

The Royal Commission, the Seal of Confession and what comes next

Over the past week there has been much discussion about the Sacrament of Confession, particularly when it comes into contact with the civil law.

The key issue is: should a priest who is told by a penitent that they have committed a child sex abuse crime reveal it to the police?

At the moment there appears to be a very clear divide between the Church leaders in Australia and many parts of the broader community.

Senior Church leaders have regularly said the Seal of Confession is not negotiable. Just last week Fr Frank Brennan, in an opinion piece in *The Australian*, said he would disobey any law that required he reveal information he learnt during confession.

At the same time there are many child abuse advocates, lawyers and others saying that protecting children from a potentially active abuser should come before all other considerations.

I think it is important to understand where the Truth Justice and Healing Council is on this issue and why we have supported a legal approach which effectively allows what is heard in the confessional to stay in the confessional.

In 2014 the Victorian Government changed its Crimes Act to make it an offence for an adult to fail to disclose to the Victorian Police information about a potential child sex offender or abuse.

When this change was made the new law included an exemption for information that is communicated on an occasion of 'privilege'.

Privilege is a rule of law protecting what is communicated between certain groups of people from being disclosed under compulsion of a court or a law – it applies in the case of communications between a lawyer and client, for example.

As the law stands in Victoria, this same privilege also applies to information revealed during confession.

The facts are that it has been the Victorian Government which most recently considered the legal status of privileged information, particularly in regard to child sex offences, and it came down on the side of maintaining the current position.

That is our starting point.

We have then added to this the fact that over the four-year course of the Commission's public hearings involving the Catholic Church there has been no public evidence of someone actually confessing a crime of child sexual abuse under the Seal of Confession.

Also, significantly, in the four years in which I have met with and spoken to groups of priests only once has a priest told me that they had heard the confession of a child abuser, and that person was in goal after having been convicted of a sex abuse crime.

The whole concept of confession in the Catholic Church is built on repentance, forgiveness and penance.

If a child sex abuser is genuinely seeking forgiveness through the Sacrament of Confession they will need to be prepared to do what it takes to demonstrate their repentance.

Part of this forgiveness process, certainly in the case of a child sex abuser, would normally require they turn themselves into the police. In fact the priest can insist that this is done before dispensing absolution.

I know some people will say "What if they don't?" And that's where I think this question moves into areas of public consideration and what needs to happen next.

At the moment I am unaware that it can be demonstrated this is in fact a serious public issue where children are at risk.

If this changes and evidence does emerge then the Royal Commission will clearly need to act. It will make up its own mind on what changes to the law should be made and make those recommendations to government.

If the Royal Commission recommends change to privileged communications, parliaments will then need to make their decision, and then if ultimately there are new laws that oblige the disclosure of that information, priests, like everybody else, will be expected to obey the law or suffer the consequences.

This will be a personal, conscience decision on the part of the priest that will have to be dealt with by the authorities in accordance with the new law and as best they can.

But until there's evidence of a real problem and a real danger to children the benefits of breaking the Seal of Confession to address a perceived problem does not outweigh what many within the Catholic Church see as the very real value of a private and confidential conversation directly with God.

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8 December 2016