

Sexual Abuse, a Royal Commission, and the Australian Church

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Abstract

The sexual abuse crisis and subsequent Royal Commission investigation raised important ecclesiological and ecclesial issues for the Australian Catholic Church. This article provides background to the work of the Commission and explores four issues: the seal of the confessional; the notion of ontological change in ordination; the place of women in the church; and the authority of bishops. While no direct theological resolution of these is possible, these issues have been raised with pressing urgency.

Keywords

Australian Catholic Church, authority, bishops, priesthood, ontological change, sexual abuse, seal of the confessional, women in the church

The conviction of Cardinal George Pell in December 2018 and the subsequent ongoing appeal process against the conviction for historical sexual abuse crimes have been the latest in a series of events that have torn at the fabric of the Australian Catholic Church. For some his conviction was the culmination of decades of work to remove abusers from the protection of the church, reaching to the highest levels of the Vatican; for others it became further evidence of an anti-Catholic secularism which did all in its power to pervert justice and convict an innocent man. A key moment for both these dialectically opposed narratives was the calling by the

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Australian government of a Royal Commission into Institutional Sexual Abuse. This investigative process, which ran for five years, produced a damning exposé of abuse, not just in Catholic institutions, but across Australian society. For the church it raised a number of serious issues around its institutional operations, culture, and religious mission. In this essay I outline some of the background that led up to the establishment of the Commission and the work and outcomes of the Commission itself. I then consider four ecclesial issues of theological import that were raised by the Commission and its sequelae.

Historical Background

Overall, the sexual abuse issue in Australia has not had the same high profile that has been evident in the United States. There are perhaps two main reasons for this. The first has been the approach of the media which initially did not run with the issue as it had in the USA. While there were some instances exposed in the 1980s and 1990s, largely to do with historical abuse in institutional settings, they attracted little sustained media coverage. The coverage that emerged was often in local or regional news outlets rather than in the more prominent press or TV networks of the capital cities. The other factor is that in general Australian society is less litigious and so there have been no large and newsworthy financial payments to survivors through the courts. What payments that were made were outside the court system and subject to nondisclosure conditions.

Notwithstanding this, there was some pressure put on the Catholic Church in the 1990s where its lack of policies, beyond those driven by insurance companies, was exposed in the media, largely with the assistance of survivor support groups and their sympathetic contacts within the church itself.¹ The negative publicity generated by this, together with some scandalous instances of clergy abuse in Victoria and Wollongong, led to the Australian church developing two major documents in response to the issue of sexual abuse. The first was the document, *Towards Healing* (1996, rev. 2000, 2010), adopted by all but one diocese and one religious order at the time.² *Towards Healing*

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1. The present author was a founding member of one such group, Friends of Susanna. His experiences from that time resulted in the following publication: Neil Ormerod and Thea Ormerod, *When Ministers Sin: Sexual Abuse in the Churches* (Alexandria, NSW: Millennium, 1995).
 2. For the latest version, see Australian Catholic Bishops Conference and Catholic Religious Australia, *Towards Healing: Principles and Procedures in Responding to Complaints of Abuse against Personnel of the Catholic Church in Australia*, rev. ed. (Alexandria, NSW: National Committee for Professional Standards, 2016), <http://ncps.org.au/public/public/41-towards-healing/file>. The Melbourne diocese, under the then-leadership of Archbishop George Pell, developed its own approach, known as the “Melbourne response.” The diocese still uses this approach. The Australian Jesuits used an approach driven by legal considerations. They later signed onto *Towards Healing* under the provincial leadership of Mark Raper, SJ in 2003.

provides a set of policies and protocols for dealing with complaints of clergy sexual abuse, both for the complainant and the accused. It provided limited compensation measures for the victims, though these usually were accompanied by a nondisclosure provision. While considered groundbreaking at the time, it has been criticized for its lack of transparency both for victims and perpetrators, and its poor implementation by various dioceses and orders.

The second document, *Integrity in Ministry* (2004), was intended to spell out a “a code of conduct for clergy and religious engaged in Ministry on behalf of the Catholic Church in Australia,” and covered aspects of ministerial sexual misconduct and abuse.³ This was a more theological and pastoral response to issues of clergy formation and expectations in ministry around issues of harassment, abusive language, discrimination as well as relationships with children and “vulnerable” persons. Notably it included provision for pastoral supervision for all persons involved in ministry in the church. Equally notably this particular provision was never fully implemented and was among one of the many recommendations of the later Royal Commission into Institutional Sexual Abuse.

The issue surfaced once more in the 2010s after the Australian state of Victoria established inquiries directed toward the protection of children and sexual abuse in the church. There had been some notorious cases in that state, both in the diocese of Ballarat and in Melbourne itself. In both instances, George Pell, first as a priest of the Ballarat diocese, then a bishop and later archbishop in Melbourne, played a prominent role as a key witness to the events. In his appearances he came across poorly to victims, who found him wooden and unempathetic. By this time there had also been particular allegations raised in 2002 in relation to his own conduct as a priest in the Ballarat diocese that were subject to a church-run but publicly released review.⁴ Public concern over the issue was boiling up to a head when the Prime Minister of Australia, Julia Gillard, announced in November 2012 the formation of a Royal Commission into sexual abuse in institutional settings. While resisted by some in the church, once announced by the government, it was welcomed by then President of the Australian Catholic Bishops Conference, Archbishop Denis Hart, who offered the full cooperation of the church.⁵

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3. National Committee for Professional Standards, *Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia* (Alexandria, NSW: National Committee for Professional Standards, 2004), <https://www.catholic.org.au/documents/1344-integrity-in-ministry-2010-1/file>. This document has not been revised.
 4. The review was conducted by retired Victorian Supreme Court Justice Alec Southwell and produced an inconclusive outcome. He found both the complainant and Pell credible witnesses but could not go further because of the lack of corroborating evidence of the abuse.
 5. The church established the Truth, Justice and Healing Council (<http://www.tjhcouncil.org.au/>) as a conduit with the Commission, passing on requests for information to dioceses and religious orders, feeding the responses back to the Commission, as well as being the public face of the church for the media. The eleven members of the Council were chosen for their “professional and other expertise in the areas of child sexual abuse, paedophilia, trauma, mental illness, suicide, education, public administration and governance,” and consisted of two bishops, one female religious, and the remainder prominent laity. The CEO of the Council was Francis Sullivan, a prominent lay Catholic and previous head of Catholic

The Royal Commission

A Royal Commission⁶ is an Australian state or federal government inquiry established to investigate matters of public and policy interest. They have very broad powers to gather evidence and call witnesses, who may face contempt or perjury charges if necessary, and to make recommendations addressed to the government and other bodies, including criminal charges where appropriate. They operate under terms of reference established by the parliament and the commissioners will normally include a senior judge as well as other experts and community representatives. The Royal Commission into Institutional Sexual Abuse (henceforth, the Commission) had six commissioners and was chaired by Justice Peter McClellan, a highly experienced and respected judge. They included legal and professional experts, as well as one very prominent lay Catholic, Robert Fitzgerald.⁷ Initially the Commission was to report in December 2015 but was later given an extension until December 2017. It conducted both private and public hearings into various case studies, with the public hearings live-streamed on the internet, and transcripts made available on their website. They gathered evidence from countless survivors in private and, where needed in public sessions. It was a harrowing experience for all involved, the commissioners, their staff, for the survivors, and for many of those called to give evidence from the church.

While the scope of the Commission extended to other churches and community organizations, the Catholic Church faced examination in several case studies, and no church leader faced greater scrutiny than Cardinal Pell. He was interrogated in relation to three case studies, one involving his knowledge of the notorious pedophile priest Gerard Ridsdale and other abusers in Ballarat diocese, one involving various cases of abuse in Melbourne where he was an auxiliary bishop, and one, the Ellis case, concerning his own actions as archbishop of Sydney responding to the case of John Ellis, a victim of abuse.⁸ It is hard to overestimate the impact of these appearances on the

Health Australia. Sullivan became the public face of the church responding to issues raised by the Commission and presented the church's official response to the statistical findings of the Commission in one of its final sessions. The church's official response to the Commission was built on the work of the Council. Space prohibits a detailed analysis of either the Council's report or the church's response to the Commission.

6. The full report of the Commission published over seventeen volumes is available at <https://www.childabuseroyalcommission.gov.au/>. Volume 16 deals specifically with religious institutions, including the Catholic Church in Australia. Volume 16 consisted of three books, the second of which was dealing solely with the Catholic Church. It is over 900 pages long. See Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report*, vol. 16, *Religious Institutions* (Barton, ACT: Commonwealth of Australia, 2017), <https://www.childabuseroyalcommission.gov.au/religious-institutions>.
7. Fitzgerald had been the NSW president of the St. Vincent de Paul Society for a number of years as well as a member of various boards of Catholic institutions.
8. The Ellis case was of particular interest because in a court case where John Ellis attempted to sue the church the court ruled that the church's assets were held in trust and the trustees could not be sued. Only individuals, priests, and bishops could be sued. As a consequence, many religious orders moved their assets into a trust to protect themselves from litigation. Various state jurisdictions have now moved to remove this legal defense.

church's standing in Australia. For many people, whether Catholic or not, Cardinal Pell was the public face of the Catholic Church in Australia. To witness him being so interrogated, to hear his repeated denials of any knowledge and evasions of any responsibility, stretched the credibility of the commissioners and many of those who watched.

Pell was not the only church leader to be interrogated by the Commission. Toward the end of its work, the Commission invited bishops, archbishops, and heads of religious orders to attend sessions in which they would be presented with some of the findings of the Commission's work and be asked to address particular issues as the Commission prepared its final report and recommendations. It was disconcerting to watch church leaders struggle to explain the rationale behind celibacy, or the seal of the confessional, or to give a coherent explanation of the notion of "ontological change" in relation to priestly ordination, or how they could ignore requirements of canon law, to an uncomprehending and largely secular panel of commissioners. Catholics are simply not familiar with bishops being required to answer questions, to be held accountable for their actions and inactions, and to explain religious concepts and Catholic culture in common language.

Four Ecclesial Issues

There are various issues that the Commission raised in relation to the processes and governance of the Catholic Church that are worthy of consideration. These included the legal status of the church as an entity in Australian society, the legal and financial relationships between dioceses, the decision-making processes and authority of the national episcopal conference, the inadequacy of church records, the role and nature of canon law, and so on. In so many areas the church was being measured against contemporary standards of transparency and accountability and being found wanting. Within all this work of the Commission, I consider four issues that emerged which were of some ecclesiological and ecclesial significance: the relationship between church and the secular state with a focus on the seal of the confessional; the notion of an ontological change in priestly ordination; the role of women within the church; and the crisis of authority for the bishops engendered by the work of the Commission itself.

Church–State Relations

The question of the relationship between the religious message of Jesus and political authority can be already found in the New Testament. Jesus is questioned about the payment of taxes (Mark 12:17), while Paul encourages Christians to be obedient to state authorities (Rom 13:1–7). These statements, however, should not be taken to imply that Christianity was devoid of political implications. As many authors have pointed out, the way in which Christians referred to Jesus as Lord was in directly opposition to the "lordship" of the Roman emperor.⁹ While this resulted in various

9. For example, N. T. Wright, *Christian Origins and the Question of God*, vol. 3, *The Resurrection of the Son of God* (Minneapolis: Fortress, 2003), 729–30.

levels or persecution within the Empire, the situation radically changed in the Constantinian era, when Christianity took on the trappings of a state-sanctioned religion. Over time this morphed into what became known as Christendom wherein the church played a dominant role in the religious, cultural, and political life of society in the West.

While this symbiosis of church and state runs contrary to modern expectations of their separation, we should not judge it by these expectations. Despite the transformative power of the Gospel, the world still lived with the cultural assumptions of a cosmological worldview in which the individual is ordered to the society and society to the heavenly realm.¹⁰ It would take centuries for the Christian message to transform these assumptions, but while they were in play the well-being of the society was taken to be safeguarded by the proper practice of a religious cult.¹¹ Heresy, which threatened that proper practice, was then a crime against the state. On this basis the Roman authorities had persecuted the early church which in its own turn became a source for the persecution of others.

While the rest of the world turned more and more to an anthropological frame of meaning—wherein society is ordered toward the individual and the individual to some world transcendent measure¹²—during the Renaissance and Enlightenment, the Catholic Church clung more determinatively to this cosmological worldview, even as late as the nineteenth century where Pius IX's Syllabus of Errors still radiates the assumptions of Christendom. It was only in the twentieth century that the church officially recognized the genuine autonomy of the secular order and put an end (officially) to the embers of Christendom.¹³

Nonetheless the lingering habits of privilege have lived on and nowhere was this more evident than with the issue of the seal of the confessional as debated within the Commission. While any number of professions—teachers, doctors, nurses, social workers, psychologists, and others—are subject in Australia to mandatory reporting

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10. On the cosmological worldview see Eric Voegelin, *The New Science of Politics: An Introduction* (Chicago: University of Chicago Press, 1952), 76–77; and in a theological context Robert M. Doran, *Theology and the Dialectics of History* (Toronto: University of Toronto Press, 1990), 145–46.
 11. Tertullian uses this type of understanding to argue that the Empire would be better off being Christian and worshipping the true God: “Instead that, the charge [false worship] recoils on your own head: worshipping a lie, you are really guilty of the crime you charge on us, not merely by refusing the true religion of the true God, but by going the further length of persecuting it.” Tertullian, *Apology* 24.
 12. On the anthropological worldview see Voegelin, *New Science of Politics*, 76–77; and in a theological context Doran, *Theology and the Dialectics of History*, 145–46.
 13. I argue this position fulsomely in Neil Ormerod, *Re-Visioning the Church: An Experiment in Systematic-Historical Ecclesiology* (Minneapolis: Fortress, 2014); and more summarily in Ormerod, “Cultural Considerations in the Decline of Christianity,” in *The Decline of Established Christianity in the Western World*, ed. Paul Silas Peterson (London: Routledge, 2018), 87–97.

practices in relation to the sexual or physical abuse of children,¹⁴ the Catholic Church has sought to maintain the special place of the seal of the confessional. The dogged insistence on this was met largely with incomprehension by the secular members of the Commission, and by many members of Australian society including co-religionists. Church spokespersons struggled to articulate a rationale for the seal that would be comprehensible in a secular setting or come to a unified position on the scope of the seal, particularly whether it covered matters raised which were not sinful, such as a child reporting that they had been abused. High-profile Jesuit priest Frank Brennan publicly stated that he would willingly go to jail rather than break the seal of the confessional, while adding that in his decades of priesthood, no one had ever confessed a sin of clerical sexual abuse to him.¹⁵

Despite advice that the removal of this privileged space would be ineffective in preventing abuse and counterproductive in appearing to be driven by an anti-Catholic animus, the Commission in its final recommendations proposed the removal of the privileged place of the clergy:

Recommendation 7.4: Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

Recognizing that this might be more than the church could adopt, the Commission included a fallback position, as suggested in private sessions by canonists and theologians,¹⁶ that offered a more practical approach to the question of the seal of the confessional:

Recommendation 16.26: The Australian Catholic Bishops Conference should consult with the Holy See, and make public any advice received, in order to clarify whether:

. . . if a person confesses during the sacrament of reconciliation to perpetrating child sexual abuse, absolution can and should be withheld until they report themselves to civil authorities.

Nonetheless, despite this fallback position, various Australian states and territories are now considering or have adopted the implementation of Recommendation 7.4.

14. The practice varies state to state. See Australian Institute of Family Studies, "Mandatory Reporting of Child Abuse and Neglect" (September 2017), <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>.

15. Brennan provided the most coherent public comment on the issue, the reasons for it, and for recognizing the limits of the seal. A good example of his writing on the topic as he found at Frank Brennan, "Circumscribing the Seal of the Confessional," *Eureka Street*, August 20, 2018, <https://www.eurekastreet.com.au/article/circumscribing-the-seal-of-the-confessional>. It is worth noting that Brennan is himself a lawyer.

16. I certainly made this suggestion and was told by that others had made similar suggestions.

Theoretically this places priests in an invidious position. Canon 983 of the Code of Canon Law clearly states that the seal of the confessional is inviolable.¹⁷ Secular law and church law would be in direct conflict, and a previous position of privilege is under threat. Priests are being treated in the same manner as various other professions in the community who are recipients of confidential information which may reveal criminal activities against children. A church response to these discussions has been to see such moves as a threat to religious freedom, which is in turn seen by secular critics as a claim to being “above the law.”

What is being acted out here is a boundary issue between secular and ecclesial authorities. Stripped of the assumptions of Christendom, the secular state finds no compelling reason to exempt religious groups from laws seeking to protect children from sexual abuse. The church can make no privileged claim against the state and many would argue that, in light of the abuse crisis itself, it has lost the moral right to a privilege once held. Simple appeals to religious freedom are falling on deaf ears. Neither has the church been willing to examine its own tradition here, to interrogate its own history and theology so as to examine the reasons why this particular tradition arose, and to discover whether the circumstances that gave rise to it may now have changed significantly.

We know, for example, that in the early church, confession and penance were very public, within relatively small communities where people often knew one another’s failings.¹⁸ It was only toward the end of the fourth century and mainly in the Eastern church that a reaction against the public nature of the confession began to grow and in the seventh century the Council of Douzy (874) noted that “penitents whether clerics of laymen or women, who confess their sins in secret to the priest are in no way to be betrayed.”¹⁹ There is an eleventh-century canon in Gratian on the topic, but no

17. Canon 983 §1: “The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.”

18. “It seems clear, nevertheless, that in the first 4 centuries Christians did not insist on their rights to absolute secrecy. Although there is no evidence that they were ever placed under any obligation to make public confessions, the early Christians, in their closely knit communities, were perfectly willing to admit many of their sins in public and to accept public penances gladly, even for some of their secret sins.” J. L. MacCarthy, “Confession, Seal Of,” in *New Catholic Encyclopedia* (Washington, DC: Catholic University of America Press, 1967). Bertrand Kurtscheid notes that, “In the Eastern Church several texts, especially in the works of Origen speak in favor of the theory that the priest, besides giving private admonition, could also require a public confession of secret capital sins to be made in the presence of the assembly. . . . In the Western Church also several texts, especially in the works of Tertullian, Pacian, and Ambrose, seem to indicate that confession was made before the assembly.” Kurtscheid, *A History of the Seal of Confession*, trans. F. A. Marks (St. Louis, MO: Herder, 1927), 25–26.

19. MacCarthy, “Confession, Seal Of.” Kurtscheid also notes that “Leo I (459) declares it to be an abuse violating the Apostolic rule to expect a penitent to make a public confession of his secret sins.” Kurtscheid, *A History of the Seal of Confession*, 26, see also 56–65 for other such evidences of a growing move to secrecy.

general law until Fourth Lateran Council (1215).²⁰ Given the fact that the seal of the confessional was not operative in the first centuries of the church, it would be difficult to claim the seal is *jus divinum*,²¹ and hence exceptionless, though as James Keenan notes, “To the extent that the confessional is generally a final refuge for actions already done, the priest–penitent context remains, with the possible exception of the lawyer–client relationship, the closest expression of a near to absolute, if not actually absolute, duty to maintain confidentiality.”²² On the other hand there has been extended debate among canonists and theologians on the scope, application, and possible exceptions to the general rule.²³ This is an area that needs further exploration, but in terms of the church’s tradition and contemporary moral arguments and present community expectations.

Where this boundary dispute is likely to end is difficult to say. It is hard to imagine priests being sent to prison for failing to report a fellow priest for confessing to sexual abuse of a child. It is difficult to imagine this shift in the law toward mandatory reporting serving any significant protective function for children, though there may be a few marginal instances where it is. However, what it does signal, indeed highlight, is the collapse of claims to privileged treatment by the church in an increasingly secular society.

The “Ontological Change” Resulting from Ordination

Another issue which exercised the Commission was the special status of the clergy, as being “in the place of God,” “*alter Christus*” or as having undergone an “ontological change” in the sacrament of ordination. The Commissioners heard repeated evidence from survivors that their abuse was more impactful because of the special religious standing of the abusers; it was as if they were being abused by God. While this was not only an issue for Catholic clergy, the Commissioners focused their attention on the question of the ontological change that ordination is believed to confer on the ordinand. They peppered the bishops with questions on this topic and were clearly not satisfied with the answers they received. The issue remains pertinent as the whole

20. “Let him [the priest] take utmost care, however, not to betray the sinner at all by word or sign or any other way . . . For if anyone presumes to reveal a sin disclosed to him in confession, we decree that he is not only to be deposed from his priestly office but also to be confined to a strict monastery to do perpetual penance.” “Lateran IV,” no. 21, in Norman P. Tanner, *Decrees of the Ecumenical Councils* (London: Sheed & Ward, 1990), 1:245.

21. In his conclusion Kurtscheid notes “the difficulty of reconciling the divine law of the Seal with the ancient discipline of the Church.” Kurtscheid, *A History of the Seal of Confession*, 333.

22. James F. Keenan, “Confidentiality, Disclosure, and Fiduciary Responsibility,” *Theological Studies* 56 (1995): 142–59 at 156, <https://doi.org/10.1177/004056399305400105>.

23. Kurtscheid, *A History of the Seal of Confession*, 129–69.

issue of an “ontological change” in relation to ordination has been promoted in various seminaries in Australia.²⁴

Part of the problem is with the very language of “ontological change.” The problem is not just a lack of familiarity with ontological language, but also with the prior horizon of meaning one presupposes in relation to such language. One specific difference is well expressed in Lonergan’s distinction between the world of immediacy and the world mediated by meaning.²⁵ The world of immediacy is dominated by the immediate input of the senses and enriched by imagination; its primary categories are those of space and time. What cannot be imagined within the world of space and time cannot be real. When addressing a question of an “ontological change” this can only be addressed by some imagined imprint or character on an imagined almost material soul which bears the seal of the sacrament.

This notion of ontological change makes the sacramental character or seal a personal possession, something which belongs to the ordained which empowers him to undertake certain sacramental tasks. This plays powerfully into certain types of priestly spirituality, giving them as a personal possession a privileged place in the church. In fact, we are not too far removed from a primitive notion of mana or power possessed by the king, the chief, or shaman.²⁶ The person possessing mana cannot be touched, you cannot turn your back on him or her, and he or she has special magical abilities not held by others. As Lonergan notes, the world of immediacy “lacks controls over meaning and so easily indulges in magic and myth.”²⁷

However, once we move into the world mediated by meaning, a world of social institutions and cultural meanings and values, the notion of an ontological change

24. One of the bishops, Archbishop Julian Porteous of Hobart, had previously been rector of the seminary in Sydney. He has written on the topic of the ontological change: “A man once ordained is ontologically changed. He is a priest. Something mysterious happens. It is an action of grace, and something quite real . . . The priesthood is not just the deputing of an individual to take on a particular role. It is more than a function; it is a radical reorienting of the whole reality of the person. He is changed at the level of his being . . . Ordination is not just the power to exercise the priestly office in the Church; it is such a transformation of the person that a distinctly priestly character can be identified in him.” Quoted in Commission, *Final Report*, vol. 16, *Religious Institutions*, 2:620. The original source, not given in the Commission report, is Julian Porteous, *After the Heart of God: The Life and Ministry of Priests at the Beginning of the Third Millennium* (Sydney: Taylor Trade Publishing, 2010), 57.

25. Bernard J. F. Lonergan, *Method in Theology* (London: Darton, Longman & Todd, 1972), 29. For a historical example of a shift occurring in the life of Augustine see Neil Ormerod, “Intellectual Conversion in Book 7 of Augustine’s Confessions,” *Pacifica* 25 (2012): 12–22, <https://doi.org/10.1177/1030570x1202500102>.

26. See for example Paul van der Grijp, *Manifestations of Mana: Political Power and Divine Inspiration in Polynesia* (Munster: LIT, 2014). We find a similar notion in the Gospels in the healing of the hemorrhaging woman where Jesus “felt power go out of him” (Matt 9:20–22).

27. Lonergan, *Method*, 30.

itself changes.²⁸ The world mediated by meaning finds reality not in the immediacy of the already-out-there-real of the senses enriched by imagination, but in what can be grasped by intelligence and affirmed by critical reason, including the reality of the world of social and interpersonal relations. Within this world of meaning, an ontological change can simply denote a socially mandated change in the social relationships that the person enjoys. In the world of immediacy, the person enjoys these new social relations *because* he possesses an ontological change or sacramental character; in the world mediated by meaning, the ontological change is *identical* to the mandated new social status. It simply restates this new social reality in ontological language.²⁹ Stripped of its magical overtones we can then examine this ontological change in terms of the new social relationships that are established (with whom? With the ecclesial community as the Body of Christ? With Jesus himself? With the Bishop?) and what it might mean that this change is permanent (what happens then in laicization or defrocking of a priest?).³⁰ All such questions are then grist for the theological mill.

What is clear from the proceedings of the Royal Commission is that the notion of a special power of the ordained minister, expressed in the language of ontological change and carrying semi-magical overtones, relates to two aspects of the abuse crisis. The first is the impact it has on the victims and survivors of abuse, who share in this notion and so experience an even greater sense of hurt and victimization, because they are abused by this special and powerful person. The second is the way it feeds into a sense of priestly identity and the clericalism it breeds, making of priests a special caste *who hold a power which is unaccountable to anyone because it is isolated from any set of social and interpersonal relations*.³¹ Many of the Australian bishops acknowledged that clericalism was a significant factor, if not in the abuse itself, then certainly in that way the church responded to it, protecting perpetrators from the consequences of their abusive actions.

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28. Such a notion of social reality is envisaged in Neil Ormerod, "Vatican II—Continuity or Discontinuity? Toward an Ontology of Meaning," *Theological Studies* 71 (2010): 609–36, <https://doi.org/10.1177/004056391007100305>; see also Ormerod, "Transposing Theology into the Categories of Meaning," *Gregorianum* 93 (2011): 517–32. For an application to the theology of the Eucharist see Joseph C. Mudd, *Eucharist as Meaning: Critical Metaphysics and Contemporary Sacramental Theology* (Collegeville, MN: Liturgical, 2014).
29. Such a suggestion is not new. In her response to the sociological research of Dean Hodge and Jacqueline Wegner, Susan Wood refers to the earlier work of Edward Schillebeeckx, *Christ: The Sacrament of the Encounter with God* (New York: Sheed and Ward, 1963), as describing "an ontology of relationship" in relation to priestly ordination. See Susan K. Wood, "The Search for Identity," in *Evolving Visions of the Priesthood*, ed. Dean R. Hodge and Jacqueline E. Wegner (Collegeville, MN: Liturgical, 2003), 172. See also her earlier work *Sacramental Orders* (Collegeville, MN: Liturgical, 2000).
30. It is worth noting that there is nothing inherent in the notion of ontological change that would make that change permanent per se. Here the permanence is more likely to be found in the fidelity of Christ to the ordained, rather than vice versa.
31. The connection between clericalism and the notion of an ontological change was regularly raised in the Commission's report.

The Role of Women in the Church

The Commission identified various issues that fed into the culture of clericalism apart from the notion of an ontological change: the church as perfect society; celibacy; patriarchal images of God; organizational structure and governance; screening, selection, and initial formation of clergy and religious, and the like.³² However, another issue they identified as a contributing factor in relation to clericalism was the absence of laypeople *and women*. Archbishop Mark Coleridge (Brisbane) was directly asked whether “including more laypeople and women [would help] reduce the impact, if nothing else, of clericalism,” to which he replied, “I absolutely agree with that.”³³

The concern of the Commission here was not some liberal notion of the rights of women in the church, or a call for the church to reexamine the question of the ordination of women. The focus of the Commission was the need to better protect children in order to make safer our church culture and institutional practice:

In some religious institutions, the absence or insufficient involvement of women in leadership positions and governance structures negatively affected decision-making and accountability, and may have contributed to inadequate institutional responses to child sexual abuse. Leaders of both the Catholic Church and the Anglican Church told us they believed that the involvement of women in leadership positions would contribute to making their institutions safer for children.³⁴

As noted, they found broad agreement among church leaders of both Anglican and Catholic churches here, but they formulated a specific recommendation in relation to the Catholic Church:

Recommendation 16.7: The Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women. This review should draw from the approaches to governance of Catholic health, community services and education agencies.³⁵

The notion that the presence of women in church structures with genuine authority and leadership might lead to better outcomes in relation to abuse received surprising empirical support in the statistics presented to the Commission on rates of abuse. These figures were based on data provided by church authorities, with a mutually agreed upon methodology for tabulating final statistics. These indicated that there had been credible allegations of abuse made against 7.9 percent of diocesan clergy across all dioceses in

32. Commission, *Final Report*, vol. 16, *Religious Institutions*, 2:616.

33. Commission, *Final Report*, vol. 16, *Religious Institutions*, 2:638. Of course, the phraseology is anomalous, as if women are not laypersons, but the Commission was seeking to emphasize the need for the presence of women in decision-making processes.

34. Commission, *Final Report*, vol. 16, *Religious Institutions*, 1:29.

35. Commonly the laity have long had strong leadership roles in these sectors.

Australia. However, one diocese stood out for its low incidence: Adelaide with a figure of 2.4 percent. In expert testimony to the Commission the present author pointed out that such a difference was statistically significant, going on to note the long-standing policy of the diocese to incorporate women in senior roles in the diocese.

This stance was first adopted by Archbishop Leonard Faulkner (Adelaide, 1985–2001) who after the death of his auxiliary declined to fill the position and instead formed a Diocesan Pastoral Team in 1986 as an exercise of collaborative ministry to administer the archdiocese, comprising the archbishop, the vicar-general, a religious sister, and eventually a lay woman. This placed two women in key leadership positions in the diocese.³⁶ This was an innovation that no other Australian diocese followed at the time. In evidence to the Commission Archbishop Philip Wilson (Adelaide, 2001–18) noted that on taking over the diocese he instituted canonical changes which secured the position of a diocesan pastoral council with women in its leadership team, who have delegated authority from the bishop.³⁷ He also utilized the position of chancellor in the diocese, which is a non-gender-specific canonical position, and has been held by men and women. The diocese currently has two chancellors, one woman and one man, both laypersons. Several dioceses in Australia have moved in this direction.

Now a Catholic theology of ministry closely ties pastoral leadership and authority to the ordained, as one of the three *munera* of ministry: priestly, prophetic, and *kingly*. And as has been constantly affirmed, ordination to presbyteral ministry is reserved for males, though the question of diaconal ordination remains open.³⁸ For laity to have authority over the ordained—even delegated authority—from the bishop is anomalous but clearly canonically allowed. Whatever the strengths and weaknesses of theological arguments for or against the ordination of women, the situation in the Adelaide diocese provides tantalizing evidence that the presence of women with genuine authority in the church has made a difference to the local culture of that church in exactly the way promoted by the Royal Commission, to make the church a safer place for children.

As I have argued elsewhere the structures of ministry arise out of practical intelligence grasping recurrent needs in the ongoing life of the church.³⁹ What the current sexual abuse crisis has made clear is that the church has a recurrent problem in making it a safe place for children, because its current institutional forms produce a climate of clericalism that is fed by an all-male environment, by celibacy, and by a view of ministry as a personal possession arising from an ontological change in the ordained. What

36. A brief history can be found on the diocesan website: David Hilliard, “The Catholic Church in South Australia,” [http://www.adelaide.catholic.org.au/_files/f/8276/The%20Catholic%20Church%20in%20South%20Australia%20\(sub%20pages\).pdf](http://www.adelaide.catholic.org.au/_files/f/8276/The%20Catholic%20Church%20in%20South%20Australia%20(sub%20pages).pdf).

37. Commission, *Final Report*, vol. 16, *Religious Institutions*, 2:665.

38. Pope Francis has established a commission to study the issue of woman deacons. For an account of the history, see William T. Ditewig, Gary Macy, and Phyllis Zagano, *Women Deacons: Past, Present, Future* (Mahwah, NJ: Paulist, 2011).

39. See Neil Ormerod, “On the Divine Institution of the Three-Fold Ministry,” *Ecclesiology* 4 (2007): 38–51, <https://doi.org/10.1177/1744136607080895>; also Ormerod, *Re-Visioning the Church*, 137–57.

we may be witnessing in these experiments in the sharing of authority with the laity, and women in particular, is the emergence of a new form of ministry in the life of the church, much as religious orders arose to meet specific needs, to meet a need which, while it has always been there, has only become acutely pressing in our present day.⁴⁰ What is clear is that the current set of institutional arrangements have done little to protect children and appear systemically incapable of doing so. New institutional forms are needed to address this problem.

The Authority of the Bishop

Another instance where the shift in such a social ontology is significant is that of the authority of the bishops themselves. While this was not a question raised by the Commission itself it was an issue that has arisen as the Commission impacted upon the Catholic community. It is not unfair to suggest that there is now a crisis of episcopal authority as lay Catholics have lost trust in the office of the bishop. To understand this crisis, we need to explore the social relation of authority.

In his essay, "The Dialectic of Authority," Bernard Lonergan adopts Max Weber's well-known definition of authority as "legitimate authority" but gives it a normative edge by seeking to ground legitimacy in human authenticity.⁴¹ For Lonergan the source of power is the cooperation we find in human communities. Community, as a field of shared meanings and values, is the basic carrier of power. While human beings may be subject to force, "as exercised within the world mediated by meaning and motivated by values, power resides in the word of authority."⁴² Within this world of meanings and values, what makes power legitimate is authenticity. Authenticity "confers on power the aura and prestige of authority. Unauthenticity leaves power naked. It reveals power as mere power. Similarly, authenticity legitimates authorities, and unauthenticity destroys their authority and reveals them as merely powerful."⁴³ Lonergan notes the distinction between authority and authorities. While authority belongs to the community as a whole, "authorities are then officials to whom certain offices have been entrusted and certain powers delegated."⁴⁴ The legitimation of authorities requires a publicly recognized set of external criteria. "But while this external criterion is a necessary condition, it is not a sufficient condition. The sufficient condition must include authenticity."⁴⁵ Lonergan thus shifts the grounds for

40. Evidence presented to the Royal Commission indicated that the sexual abuse of children has been documented throughout the centuries without ever being seen as a serious problem, especially in terms of its impact on the child.

41. Max Weber, *The Theory of Social and Economic Organization*, trans. A. Henderson and T. Parsons (New York: Free Press, 1947).

42. Bernard J. F. Lonergan, "Dialectic of Authority," in *A Third Collection*, ed. F. Crowe (New York: Paulist, 1985), 3–9 at 6.

43. Lonergan, "Dialectic of Authority," 7–8.

44. Lonergan, "Dialectic of Authority," 7.

45. Lonergan, "Dialectic of Authority," 11.

legitimation from the political realm to the moral and personal realm of authenticity. Ultimately moral authenticity is unsustainable without God's grace, and so in turn finds its ground in personal holiness.

Joseph Komonchak pushes this analysis further in his study of the notion of teaching authority.⁴⁶ Drawing on the political thought of Hannah Arendt, Komonchak analyzes authority as a social relationship. Authority resides in the "mutual knowledge and expectations of . . . two parties."⁴⁷ Komonchak too adopts Weber's definition of authority as "legitimate power, power that is based on some grounds other than force, threat or promised reward."⁴⁸ What grounds legitimacy for Komonchak is the trustworthiness of the authority. "Authority is trustworthy power."⁴⁹ The authority of an office, as distinct from that of a person, resides in the antecedent expectation that "persons who can be trusted to provide the direction society needs" are in fact placed in the office.⁵⁰ When the expectation is not met, when persons who are not trustworthy are repeatedly placed in offices of authority, the offices themselves lose authority.

We are now in a position to quantify this breakdown in trust in the church in Australia. In the beginning months of 2016, the National Church Life Survey (NCLS) conducted its five-yearly survey of church life in Australia and included a number of questions directly asking church attendees and their leaders about the impact of the Commission's work.⁵¹ This provided an excellent opportunity to gather data on how Catholics view the work of the Royal Commission. The figures for the NCLS indicate that there is a large-scale breakdown in the antecedent trust given to bishops.⁵²

When asked whether cases of sexual abuse by clergy have damaged my confidence in church authorities, the survey "revealed that nearly three out of five churchgoers (57%) agreed that their confidence in church authorities has been damaged by cases of sex abuse by priests and religious. This result was up from 48 per cent in 2011."⁵³ This is both a serious lack of trust in the hierarchical leadership of the church

46. Joseph Komonchak, "Authority and Magisterium," in *Vatican Authority and American Catholic Dissent*, ed. W. May (New York: Crossroad, 1987), 103–14.

47. Komonchak, "Authority and Magisterium," 103.

48. Komonchak, "Authority and Magisterium," 103.

49. Komonchak, "Authority and Magisterium," 107.

50. Komonchak, "Authority and Magisterium," 105.

51. NCLS has been conducting these wide-ranging surveys of churches for some twenty-five years, though it took some time for the Catholic Church to sign up to the process. It covers some 260,000 responders from a range of denominations, with special questions directed to specific churches. See www.ncls.org.au.

52. The figures have been reported in *Where from and Where to? The Truth Justice and Healing Council, the Royal Commission and the Catholic Church in Australia* (The Truth Justice and Healing Council, April 2018), 1:33–34, <http://www.tjhcouncil.org.au/img/pdf/TJHC-Volume-1.pdf>. See also Neil Ormerod, "Royal Commission has Been a Major Crisis for the Catholic Church Leadership," *Sydney Morning Herald*, February 8, 2018, <https://www.smh.com.au/opinion/royal-commission-has-been-a-major-crisis-for-the-catholic-church-leadership-20180208-h0vrz7.html>.

53. *Where from and Where to?*, 1:33.

and an indication of significant decline between the two surveys. The situation was mirrored when asked about the trust of priests and religious. “More than one third of Church goers (35%) agreed that their respect for priests and religious has declined as a result of these offences. This result compares to about a quarter (26%) in 2011.”⁵⁴ Asked how the church had handled cases of sexual abuse, “nearly two thirds of Church goers (64%) agreed that the response of Church authorities to incidences of child sexual abuse had been inadequate and showed a complete failure of responsibility. This represents an increase from 54% in 2011.”⁵⁵ The church-established Truth Justice and Healing Council conducted its own survey on the level of trust in the church’s leadership, finding that “When asked to rate the leadership, 57% of practicing Catholics said ‘untrustworthy’.”⁵⁶

This is why it is correct to speak of the present situation as a crisis in authority. About half of all church-going Catholics agree/strongly agree that their confidence in their church authorities has been damaged by the abuse crisis. The bond of trust between the laity and their bishops has been severely impaired. For a large number of Catholics, the bishops do not represent “trustworthy power” but have been shown to be willing to put the protection of the church’s good image ahead of the protection and healing of victims of sexual abuse. This level of damage may be so high as to not just call into question the authority of individual bishops but of the office itself and hence the system that appoints them. The antecedent expectation that “persons who can be trusted to provide the direction society needs” are put into office is not being met. Too often they have proved unworthy of the trust placed in them by the church community and consequentially the victims of abuse have paid a heavy price.

There is a massive task to be undertaken here to rebuild and restore the trust that has been violated. While some of the Australian bishops have been making the right noises, some commentators have expressed concern that some bishops still hope the crisis will just go away and they can return to business as normal.⁵⁷ It is clear that the issue dominates the consciousness of the bishops whose moral authority both within the church and in society at large has suffered enormously. This is damaging to the central mission of the church, to evangelization, to the work of promoting the kingdom of God.

Conclusion

The sexual abuse crisis has raised fundamental ecclesial and ecclesiological issues about church culture, practices, and institutional relations. The greatest irony of the

54. *Where from and Where to?*, 1:33.


55. *Where from and Where to?*, 1:33.

56. *Where from and Where to?*, 1:34.

57. Notably, Francis Sullivan, who was the CEO of the church’s Truth, Justice and Healing Council, writes: “Since the commission handed down its report the church leadership has appeared to retreat into its shell. Once again it seems preoccupied with its image and interests.” Sullivan, “Pell Conviction Blows Apart the Bishops’ Mantra,” *Sydney Morning Herald*, February 27, 2019, <https://www.smh.com.au/national/pell-conviction-blows-apart-bishops-mantra-20190226-p510cm.html>.

Australian experience is that it has taken an instrument of the secular state, a Royal Commission, to bring these problems to a head, at a time when a number of church leaders, notably Cardinal Pell, have been warning Australian Catholics of the dangers posed to the church by the secular state. In response Australian Catholics have more confidence in the secular Royal Commission to address these problems than they do in their bishops. The damage to the church's standing in Australian society is incalculable and its institutional effectiveness is severely diminished. It will take decades to recover.

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