

THE SEXUAL ABUSE CRISIS

Two Essential Aspects

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FACING THE TRUTH

The title of the Victorian Senate Report of the ‘Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations’ provides a synopsis. ‘Betrayal of Trust’¹ summarizes in a nutshell the findings of the Inquiry. The Catholic Church, among other institutions has been found wanting in its response to victims of child sexual abuse by clergy and religious. In addition, the report points to the neglect of religious organizations to examine their own systems and processes to determine the extent to which these may have contributed to the occurrence of criminal child abuse.

Perhaps the crucial question to be asked here is why this tragedy ever occurred within the context of the Catholic Church, an institution that in 1955 proudly filled the Melbourne Exhibition Building with ninety stands to display its life and works as it made its appeal for more priests and religious.²

How is it the case that this tragedy ever came to be, given that which specifically characterizes clergy and religious, namely, that they have chosen to live according to the terms of Canon Law and have a formal commitment to celibacy if not a vow? It is precisely this characterization that distinguishes them from other offenders and is particular to the Catholic Church. The behaviour referred to in the report is inexplicably contrary to the acclaimed lifestyle of priesthood and religious life.

Clearly, there are no easy answers—no quick-fix label to mark the abusers as ‘evil’ will suffice as explanatory. It will not pro-

vide the necessary knowledge of determining factors. While no doubt of major consequence, individual psychology is only part of what is at play in the situation. The issues at stake are multiple and complex and could not be more serious. The quest for the answer unreservedly falls to the Church itself. Without knowledge of why this situation ever arose leaves those affiliated with the institutional Church at the edge of a void. In what sense?

Without the Church’s own internal interrogation in search of an answer, there remains a ‘gaping hole’ rent in the fabric of what a person identifies with in the nomination of oneself as a Catholic (let alone a priest or religious). Many feel lost as to an explanation of a scandal that falls at the feet of those said to have a religious vocation. As the community’s anger and disgust subsides a deep, unacknowledged, and even unrecognised, disturbance (a dis-ease) will be experienced in the face of the ‘gaping hole’—the latter being approached one way or another, be that spoken or unspoken, yet avoided time and time again.

Many will attempt to de-identify with the Church as a personal solution to the unbearable. This is more easily said than done, and for many, creates its own torments. Others will live never feeling quite secure, never knowing whom they can trust and what they can believe. For so-called ‘cradle-Catholics’, this can be utterly destabilizing. Such loss of trust bears down upon their day to day existence with a vengeance that disrupts a confidence that formerly had been their birth-right. Others will live in hope that

something will happen to re-secure their faith so enabling them to reinvest themselves in the life of the Church once more. But, that hope is inevitably fragile and consequently at constant risk. Others will simply deny the problem has reference to themselves and imagine that they can move on in life regardless. Many will experience aspects of all the foregoing in one form or another. Each who identifies with the Catholic Church is currently called upon to meet the demands of a singular psychological work that can be lonely, harrowing. What remains missing is the unacknowledged ‘truth’ that underpins this entire episode in the history of the Catholic Church. Without this knowledge each has to find a position that saves him or her from the edge of the void.

The language that would allow one to reweave the fabric with the thread of truth remains to be formulated. The hole cannot be patched. The fabric must be rewoven with the only thread that has the strength to sustain the tension inherent in life itself—the thread of truth.

Until the Church interrogates itself in the arena of that which lies beyond the statistics, Catholic identification remains a proposition associated with essential risk. It is this notion of truth alone that could provide the possibility of an altered yet secure point of identification with an institution that today suffers from an eradication of its core integrity.

CRIME AND PUNISHMENT

The opening statement of the Truth Justice and Healing Council’s September 30, 2013 Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse is as clear as it is precise: ‘Sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law’³. It is an unequivocal acknowledgement that such abuse is not only sinful but criminal: a crime under the Church’s canon law, just as it is a crime

under the law of the state.

But the Council’s submission does not concern itself with the consequences. There is no section outlining the juridical procedures to be adopted in cases of alleged criminal behaviour. We do not find, for example, a description of how a priest or religious accused of paedophilia moves through the stages of a legal process within the terms of canon law. We do not find a statement of how canon law deals with a victim of sexual abuse. Nor do we find any reference to the range of applicable penalties. Instead, we have a document of 206 pages which is concerned with *Towards Healing*, ‘a process offered by the Church to a person who has been abused by a priest, religious or other Catholic Church personnel’ (p.11).

What the document does chart, however, is the evolution of a response to the Church’s failure to subject the criminal behaviour of alleged offenders to the jurisdiction of a canon law court. In other words, what is being submitted to the Royal Commission is a detailed account of what can be described as a monumental effort over seventeen years to answer the cry of victims of crime under canon law. It is clear that the plea has been neither heard nor responded to under the auspices of canon law, but within the terms of a process developed outside the rightful legal perspective. The real problem here is that *Towards Healing* has unwittingly absorbed the responsibility of canon law to handle investigation, enforcement, and the provision of appropriate legal processes of dealing with instances of grave violation. In essence, the Church has abdicated its canon law responsibilities in favour of a process which originated in a state of affairs marked by an absence of all that good law can and does provide.

On what basis can this crucial contextual shift be explained? The answer is that canon law is not ‘law’ in the common understanding of the term; that is, a rule backed by a temporal enforcement power. It is rather, according to Geoffrey Robertson QC (2010, 43), ‘a disciplinary process relating to sins

for which the only punishment is spiritual'. Further, 'the procedures for investigation and proof under Canon law are archaic and over-reliant upon admission of guilt' and 'the trial proceeds entirely in writing, and is lacking in forensic techniques or even cross-examination as a test for truth'.

Importantly, the intent of canon law is specifically pastoral as pointed out in a commentary by Orsy (2000, cited Robertson, 2010, 44): '...the Church's salvific purpose gives its penal order a unique character which must constantly be remembered... a non-penal pastoral approach may lead an offender to a fuller life in Christ more effectively than penalties. Fullness of life in Christ is the ultimate rationale...'.⁴ This means that a victim of abuse by clergy or religious can have no helpful recourse to canon law. It is not able to provide the benefits of law due to, and sought by, a victim of crime.

In effect, therefore, as far as the Church

is concerned the issue of child sexual abuse is handled within a context devoid of the normal power of law. Canon law is not law as commonly understood and *Towards Healing* itself is simply a process and has no intrinsic authority. All decisions within it that relate to the discipline of those found to be guilty of offence, and the nature and amount of compensation given to the victim, are made by the bishops and leaders of religious orders. In a word, where paedophilia is the issue at stake, the Church is lawless. And, it is precisely in the haven of lawlessness that perversion reigns.

To claim that child sexual abuse is a crime under canon law is therefore misleading. It suggests the existence of a law that carries full legal consequences. This is not the situation. But, what the initial statement of the submission actually does, is provide a cover for the very lack of law that is to a large extent responsible for a tragedy beyond all explication.

NOTES

1. *Betrayal of Trust. Inquiry Into The Handling Of Child Abuse By Religious And Other Non-Government Organisations*. Family and Community Development Committee. November 2013. PP No. 275. Session 2010-13
2. *Catholic Life Exhibition 9th to 17th June, 1955* Pamphlet

3. *Submission from the Truth Justice and Healing Council*. Royal Commission into Institutional responses to Child Sexual Abuse Issues Paper No. 2 *Towards Healing*. 30 September 2013
4. Robertson, G. (2010), *The Case of the Pope. Vatican Accountability for Human Rights Abuse*. Penguin, London.

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Sexual abuse of a child by Church personnel, whenever it occurred, was then and is now indefensible. That such abuse has occurred at all, and the extent to which it has occurred, are facts of which the whole Church in Australia is deeply ashamed. The Church fully and unreservedly acknowledges the devastation, deep and ongoing impact of sexual abuse on the lives of the victims and their families.

—From the Commitment Statement from leaders of the Catholic Church in Australia.