken decisive action and implemented many strategies to address the heinous actions of the sordid past. It is also pertinent to note that the archdiocese of Perth in Western Australia has played a pivotal role in trying to make amends and is leading the nation with regard to child safe-guarding. What can be categorically stated therefore is that remedial action to mitigate and eliminate such offences being permitted to occur has well and truly begun.

In a country known for administering fairness (and slogans such as ‘Fair Dinkum’ and ‘Fair go’ abound) it baffles me to learn what is being proposed (either unknowingly or deliberately) to target the Catholic faith via the Children and Community Services Amendment Bill 2019 which arose out of the findings and report by the Royal Commission into the institutional responses to Child Sexual Abuse recommendations.

Of particular concern to me are Clauses 51 to 53 which seek to implement recommendations 7.3 and 7.4 of the Royal Commission report. I would like to explain why I think these proposed amendments are based on unfair and unjustified grounds.

Firstly, it is rather ironical that whilst the Royal Commission recommended at a minimum, hosts of varied groups of individuals (5 groups in all) to mandatorily report sexual abuse to child protection authorities, the Amendment Bill expressly selects only one of the 5 categories, i.e., ‘people in religious ministry’ to be included in the amendment to the Act. As a lay person, I am left wondering - is this an act of omission or commission? And yes, I agree that if a religious person is made aware of acts of sexual abuse in the normal course of dialogue, it would be incumbent on them to report such information. This requirement should not be different to that of the other groups listed by the Royal Commission, and therefore begs the question as to why they have been excluded for mandatory reporting in the amendment bill.

Secondly, I find it puzzling and perhaps contradictory that the Amendment Bill elaborates on the definition of Confession (Refer 124BA (1) of the Act) ‘... to be in accordance with the tenets of the

*Minister's faith and religion'* and then in 124BA (3) indicates that a Minister of religion is not exempt and can be criminalised for upholding the tenets of his faith.

Well if a Minister of Religion has to uphold the tenets of his faith, he cannot be expected to break the same. In the case of the seal of confession, he runs the risk of being excommunicated. So in effect, the legislation is pointless because the priest cannot/will not break the seal of confession. The insertion of this clause certainly appears to smack of malice towards the Catholic belief. It would be tantamount to stripping the priests of their vocation, if they are compelled to disclose what is relayed in the sacrament of confession. It would also rob them of one of their core services, and along with it a loss of confidence would prevail and over time the right to Confession for every catholic in Australia would be systematically eroded.

Allow me to explain my concern further, and provide an understanding of what Confession is all about. As a Catholic, it is not just my right or privilege, it is my method of choice to avail of peace and reconciliation through the sacrament of Confession, the operative word being 'sacrament'. Being human, we all make wrong choices, some more serious than others. The fallout from some of our wrong choices could leave a person (committing the error) in torment and despair. It is also equally normal to feel remorse. It is this feeling of remorse and accompanying guilt that prompts one to seek reconciliation of sorts. Whilst there surely are other avenues that people adopt to process their guilt and move on, to a catholic, the opportunity to seek reconciliation (with their God and the Church) via the Sacrament of Confession, is undeniably, most effective. It is a disgrace that our priests could be labelled criminals for protecting our confidentiality.

Furthermore, if this amendment bill is passed as per the current proposal, the likelihood of people going to confession at the risk of their confession being reported, will drop to close to zero. How helpful would that be as far as reducing the level of sexual abuse by mandatory reporting? Just because there may be nothing to report, because no one has reported it, does not logically equate to sexual abuse not being committed. It appears therefore to be more of a band-aid solution rather than a grass roots agenda for strategically tackling this vice.

Thirdly, it is my understanding that The Australian Catholic Bishops have accepted 79 of the 80 recommendations from the Royal Commission applicable to the Catholic Church. The only non-negotiable is the seal of confession. So, is this amendment a way of the State asserting that the Catholic Church is subject to the law of the land? This honestly makes me shake my head in disbelief and reinforces my thinking that Clauses 51 to 53 of this amendment bill are an attack on the Catholic Church.

Fourthly, the data in terms of the statistics and numbers that are tabled in the Royal Commission Final Report appear (to my lay man's eyes) very skewed and biased. It's hardly an apples for apples comparison, so reaching a logical conclusion is a stretch. Some of the areas for confusion can be found for example in the charts on pages 11 and 12:

- (a) They have only broken down pre-1990 and post 1990 for "Out of Home care" survivors. It is very evident that the stats for post 1990 for survivors from Religious activities would indicate a significant decline of this horrible abuse.
- (b) The number of abused/survivors from Religious activities is 14.5% as compared to those from Out of Care (41.6%) or Schools (31.8%). Yet, for unknown reasons, it is has been considered more appropriate to address reporting of sexual abuse by targeting the 'Ministers of Religion', rather than Out of Care or Schools. Does the safety of children under the other categories not count?
- (c) Data was derived from 6875 survivors. 2500 survivors indicated they were abused in an institution by the Catholic Church. This number is then reported as 61.8% of all survivors

who reported sexual abuse in a religious institution. This in turn equates to approx. **4029 survivors** who reported they were abused in a religious institution. This contrasts starkly with (b) where 14.5% (**1000 survivors**) were abused while involved in religious activities. The graph on page 12 is therefore at odds, because 2500 survivors would be 36.2% (of 6875).

There appears to be some strategic misrepresentation (deliberate or otherwise) of the numbers involved to provide a desired result of portraying the Catholic religious institution as the worst of all religious organisations. Whilst I am not trying to shift blame and I don't hesitate to accept that the Catholic Church is extremely guilty with regard to sexual abuse, the apple for apple comparison is not shown, as the figures also do not indicate that the number of Catholic institutions are exponentially greater, therefore if you were to average out the survivors based on number of institutions per organisation, the resulting average percentages would tell another story.

To add to my points for your consideration, I also feel violated as per the **UNIVERSAL DECLARATION OF HUMAN RIGHTS**, Article 18:

*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.*

It is with this heavy heart of being targeted and violated that I write requesting that the Standing Committee on Legislation addressing the reporting of sexual abuse of children give due regard and respect for the sanctity of a religion that is steeped in history, and is bigger and alive for centuries longer than this beautiful country. Not forgetting that disregard for the Seal of Confession borders on infringing the separation of Church and State.

The decision of the Standing Committee therefore impacts not just me as an individual, but the entire family of the Catholic Church, both locally and globally. I sincerely hope that an alternative resolution is sought so that whilst we continue to keep a close watch on ensuring the safety of children, we do not undermine or diminish the beliefs of a large group of people who are catholic by religion.

Respectfully yours

Bernadette D'Souza

19 July 2020