

Royal Commission Case Study 50

Catholic Church Final Hearing



Thursday 9 February 2017 – Day 4

The panel discussion for the first part of day 4 of the Royal Commission's final hearing into the Catholic Church focused on Canon law processes for dealing with clerics accused of child sexual abuse.

The panel was made up of canon lawyers Dr Rodger Austin, Fr Thomas Doyle, Sr Moya Hanlen and Mr Kieran Tapsell.

Issues considered during the hearing included the relationship between canon law and reporting to civil authorities, and bishops' understanding of this; the process for investigating allegations and determining outcomes, and the role of bishops and the Congregation for the Doctrine of the Faith; and the role and impact of secrecy around canonical processes.

Opinion varied on these issues, but the panel agreed that the canonical processes were not well adapted to dealing with the sexual abuse of children.

The panel also discussed changes to time limits under canon law in bringing proceedings, and the CDF's discretionary power in this regard. The panel expressed its agreement with any proposal from the Royal Commission urging removal of time limits in child sexual abuse matters.

Opinion varied on whether perpetrators should be laicised. A strong argument emerged not to laicise in order to confine or closely monitor the perpetrator and that a legally binding direction from the church on the issue would ensure the approach was consistently applied and understood.

The discussion around the intersection of civil and canon law included whether or not church authorities are obliged to report the sexual abuse of children and whether canonical or civil procedures take precedence over each other or whether they can be carried out concurrently.

The afternoon panel discussed the operation of the sacrament of reconciliation in the context of child sexual abuse.

Panelists included Bishop Terrence Curtin, Chair ACBC Commission for Doctrine and Morals; Fr Frank O'Loughlin, parish Priest Sandringham, Sacramental theologian; Fr Laurence McNamara, Lecturer moral theology and ethics; Professor Ian Waters, Professor Canon Law; Fr Joseph Grayland, PhD theology, and Parish Priest Palmerston North NZ; and Fr Frank Brennan, CEO Catholic Social Services Australia, human rights advocate and former law professor.

The panel discussed some of the misconceptions surrounding the practice of confession or reconciliation and the need for clarification.

The discussion clarified what is covered by the seal of confession with most panelists agreeing that the seal was restricted to whatever sins of the penitent were revealed to the priest and did not cover the revelation in the confessional of sins by another person. Accordingly if a child in confession gave information that he or she had been abused, that information was not subject to the seal of confession.

The panel noted the declining number of people who make use of the sacrament.

Discussion also went to whether the Commission might make recommendations regarding the circumstances in which absolution could be deferred.

One panel member said the age at which children make their first confession should increase from six years to 12 years and that all priests who are confessors should do regular in-service.

Commissioner Fitzgerald observed that there is a Lack of confidence in the Catholic Church due to a misunderstanding of confession.

In response to a question from Commissioner Fitzgerald, the panel suggested the appropriate committee of the Australian Catholic Bishops' Conference provide detail of what is and what is not covered by the seal of confession.

The panel agreed that if a penitent confesses to abusing a child, is told to report to the authorities before receiving absolution, but doesn't return, the abuse is likely to continue.

The hearing continues tomorrow.

CONTACT: Michael Salmon, Communications Director, 0417 495 018