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# Bad Apples, Bad Barrel: Exploring Institutional Responses to Child Sexual Abuse by Catholic Clergy in Australia

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### Abstract

This paper considers constructions of institutional culture and power in the cover-up of child sexual abuse (CSA) by clergy in the Roman Catholic Church of Australia. The issue of cover-up has previously been considered in international inquiries as an institutional failing that has caused significant harm to victims of CSA by Catholic Clergy. Evidence given by select representatives of the Catholic Church in two government inquiries into institutional abuse carried out in Australia is considered here. This evidence suggests that, where cover-up has occurred, it has been reliant on the abuse of institutional power and resulted in direct emotional, psychological and spiritual harm to victims of abuse. Despite international recognition of cover-up as institutional abuse, evidence presented by Roman Catholic Representatives to the Victorian Inquiry denied there was an institutionalised cover-up. Responding to this evidence, this paper queries whether the primary foundation of cover-up conforms to the 'bad apple theory' in that it relates only to a few individuals, or the 'bad barrel theory' of institutional structure and culture.

### Keywords

Clergy abuse; institutional abuse; child sexual abuse; power.

### Introduction

In recent evidence to the *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission), Australia's then most senior Catholic cleric, Cardinal George Pell compared the culpability of Catholic Church leadership to that of a trucking company whose driver 'picks up some lady and then molests her' (Royal Commission into Institutional Responses to Child Sexual Abuse 2014: C4509). The issue of criminal, civil and moral institutional responsibility has proven contentious, controversial and problematic in addressing child sexual abuse (CSA) by Catholic clergy internationally. One response offered within nation-states has been through the conduct of a formal public inquiry. The nature of the management of CSA by clergy in Catholic institutions has been the subject of public inquiries in Ireland, Canada, the Netherlands and Belgium (Barnardos et al. 2010; Department of Justice and Equality 2009). Not all of these inquiries have been nation-wide and some, such as in Canada, have focussed solely on particular facilities (Rigali 1994). More recently, Australia has responded to pressure from victim

advocates, media and key political figures to inquire into institutionalised CSA. There are two recent, and one current, public inquiries which exist at both state and federal levels: The Victorian Parliamentary *Inquiry into the Handling of Child Abuse by Religious and other Organisations* (the Victorian Inquiry); the New South Wales (NSW) government's *Special Commission of Inquiry Concerning the Investigation of Certain Child Sexual Abuse Allegations in the Hunter Region* (the Hunter Inquiry); and the federal government's *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission). Whilst all of these inquiries focus on child abuse – particularly sexual abuse – as it occurred in institutions, only the Hunter Inquiry specifically examines the relationship between the Catholic Church and the Police. In the other two inquiries, the responses of Catholic officials to allegations of CSA were substantially examined but they were not the only or specific focus of these inquiries. As such, although discourses of CSA by clergy in Catholic organisations are the dominant representation of institutional abuse in public media, Catholic institutions are not solely the focus of public inquiries in Australia, as they have been elsewhere.

Whilst it is evident that Catholic Institutions and Churches are not the singular site of institutional CSA and cover-up, there is remarkable consistency in the responses to CSA by clergy within Catholic institutions and Churches across international jurisdictions, as inquiries have shown (Department of Justice and Equality 2009; Lueger-Schuster et al. 2014; Terry 2008). Moving away from an analysis of the initial child sexual abuse as institutional abuse, this paper explores the construction of strategies of cover-up as institutional abuse in as much as they rely on the exercise of institutional power to privilege the institution; are informed by institutional culture and formal and informal policy; and result in further harm to the victims of abuse. Core to this exploration is the way in which institutional responsibility for CSA is resisted by the Catholic Church. The following draws on representations made to the Victorian Inquiry from three key perspectives: *Towards Healing*, Cardinal George Pell, and the Christian Brothers. The analysis also draws on the submission to the Royal Commission case study on *Towards Healing* made by the Truth, Justice and Healing Council (TJHC). The TJHC was formed by the Australian Catholic Bishops Conference and Catholic Religious Australia in response to the announcement of the Royal Commission. The TJHC is said to '... allow the Church to speak with one voice before the Royal Commission representing the numerous organisations that make up the Catholic Church' (TJHC 2015). Before commencing this analysis, the paper briefly outlines how institutional abuse of children, firstly at the international level and then within Australia, have come to light through research or inquiries.

### **Institutional abuse internationally**

Institutional abuse is not limited to the abuse of children, but also includes elder abuse, the abuse of people with disabilities and the abuse of prisoners and others within what Goffman (1962) refer to as total institutions (Burns et al. 2013; Gallagher 2000; Middleton et al. 2014b; Mouzelis 1971). Salter (2013: 31) discusses institutional sexual abuse as '... the sexual abuse of children by people who work with them in an institutional setting, in which one or more staff members engage in or arrange the sexual abuse of children in their care'. Institutional abuse does not only include sexual violence but may also include physical abuse, emotional abuse, psychological abuse, financial abuse and neglect as they occur within organisations (Bloom 1995; Burns et al. 2013; Sidebotham and Appleton 2012). Institutional abuse can be understood as historical or contemporary with definitions and contexts varying across time and jurisdiction (Daly 2014; Sköld 2013). Whilst public inquiries have largely focussed on abuses that occur in institutions such as children's homes run by various Christian denominations and the state, there are calls to expand definitions to include abuse in other non-family settings. This would include foster care, which has been the subject of public inquiry internationally (Daly 2014; Sköld 2013). Daly (2014) argues that the 'discovery' of the institutional abuse of children arose during the 1990s as the particular horrors of CSA in children's institutions was publically and politically distinguished from physical and emotional abuse, which may have easily been

dismissed as extreme forms of punishment. In this discovery, the responses of institutions to abuse, including cover-up, have gained a cultural currency through media representation, effective lobbying of victim/survivors and the supporters, and the exposure of remarkably similar stories across international jurisdictions (Sköld 2013).

Historically, many children's services have been run by Christian denominations, including the Roman Catholic Church (Daly 2014). A substantial body of literature now exists which specifically considers the perpetration of CSA by Catholic Clergy from the perspectives of psychology, criminology, theology and sociology. This literature does not only consider abuse in care situations but in the context of Church activities (Garland and Argueta 2010; Hogan 2011; Holt and Massey 2012; Keenan 2012b). This literature includes attempts to understand grooming, the extent and nature of abuse, the life circumstances and nature of individual clergy who abuse, and the motivation for clergy to perpetrate CSA (Fawley-O'Dea 2004; Fogler et al. 2008a; John Jay College of Criminal Justice 2004). Research on victims of CSA by clergy has considered their experiences of abuse, their experiences with civil and criminal litigation, and what they have sought to achieve in reporting their abuse (Balboni 2011; Balboni and Bishop 2010; Lytton 2009; Smith and Freyd 2014). It is now well recognised internationally that it is not only the occurrence of CSA by clergy that is problematic within Catholic institutions but also, in particular, the spiritual, emotional and psychological abuse inherent in the mis-management of reports of abuse (Conway 2014; Deetman et al. 2011; Lueger-Schuster et al. 2014). Responses to reports of CSA by clergy by Catholic officials has been the subject of international inquiries and research that has recognised that core issues go beyond individuals acting alone, to recognising the significant role of institutional culture, structure and policy (Gilligan 2012a, 2012b; Hall 2000; Lueger-Schuster et al. 2014; McLoone-Richards 2012).

One area explored in international inquiries is the role of institutional culture and the occurrence of cover-up of CSA by clergy by Catholic officials. This has resulted in criticism of Catholic institutions for covering up CSA by clergy through extreme levels of secrecy; the movement of perpetrators from parish to parish, or school to school; silencing victims through legal clauses in settlements; poor record keeping practices; failing to cooperate with Police investigations; dissuading victims from going to Police with complaints; ignoring and disbelieving victims and privileging the word of Clergy denying the abuse; and the vehement and costly defence of clergy accused of abuse through both civil and criminal cases (Bruni and Burkett 2002; Dale and Alpert 2007; Deetman et al. 2011; Gilligan 2012a). Evidence from international research and inquiries indicates that these actions of cover-up have relied on functions of institutional power, culture and policy, causing direct emotional, psychological and spiritual trauma to survivors of abuse (Fitzpatrick et al. 2010; Lueger-Schuster et al. 2014; McAlinden 2006; McLoone-Richards 2012). This post sexual assault harm, which arises from how victims are treated after reporting, compounds the harm caused by the original abuse, leading to a secondary victimisation (Carrington and Carmody 2000). Strategies of cover-up have been revealed as remarkably similar where ever they have occurred throughout Catholic Institutions internationally (Doyle et al. 2006; McLoone-Richards 2012; Pilgrim 2012). The report from the Victorian Inquiry concluded that these strategies are also relevant in the Victorian context (Family and Community Development Committee 2013). Case study reports from the Royal Commission, such as that of the Christian Brothers in Western Australia, indicate that actions of cover-up may be more widely spread in Australia (Commonwealth of Australia 2014).

Central to the issue of institutional abuse and cover-up is the exercise of institutional power to silence victims and protect perpetrators. Critics of Catholic institution's responses that resulted in cover-up identify motivators such as the protection of the reputation of the Church, fear of costly litigation, and the privileging of clerics in systems which value them over lay victims (Cobb 2010; Dale and Alpert 2007; Fawley-O'Dea 2004; Keenan 2012a; White and Terry 2008).

Cultures which value the elitism of clerics have been identified as contributing to the facilitation of CSA and the mismanagement of complaints when they are made (Benkert and Doyle 2009; Doyle 2006; Shupe 2007; Shupe et al. 2000). The issue of clericalism has been identified as crucial in understanding both the perpetration of CSA by clergy and institutional responses (Benkert and Doyle 2009; Doyle 2003, 2006). Clericalism is understood as the ways in which clergy are privileged as an elite group, both within the Catholic institutions and more broadly in congregations and communities (Doyle 2006). This privileging is essential in understanding the ways in which clergy are able to groom individual victims, their families, and wider communities. Clericalism is also important in understanding why systems functioned to protect clergy and enable disbelief of abuse (Doyle et al. 2006; Fogler et al. 2008b; Hildalgo 2007).

The Catholic Church has sought to defend the mismanagement of CSA with appeals to naivety, usually stating that the Catholic Church did not understand the nature or impact of CSA. Further defences have included arguments that those managing disclosures of abuse were responding in ways that were consistent with 'the times', and that the abusers were 'bad apples' – individuals acting independently – and not from a bad barrel of institutional cultures and structures (Gilligan 2012a; John Jay College of Criminal Justice 2004; McGlone 2003; Plante 1999). As a consequence of long and sustained media debate, of civil litigation in jurisdictions where this has been possible, and of public inquiry, it is now untenable for Catholic institutions to claim that strategies designed to create and maintain secrecy surrounding the nature and extent of CSA by clergy, and also to silence victims of this abuse, were not strategies of cover-up. Strategies of denial and cover-up emerged from institutional cultures which valued secrecy, clerical elitism and the protection of the 'good name' of the Catholic Church and its clerics (McLoone-Richards 2012; Perillo et al. 2008; Pilgrim 2012; Wirenius 2011).

### **State inquiries and child sexual abuse in Australia**

In Australia, the role of public inquiry in addressing major social issues is varied depending on the type of inquiry. Types of inquiries include those conducted by the Senate, federal or state parliament, and a Royal Commission. Royal Commissions may also be state or nationally based. Public Inquiries can also take the form of working parties, independent commissions of inquiry, task forces and committees established by the state for purpose of inquiring into a high profile, systemic or otherwise identified issues. Public inquiries are established and bound by terms of reference, subject to discretionary government funding and members are usually drawn from outside the government (Prasser 1985). Prasser (2006) discusses a number of reasons why state inquiries, particularly royal commissions, may be established. Such inquiries are ordinarily inquisitorial in nature, or designed to inform government policy (Gilligan 2002; Hodgetts 2007). They may also have the benefit of demonstrating that the state is serious in addressing an issue, that independent assessment of an issue has been made in order to inform policy, and that responsibility in a given issue has been allocated (Keller 2014; Prasser 2006). The Victorian Inquiry was established amongst long held calls for a national Royal Commission by victims and their supporters. The Victorian Inquiry was preceded by the *Protecting Victoria's Vulnerable Children Inquiry* which ultimately recommended a specific inquiry into the handling of child sexual abuse by religious and other institutions, with the power to compel witnesses to give evidence (Cummins et al. 2012). This power, ordinarily reserved for royal commissions, was ultimately granted to the Victorian Inquiry.

The perpetration of forms of institutional abuse against minors in Australia has not only been considered by the recent government inquiries specifically into CSA, but also previously by the Senate Inquiry into Forgotten Australians (Commonwealth of Australia 2004), the Forde Inquiry in Queensland (Queensland Government 1999) and the Wood Royal Commission in NSW; (Wood 1997). Each of these inquiries have considered – although not exclusively – the ways in which religious institutions have responded to the perpetration of physical, sexual and psychological child abuse within their organisations, primarily children's homes and foster care

(Commonwealth of Australia 2004, 2005). Commencing as an inquiry into Police corruption, the Wood Royal Commission of NSW expanded its terms of reference to specifically consider the issue of paedophile networks and the suitability of care arrangements for 'at risk' youth (Wood 1997). Other states such as Western Australia and Tasmania have conducted state-based inquiries which also investigated the abuse of children in state and institutional care (Babington 2011).

When recommended by the Forgotten Australians Senate Inquiry to do so, many religious institutions issued apologies to those who had suffered forms of child abuse whilst in care within their facilities and services. Other recommendations from inquiries, such as the provision of reparation and greater access to personal records and histories, have received some, but not complete, support from state governments (Commonwealth of Australia 2004; Swain et al. 2012). Months after the release of the report of the Victorian Inquiry, the Victorian government committed to make several changes to legislation. These included the introduction of a new grooming offence, a 'new offence for people who hold a position of authority who fail to protect children from child sexual abuse', and a new offence for those who fail to report known or suspected child sexual abuse to police (Parliament of Victoria 2014).

### **This study**

This study used qualitative methods within a critical victimology perspective. As Mawby and Walklate (1994) recognise, critical perspectives hold deep concern for the role of power in constructing offences, harm and victimisation. This is particularly relevant where political and social systems exist in ways that marginalise some voices and prioritise others (McEvoy and McConnachie 2012; Shalhoub-Kevorkian and Braithwaite 2010; Walklate 2014). Drawing on a range of disciplines including social psychology and symbolic interactionism, critical victimological perspectives recognise that the ways in which events or outcomes are constructed harms or offences, is contingent on the mechanisms through which they are labelled (Mawby and Walklate 1994; McEvoy and McConnachie 2012; Spencer 2015; Van Dijk 2009). The use of qualitative methods is consistent with a critical approach as it allows the prioritising of voices and the examination of rich and deep data (Flick 2002; Knight 2000). This is crucial for this study as the Catholic Church represents a powerful institution with far reaching political, social and religious influence. Further, the state has a central role in addressing and managing responses to CSA, not only through criminal justice processes but also through state inquiries (Ainsworth and Hansen 2006; Baird 2013; Middleton et al. 2014a).

Evidence given during three key hearings of the Victorian Inquiry has been chosen as case studies here. These hearings were chosen because of their centrality to representations made by Catholic leaders, orders, policy and organisational representatives to that Inquiry. This is not a representative sample but rather a purposive sample of voices based on an analysis of available transcripts. The selected sample includes firstly, the examination of Brother McDonald (Deputy Province Leader), Brother Brandon (Co-Executive Officer, Professional Standards Office) and Mr Wall (Co-Executive Officer, Professional Standards Office), who represented the order of the Christian Brothers at the Victorian Inquiry on 3 May 2013. Secondly, the hearing on *Towards Healing*, in particular the examination of Sister Angela Ryan who appeared before the Victorian inquiry as the former Executive Officer of *Towards Healing* on 3 May 2013 is referenced. *Towards Healing* is the Australian Catholic Church's policy response to CSA in Catholic institutions and covers all jurisdictions outside the Melbourne Archdiocese where a separate policy, the *Melbourne Response*, is in effect. Finally, the sample includes examination evidence provided to the Victorian Inquiry by Cardinal George Pell on 27 May 2013. Pell was, at that time, Australia's most senior Catholic cleric and was responsible for the development of the *Melbourne Response*. This evidence is furthered by the submission of the TJHC to the current Royal Commission.

All transcripts are publically available through the Parliament of Victoria website (<http://www.parliament.vic.gov.au/fcdc/article/1786>). No closed hearings or confidential material was used for this study. As such, ethics clearance was not required. These transcripts were analysed using thematic coding and word searching in N-Vivo as a part of a larger project analysing 105 transcripts and submissions to the Victorian Inquiry. Thematic coding involved reading each transcript to identify common themes. Relevant themes, other than cover-up, included church structure, church leadership, disclosure, and institutional responses. Word searches were used based on common terms in literature and media representation. Cover-up was a particularly relevant term.

The hearing on *Towards Healing* is significant as this policy was designed to be the primary response mechanism of the Catholic Church in Australia, to inform responses made by the diversity of elements of the Catholic Church including parishes, communities and orders. Development of *Towards Healing* began at the end of the 1980s and the policy was introduced in 1996 as a nation-wide policy (TJHC 2013).

The Christian Brothers is a Catholic congregation which originated in Ireland in the early 1800s. Now present in over 30 countries the Christian Brothers have historically provided education by establishing schools, originally for poor children (McLaughlin 2008). The Christian Brothers order was identified by the Victorian Inquiry as one of the worst of the Catholic orders, both for the number of offences committed by members of the order and for the mismanagement of complaints when they were made (Parliament of Victoria 2013a). Although in evidence the Christian brothers denied that there were cover-ups at schools, such as St Alpius Ballarat, they also stated that they had not conducted an investigation as to whether such cover-ups had occurred (Parliament of Victoria 2013a).

Cardinal George Pell has been acknowledged as Australia's most senior and high profile Catholic cleric (Marr 2013). Although initially disputing that he was generally thought of as the 'leader of the Catholic Church in Australia', Pell later conceded in evidence before the Victorian Inquiry that this was how the public would most likely perceive him (Parliament of Victoria 2013c).

### **Structure and institutional abuse**

The institutional structure and culture of the Catholic Church becomes highly significant when applied to responses made to complaints of CSA by clergy. In their submission on *Towards Healing* to the Royal Commission, the TJHC (2013) argue that 'contrary to what is often supposed or assumed' there is no cohesive Australian or worldwide Catholic Church. The submission goes on to say that vertical management in the Catholic Church is not in place but 'rather, the Church as a community of faith is made up of an intricate complex of disparate groups and individuals' where individual Bishops have individual mandates and authority. The impact of institutional structure is explored by the Victorian Inquiry in the hearing on *Towards Healing*. The following exchange occurred between Committee member Mrs Andrea Coote and Sr Ryan:

Mrs COOTE — Pardon me for my confusion, but we have heard quite a bit here, and it is a little difficult to get our heads around the structures, because it seems to flow as it suits the particular organisation. So if it is the bishop in that area and he is responsible and there are systemic problems, who does he answer to?

Sr RYAN — Issues for which he is responsible — if they are within that diocese, then he is the ultimate person who is responsible there. You have got Rome having taken some further action, I guess I would say, or — 'interest' would be the wrong word; I have not got the right word — but certainly over recent years Rome has been wanting guidelines set up in each country so that they — if we are

talking about a cleric, a priest, a deacon or a bishop, that is who they are concerned about, and for cases in that way, they would go to the CDF, the — —

Mrs COOTE — The Congregation for the Doctrine of the Faith. (Parliament of Victoria 2013b: 8)

In effect what is being argued is that the Catholic Church comprised a series of closed systems acting independently of each other, although with some distant supervision from the Congregation of the Doctrine of the Faith (CDF). What is also acknowledged, however, is the respect for the CDF and the Vatican ('Rome') as an authority. Canon Law scholar John Beal (2007: 202) identifies the CDF as having '... responsibility for oversight of both faith and morals of the whole Catholic Church ...' directly observing an oversight role that is also discussed in the work of other Canon Law scholars (Doyle et al. 2006; Robertson 2010).

Canon Law is simply understood as the laws and legal principles developed by Church authorities that govern the function of the Catholic Church (Formicola 2011; Robertson 2010). The importance of Canon Law, including procedural law such as *De Modo Procendendi in Crimen Sollicitationis* (*Crimen Sollicitationis*), and the Apostolic Letter, *Sacramentorum sanctitatus tutela*, in informing the response of Catholic Bishops to allegations of child sexual abuse across international jurisdictions is now well recognised (Doyle et al. 2006; Keenan 2012a; Robertson 2010). These documents and others are argued to contain directives from the Vatican about the reservation of the management of 'grave crimes' to the CDF. This included a directive that where a Bishop became aware of allegations of CSA by clergy they refer it for the attention and management of the CDF (Doyle et al. 2006; Keenan 2012a; Robertson 2010). Whilst *Sacramentorum sanctitatus tutela* makes it clear that cases may be referred back to the local Bishop for prosecution and the execution of punishment, it cannot be successfully argued that this centralisation of complaints to the CDF was anything other than the exercise of a higher authority giving instruction on the management of local matters. There is provision and instruction made in *Crimen Sollicitationis* for a local investigation prior to referral to the CDF. Beal (2007: 224) argues, however, that this document includes sexual offences against minors as an 'afterthought' and it is not significant enough to indicate that the Catholic Church had extensive knowledge of these offences when the document was updated and reissued in secrecy to Bishops worldwide in 1962. It is argued elsewhere, however, that the strict directives on secrecy regarding investigation, reporting to the CDF, and outcomes of investigations – and even the document itself – contained in *Crimen Sollicitationis* facilitated cultures of secrecy and resulted in the implementation of policies occasioning the cover-up of abuse (Doyle et al. 2006; Keenan 2012a; Robertson 2010).

In the following exchange on *Crimen Sollicitationis*, Pell argues before the Victorian Inquiry that the direction from the Pope was specific to the crime of using the confessional to solicit for sexual gratification and that the direction for Bishops to maintain the strictest confidentiality was based on institutional mandates of secrecy and not breaking the seal of confession:

Mr McGUIRE — Do you agree with the Pope's instruction in 1962 to all bishops that sexual abuse of children was the foulest crime?

Cardinal PELL — Yes. I think the 1962 statement talked about a particular crime with children, and that is using the confessional to entice children to commit this crime. I think that was the specific instance there. But there is no doubt that it is a foul crime.

Mr McGUIRE — Do you acknowledge that there was also a requirement from the Pope that such heinous crimes be treated with such strict confidentiality?

Cardinal PELL — Yes. That, as you know, was changed later. The reasons for that then were because of the seal of confession, but there were a couple of other

reasons. The priest who was attacked because of the seal of confession — they had to receive indirect evidence; he could not break the seal. Also it was to protect the privacy of the person making the allegations. We regard those restrictions now as inappropriate, but they were the three reasons for them at that time, I believe. (Parliament of Victoria 2013c: 11-12)

That there is, or was if we accept Pell's position, an institutional mandate that the 'seal of the confessional' be upheld above all else is evidence of a persistent occupational culture that privileges particular individuals within the institutional culture and establishes those who hear confession as the bearers of secrets (Cafardi 2010; Cornwell 2014). This tradition not only has a historical base but has also been directly applied to CSA by clergy through Papal directives, in ways that mandated strict confidentiality and secrecy (Cornwell 2014). Mandated secrecy in response to CSA by clergy is, in effect, an exercise of institutional power that is based on institutional culture and Canon Law that ties secrecy to confession, and to the role of those who hear confessions. Clearly, there are elements of institutional culture that directly inform individuals functioning in roles where they respond to abuse allegations. It is these cultures of elitism and the self-preserving functions taken in response to complaints of CSA by Catholic Clergy that have been at the core of institutional responses that are psychologically, emotionally and spiritually abusive (Beal 2007). Shupe (2007) and colleagues (Shupe et al. 2000) recognise cultures of clergy elitism as essential in understanding both the occurrence of and responses to CSA by clergy.

#### **Cover-up and a culture of elitism?**

The following exchange from the Christian Brothers hearing begins by drawing attention to the high instances of abuse perpetrated by members of the Christian Brotherhood, and positions it as an outcome of institutional power:

Mr O'BRIEN — But do you accept that there must have been, even on the raw numbers alone, an element of cover-up within the Christian Brothers organisation?

Br McDONALD — I am not sure that it. I am sure it would not have been interpreted as cover-up. In hindsight, certainly that is what it looks like.

The CHAIR — If I could ask for quiet from the public gallery, please.

Br McDONALD — As I said, from this perspective the community can certainly be excused for interpreting it that way.

Mr O'BRIEN — I am interested in how you interpret it. I do not want to cut you off. Continue please.

Br McDONALD — I can refer to anecdotal, if you like, experiences to illustrate what I am trying to say. There were times, certainly, when parents became aware that their child or children had been abused, and there is anecdotal evidence that goes this way: parents turned up at the door of the brothers' house, wanted to see the community leader or the principal of the school, and said, 'Remove so-and-so because he has done this to my son or we will get the police'. There were times when the police turned up and said, 'Remove so-and-so or we will charge him'. That simply reflects a culture that existed that gave special privilege — and it should not have — to people in religious life and in the priesthood. It was a perception that they were beyond offending. We know that now. People, religious people, priests, should resist being put on a pedestal. (Parliament of Victoria 2013b: 15)

Brother McDonald is not alone in recognising that the power and credence given to clergy has often meant that they have been immune from prosecution of offences; this point is now well established in literature (Cobb 2010; Doyle and Rubino 2003; Lytton 2009). What is evident in his account is that there were relationships between the Catholic Church, victims and their families and police that privileged clergy in a way that enabled the institution of the Catholic Church to exercise power to minimise the impact of allegations of abuse at the expense of victims. This situation is not unique to Australia (Fawley-O'Dea 2004; McLoone-Richards 2012). For Doyle (2003, 2006) the most significant issue is clericalism which reinforces the power of clergy within institutional structures and, more historically perhaps, in social and political sectors outside of Catholic institutions. Shupe (2007) theorises the issue of clerical sexual abuse and its management through social exchange theory and emphasises the cultural elements that support clergy abuse and its mismanagement. In this position cover-up becomes a function of institutional power that relies on the capacity to silence victims and maintain the elite position of clergy. This is the function of institutional power that has caused additional harm to survivors and as such should be considered a further incident of institutional abuse. Although Br McDonald seeks to classify this as isolated incidents, evidence throughout the world demonstrates that the cover-up of abuse through the exercise of institutional power was widespread, common and systemic in the Catholic Church, as already mentioned.

This abusive exercise of power has been theorised as reliant on reciprocal relationships between clergy, congregations, communities and victims (Shupe 2007; Hildalgo 2007). This provides explanation as to why the crisis of clergy abuse has been reliant on 'whistle-blowers' within the organisation, external support from increasingly independent media, civil litigation and the disruption of relationships of power to become a social issue worthy of attention (Lytton 2007; Shupe 2007). For Pell, pressure from 'the press' has had an influence on the willingness of victims to report abuse. Pell told the Victorian Inquiry:

Cardinal PELL - Professor Parkinson makes the interesting — a very basic point on the frequency of incidents and the frequency with which those incidents are reported. It is possible but not absolutely certain that those two figures come pretty closely together, because we have had 25 years of intermittent hostility from the press, which has had a beneficial effect of encouraging us to deal with it. (Parliament of Victoria 2013c: 3-4)

This, again, highlights the importance of relationships of power. Lytton (2009) argues that the combination of tort litigation and media coverage encourages victims to come forward and report the initial abuse and the institutional negligence of the Catholic Church in managing CSA by clergy. In Australia, civil litigation is more problematic, due to the Ellis decision in which the Supreme Court of NSW ruled that the Catholic Church was not a legal entity that could be held liable for CSA (Gau et al. 2008). The role of public media as powerful – or perhaps independent – enough to expose the sexual crimes committed by clergy has been widely acknowledged, however (Bruni and Burkett 2002; Dale and Alpert 2007; Kline et al. 2008). As such, public media has been situated as a significant locus of power in enabling survivors of CSA by clergy to step outside of Catholic systems in ways that are substantial enough to call for accountability from Catholic institutions for the initial abuse and subsequent cover-ups. Pell's argument that the incidence of abuse and the reporting of abuse are substantially the same is, of course, not verifiable. What is verifiable is the abusive role of cover-up in response to CSA by clergy as illustrated by the public inquires already mentioned (Department of Justice and Equality 2009; Farrell 2009; Gilligan 2012a; John Jay College of Criminal Justice 2004). It is well established that it is not just that abuse has occurred, but that its disclosure and mismanagement has significantly resulted in the re-abuse of survivors. This is a significant site where the Catholic Church, not just individual clergy, is being asked to provide a response to allegations of

institutional abuse through cover-up (Department of Justice and Equality 2009). Key to this is the desire to protect the reputation of the Catholic Church by silencing survivors.

### **Cover-up and a culture of concern for reputation**

Cardinal Pell was asked by the Victorian Inquiry to give an account of cover-up as motivated by protection of the reputation of the Catholic Church:

Mr McGUIRE — Do you agree that the church's motive was also to protect its treasure — its reputation and money?

Cardinal PELL — The primary motivation would have been to respect the reputation of the church. There was a fear of scandal. I do not think any damages were paid out until the 1990s or something like that. At least in Australia saving the money was not a significant factor. I am not sure of the 1980s, but, as I said, there was no compensation paid, as far as I can remember.

Mr McGUIRE — But the fear of the scandal led to the cover-up, didn't it?

Cardinal PELL — Yes, it did. It was one of the factors. (Parliament of Victoria 2013c: 12)

The ability to protect the reputation of the Catholic Church was reliant on the above culture of elitism, which privileged clergy over lay persons, members of congregations and children in Catholic schools. Further, the accounts offered by Catholic representatives have existed in a broader social environment where scrutiny of this issue ebbs and flows as 'waves' of disclosure, media representation and social and political pressure ebb and flow. Hence, Shupe (2007: 50) argues that there has been an attitude amongst clerics that clerical abuse is of such a limited nature that if the storm of media attention is weathered there will be 'no serious structural implications' for Catholic institutions. This 'weathering the storm' takes the position that the threat to the Catholic Church is temporary and, if managed adequately, will disperse. Again, this relies on the power to ultimately suppress the threat posed by revelations of CSA by clergy. One way to suppress this threat is by covering up the abuse, through the strategies identified here and elsewhere, irrespective of harm caused to complainants and communities. Whilst there has certainly been sustained attention to the issue of CSA by clergy there it is yet to be seen if there will be any 'serious structural implications' for Catholic Institutions in Australia or elsewhere. In Australia the systemic nature of cover-up is still being established through public inquiry. Shortly after the above exchange, Pell was also asked to reflect on this very issue and the furtherance of abuse as a result:

Mr McGUIRE — Going directly to that issue, do you agree that this systemic cover-up allowed paedophile priests to prey on innocent children?

Cardinal PELL — Yes, you would have to say there is significant truth in that. If I could say, some people have said there was a culture of abuse. I do not think that was generally true at all. I think the bigger fault was that nobody would talk about it; nobody would mention it. I certainly was unaware of it. I do not think many persons, if any, in the leadership of the Catholic Church, knew what a horrendous, widespread mess we were sitting on. I have sometimes said that if we had been gossips, which we were not, and we had talked to one another about the problems that were there, we would have realised earlier just how widespread this awful business was. (Parliament of Victoria 2013c: 13-14)

Pell's argument that the Catholic Church was unaware that CSA was a significant issue is problematic on a number of levels. Firstly, Pell attempts to frame the problem as one of poor communication. This argument relies on closed circuits of communication and management

such as those outlined in *Crimen Sollicitationis* which calls for strict secrecy about complaints and investigation of CSA by clergy. Whilst Pell argues that a failure to 'gossip' was a problem, the culture of abuse actually ran more deeply than this to one of directed secrecy. Cultures of secrecy also play into the idea that offenders are 'bad apples' who only need to be contained. For Pell, the systemic problem is failure to communicate effectively about abuse. Poor communication was a significant systemic issue that resulted in the abuse of further children in ways that were foreseeable. Contrary to Pell's assertion that this was a about a failure to gossip, it has been widely established that these failures were about institutional cultures that privileged clergy and valued secrecy from all parties involved (Balboni and Bishop 2010; Keenan 2005; McLoone-Richards 2012; Shupe 2007). Even where policy was introduced to enable institutional change in addressing CSA by clergy, there continues to be significant issues for victims engaging with the processes initiated out of such policies.

### **Concluding discussion**

Shupe et al. (2000) argue that clerical malfeasance, including sexual assault of adults and children, is similar to white collar crime but prefer to liken it to '... elite deviance as comprising illegal *and* unethical actions committed by persons in the highest corporate and political strata of society'. Characterising clergy abuse as a form of elite deviance relies on the social and political power of religious organisations such as the Catholic Church. These positions ascribe agency to those in the institution who actively utilise this power. It follows that those within the Catholic Church who have covered up abuse are not passive utilisers of this power but actively engage in systems to benefit their organisation over victims of CSA that has occurred because of the same systems of power (Doyle 2003; Farrell 2009; Keenan 2005). In this vein, it is not only individual abusers within the institution of the Catholic Church who are responsible for the abuse but also the institutions which are increasingly being held to account for their own abuses of power in responding to complaints. Accountability has only been enabled where victims of CSA by clergy have been able to step outside the systems of power within Catholic Institutions in order to challenge them (Shupe 2007). Consequently clergy abuse is not a case of 'bad apples' but a function of systems of power – bad barrels – which enable the abuse to occur and then enable re-victimisation through responses made to complaints (Shupe 2007; Shupe et al. 2000). This re-victimisation is no less institutional abuse than the original sexual abuse.

The benefit of identifying particular responses of the Catholic Church to complaints of CSA by clergy as institutional abuse is that it may strengthen pathways by which the Catholic Church can demonstrate an acceptance of responsibility for past failures. It is important that the Catholic Church demonstrates that avoidance of liability and damage to its reputation is no longer the central concerns but, rather, that there is serious intent to address systemic causes of the mis-management of complaints of CSA by clergy. This will entail accepting that cover-up is evidence of abuses of institutional powers that have directly caused emotional, psychological and spiritual harm to individuals who have already experienced institutional abuse in the form of CSA by clergy (Shupe 2007; Shupe et al. 2000; Keenan 2012a). The central message of this work is that the Catholic Church has resisted responsibility for CSA, that power and privilege have been used to facilitate cover-up of abuse, and that this has relied on institutional power, thus causing direct harm to victims of CSA and, accordingly, should be understood and discussed as institutional abuse. Whilst some acknowledgement of cover-up has been made by Catholic officials, this has not sufficiently translated into institutional change. It is in effectively addressing such institutional culture and structures that progress may be made to adequately in meeting victim needs, avoiding further re-victimisation and demonstrating meaningful acceptance of responsibility by the Catholic Church.

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