



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

JOINT SELECT COMMITTEE ON IMPLEMENTATION OF THE
NATIONAL REDRESS SCHEME

Establishment and operation of the Commonwealth Redress Scheme

(Public)

THURSDAY, 19 MARCH 2020

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JOINT SELECT COMMITTEE ON IMPLEMENTATION OF THE NATIONAL REDRESS SCHEME

Thursday, 19 March 2020

Members in attendance: Senators Henderson, Siewert, Dean Smith, Marielle Smith and Dr Allen, Ms Claydon, Mr Dick.

Terms of Reference for the Inquiry:

To inquire into and report on:

The Joint Select Committee on Implementation of the National Redress Scheme was appointed by resolution of the House of Representatives on 10 September 2019 and resolution of the Senate on 11 September 2019.

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Evidence was taken via teleconference—

[14:31]

CHAIR: Welcome. We're very appreciative of the effort you've made to join us this afternoon by teleconference. Is there anything you would like to add about the capacity in which you appear today?

Ms Kaput: I'm a former Jehovah's Witnesses child, and I appear as one of the 70 survivors of Jehovah's Witnesses who attended a private session of the commission. I'm also a whistleblower and an advocate.

CHAIR: Thank you, Ms Kaput. We welcome you this afternoon. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and does attract parliamentary privilege. I now invite you to make a brief opening statement before I proceed to inviting other senators and members to ask questions or engage in a discussion with you.

Ms Kaput: Thank you. I have seen hundreds of Jehovah's Witnesses child survivors gathering in support groups. They articulate their pain and seek validation from their community. Most are too traumatised, uneducated, poor and socially isolated to effectively seek help. They use aliases so as not to be discovered and shunned by their family and friends. They're generally not allowed to vote nor take any interest in politics. So even former members simply don't understand the government process, including this very public hearing. Yet the former Jehovah's Witnesses community are standing by, ready to help you, the committee, and hold their leadership to account. I encourage you to please read our previous submission in relation to the Jehovah's Witnesses and its administrative management corporation, the Watchtower Bible and Tract Society of Australia Ltd, and their controlling parent organisation, the Watch Tower Bible and Tract Society of Pennsylvania Incorporated.

Thank you for these hearings so that we can tell you what's happening. For comparison, the commission's figures show the Jehovah's Witnesses' rate of offending was 32 times worse than the incidence of abuse by the Catholic Church. Of the over 2,000 cases referred to the authorities by the commission, over 500 were alleged Jehovah's Witnesses cases, making this relatively small organisation responsible for 25 per cent of the commission's cases, yet they haven't joined the redress scheme. We believe that the Jehovah's Witnesses institution will never voluntarily join the scheme. The extent to which our redress applications are missing, in addition to what we've previously submitted, is likely due to a number of factors.

Survivors understand that no Jehovah's Witnesses entities will ever sign up. They're daunted by the application form, which you discussed earlier this morning. They have a fear of being shunned, as I mentioned before, by their family and friends for taking their brother to court—that's a phrase known to the Jehovah's Witnesses. And they have a fear of providing information about the organisation that could then be used against them. Interestingly in these times, there's information on their website about the coronavirus but not a single media release referencing either the commission or actual child abuse records in various countries. The leaders have been under the radar and are essentially abuse deniers.

We ask the federal government to revoke their charity status. In terms of financial consideration, we estimated previously that financial exposure to the Redress Scheme for the Jehovah's Witnesses organisation Watch Tower Bible and Tract Society of Pennsylvania Incorporated was \$132 million. But around the time that the commission was announced, in 2012, the Jehovah's Witnesses restructured their business. They separated their cash from their assets, keeping only \$5,000 in each kingdom hall, which is equivalent to a church, and then started selling off the properties. It seems that they started with properties where the abuse happened.

Since then, property sales in Australia have been approximately \$38 million, but globally their sales property portfolio is approximately A\$6.5 billion at today's exchange rate. They are quickly liquidating their assets internationally. So, I'd like to submit into evidence to the committee a draft property portfolio that we are currently reviewing. It seems that they're trying to dodge their obligations. Not only have they not joined but they appear to be ensuring that they can tell you they don't have enough for redress. So, that is my opening statement. I'd like to speak to you about our recommendations.

CHAIR: Yes, please.

Ms Kaput: Our first recommendation is that consideration be given to introducing a bill for the purpose of amending the National Redress Scheme for Institutional Child Sexual Abuse 2018 to allow for future class actions

in relation to institutions that fail to join the Redress Scheme. In the past 24 hours we've reviewed the legislation, but we can find no changes.

Recommendation 2 is that the Joint Select Committee refers the structure of the Jehovah's Witnesses organisations to the Australian Securities and Investments Commission, ASIC, for investigation as to whether the individual members of the governing body of Jehovah's Witnesses and the members of the board of directors of the Watch Tower Bible and Tract Society of Pennsylvania are in fact officers as the term 'officer' is defined by section 9 of the Corporations Act 2001 of Watch Tower Australia.

Recommendation 3 is that the Joint Select Committee hold sufficient additional public or private briefings to receive further qualified input from individual Jehovah's Witnesses survivors, especially given the high rates of child sexual abuse within the organisation and the obstacles survivors face in seeking redress. I'd like to thank you again for holding these sessions, and I believe that other Jehovah's Witnesses have already requested to be in further public hearings. But, on this particular recommendation, we understand that the Department of Social Security has attempted to negotiate with the Jehovah's Witnesses and—with no blame whatsoever—that the honourable Paul Fletcher MP was unable to 'find their front door'. We can support you, because we know how they mask their legal entities. The governing body, which are really in charge, endorse a strategy they call 'theocratic warfare'. We can help you by giving some examples of how this works and how they will be avoiding you.

Recommendation 4 is that the committee have a quota of at least one female Jehovah's Witnesses survivor, and support person if required, at each and every future meeting, including the roundtables, of the joint select committee with oversight of the implementation of redress related recommendations, and of the Royal Commission into Institutional Responses to Child Sexual Abuse. I personally have contacted the director of governance, integrity and assurance of the redress and reform group of the Department of Social Services, asking to be included, but my requests remain unanswered. The reason that we've asked for females to be included is that we were very much excluded previously.

Recommendation 5 is a new recommendation I'd like to add today, and that is: knowing what we do about what is happening financially with them—that they are selling off property—that the joint select committee conduct a full forensic investigation of all relevant Jehovah's Witnesses finances. As instructions come from the governing body in the US, it might be pertinent to name the parent company as the funder of last resort. That company is the Watch Tower Bible and Tract Society of Pennsylvania. Thank you for listening.

CHAIR: Ms Kaput, thank you very much for those tremendously insightful observations about that particular institution. I will have some questions but, as is our custom, I'll start with the deputy chair, Ms Claydon.

Ms CLAYDON: Thank you, Ms Kaput. I know you have been trying to highlight the prevalence of abuse within Jehovah's Witnesses. I do note your additional information today—or additional to my knowledge, anyway—around the alleged selling-off of assets as a potential mechanism to avoid obligations under the National Redress Scheme.

I'm trying to better understand what you have asked of this committee. I'm a little confused about whether this idea of having certain witnesses at public briefings was actually for this committee, the Redress Scheme or the government. I'm not entirely sure. Certainly, from the committee's point of view, this inquiry was very much an open invitation for survivors to contact us to give evidence, as you are doing. I'm not aware of any kind of feeling that would stop people from making a contribution, so please let us know if that's been your experience. As we hold public hearings—we were going to be travelling around the country, but we are doing them by teleconference now, of course—if you're facing some sort of obstacle to participation, we do need to know about that, so I'll get you to talk about that.

I'm just reaffirming that your preferred mechanism at this point—which we did alert people to in the committee's previous report—was the removal of tax deductibility status for organisations that fail to participate in the Redress Scheme by the end date of 30 June. Is that still the most pressing means at this point? Given all the knowledge you have about the Jehovah's Witnesses, do you think that that is still an effective lever for the Commonwealth government to pursue?

Ms Kaput: Okay. To answer your first question, it's the roundtable that we were requesting to be a part of, because we need to work more closely with you to help you. I don't think that that can happen just through a single submission, phone call or public hearing.

Ms CLAYDON: Can I just be really clear that the roundtable was not our committee. That's why I was confused a little earlier. But that's okay; now I understand. This committee that you are speaking to now did not

participate in the roundtable last year. That was run by the department. I think the minister and a whole lot of government people were there, but not this committee.

Ms Kaput: Okay. I'm sorry about that. But, if there were an opportunity for us to help you, we're willing and able and standing by.

Ms CLAYDON: And we're happy to—we can and will—feed that back to the department when we talk to them, okay? I just wanted to clarify that for you. Sorry, back to you. I didn't mean to interrupt.

Ms Kaput: No—thank you. On the mechanism of tax deductibility, do I think that would definitely force them to join up to redress? No, I don't. But naming and shaming them has absolutely no effect; they have no shame. So it is a lever that will help, but I think we have to go much further than just removing their charity status.

Ms CLAYDON: Given your knowledge of the inner workings of Jehovah's Witnesses organisations, do you have a view as to what additional steps the Commonwealth might take?

Ms Kaput: Yes—for example, holding individuals to account. My understanding is that since the royal commission there have been no criminal charges against any of the leadership, either here or overseas, for the child abuse that occurred. If individuals were held to account by a further investigation, I think that would be effective. There are a number of other things, which I prefer not to discuss publicly, because they will take steps to counteract them.

Ms CLAYDON: Okay; fair enough. Perhaps I can go back to matters that are on the record, and that is—if I'm not mistaken—that there were over 500 Jehovah's Witnesses cases that were before the royal commission. Is that correct?

Ms Kaput: Yes, 514. Sorry—there were 1,800 alleged abuses and 514 were those referred to the authorities.

Ms CLAYDON: And that accounted for around 25 per cent of the royal commission's case load?

Ms Kaput: That were referred to authorities, yes.

Ms CLAYDON: You can't even get to first base with the National Redress Scheme, because they're not participants in the scheme, so how do those 1,800, or 514 people—I'm not sure of the figure now—get redress or justice?

Ms Kaput: Currently they will have to approach it individually by running their own cases. There is not currently a class action in Australia; there is one in Canada, and there is a grand jury in the US, which something may result from. But here in Australia, they are really languishing. They are not prepared, generally, to fund their own cases because of the extreme pressure through shunning. There have been some cases—I shouldn't call them 'cases', because they never got to court but were mediated before court. The Jehovah's Witnesses try to keep everything out of the public domain, so there has been a lot of private mediation that has never gone to court. Generally, they're hoping the government will take some action to allow them to make a claim for the three aspects of redress.

Ms CLAYDON: That goes to your first recommendation about allowing for future class actions to be held.

Ms Kaput: Yes.

Ms CLAYDON: Have people who were abused in the Jehovah's Witnesses care made applications for redress? What has been your experience, or have you not even bothered because they're not participating?

Ms Kaput: Some people have made redress applications; I don't know of very many. I don't have access to reports or numbers. But, generally, they are watching everything and waiting. They think the organisation won't sign up so they think, 'Why should I bother?' They're daunted by the application form; it's too much for them. They have this fear of being shunned by their family and friends if they find out—for example, if they need a witness. And they have a fear of providing information via the form that could be shared with the organisation and, in the future, could be used against them. So there are many things preventing them. However, I believe that if we went forward, if there was an investigation, if some of the leaders were held to account publicly, if their charity status was revoked and if there was a mandatory way of forcing them to join redress, many people would come out of the woodwork. The barriers are just too high right now.

Ms CLAYDON: Thank you. There is a very low number of people actually applying to the scheme in the first place. I think all of those barriers that you point to are part of the problem. You have the additional problem of an organisation that has refused to participate and join in the scheme, as I understand it.

Ms Kaput: Yes.

Ms CLAYDON: I have many more questions, but I'm going to hand back to the chair so that others can have an opportunity.

Senator SIEWERT: Can I go back to your comment on the issue around changing the legislation to enable class actions. Could you articulate a bit further about what you are looking for or what is needed, in your view, and why changes are needed to the legislation? What is needed and why is it needed to enable class actions?

Ms Kaput: Yes, but I can't speak to that today, because the original submission that I made was in conjunction with a friend, Steven Unthank, and that recommendation came from Steven. What I could do is ask him to articulate that further for you. Then we can consider it with the rest of our points today, if that is okay with you.

Senator SIEWERT: That would be fantastic.

Ms Kaput: My apologies.

Senator SIEWERT: That's totally fine. I then want to go to the issue of revoking charity status. Obviously that is something that a lot of organisations and people have been calling for. From your comments, it sounded like you actually don't think it will make that much difference to them, that threat. Is that how I should interpret your comments?

Ms Kaput: Yes and no. I'll explain a bit further. Yes, I do think that could have an impact. However, saying that they have not joined has no impact, because even if they're named and shamed they don't care. If they continue to hold their tax-deductible status, they're fine. If and when Jehovah's Witnesses find out that they no longer hold that, it will make them rethink and they could lose members. They don't want to lose members because they rely on the funding from members. They are losing money from the organisation because they've now been reported in 21 countries for child sexual abuse. They would be concerned that their members would leave without that. So it may be an appropriate mechanism, but it may not be enough. We don't know until that happens whether it will be sufficient.

Senator SIEWERT: From what I can understand, because they haven't joined and it's very well-known that they haven't joined, that means that people aren't putting in applications, or is that holding people back from putting in applications? Because people know that they haven't signed up, is that putting off a large number of people from making applications for redress?

Ms Kaput: Yes, I believe so.

Senator SIEWERT: So you would expect that if they do sign up we would then see a number of people making applications for redress?

Ms Kaput: Yes, I would.

Senator SIEWERT: In the meantime, of course, it's not just the financial aspects of redress. There is also access to counselling support. What are survivors doing in terms of access to counselling support at the present time?

Ms Kaput: They are really struggling. The \$5,000 was discussed earlier today, for example. If they had access to that \$5,000, they would absolutely use it. It would be insufficient. Right now, off the top of my head, 50 per cent of people are seeking and are getting some mental health support, but it's not enough. Fifty per cent aren't, because they don't believe it's going to help. They are so broken and so damaged that they've given up.

The other thing that was discussed this morning was that the church is helping people to write their wills. That is also happening within the Jehovah's Witnesses. Even though people haven't signed up, the Jehovah's Witnesses are already doing things like having themselves inserted into people's wills. If they did sign up and then we started to get redress, I would have concern that some of that would disappear. But they certainly need mental health support.

Another thing that was discussed this morning was the apology itself. I think most people wouldn't want the apology from the organisation, because people just don't believe it. The Jehovah's Witnesses have remained silent in relation to the Redress Scheme. They've refused to join. They've refused to meet with providers. They use shunning, as I discussed before. This silences the victims. They've refused to say sorry as an institution. I don't believe people would believe an apology if they got one. I think that would actually trigger them. In the main, I think that people wouldn't want that. Some people would, but, in the main, I don't believe they'd want that.

Senator SIEWERT: Chair, can I ask one more question?

CHAIR: We do have others that have questions, and we are now falling into extended time, so I deny that on this occasion. My apologies. Ms Kaput, thank you very much for the evidence thus far. It has been very

compelling. What is the attitude of other jurisdictions in regard to this issue, specifically relating to the Jehovah's Witnesses organisation?

Ms Kaput: Do you mean what other countries are doing in relation to—

CHAIR: No, jurisdictions. The scheme is a cooperative model between the Commonwealth and each state and territory. The Commonwealth's attitude is one element of that. I'm assuming that you've been making these points in advocating to other states and territories as well, and I'm interested to know what their attitudes are.

Ms Kaput: No, I haven't. I'm sorry. I haven't, so I don't know.

CHAIR: That's okay. That's important. We might be able to provide you with a bit of advice about how you can continue to raise the merit of this issue. I was drawn to your point that you didn't think that public shaming was an approach that this organisation responded to. Did I understand your comments correctly?

Ms Kaput: Yes, that's correct. They thrive on persecution. This is probably the most mainstream cult in the world, and they like to be different. So they would be telling their members that, when they're persecuted, this is a good thing. Naming and shaming has the opposite effect for them. They are telling people now that it's a sign of the end of the times. They're expecting Armageddon any day. This is one of those things that feeds into their persecution, which they actually welcome.

CHAIR: I understand the point that you're making. That's enough from me.

Senator HENDERSON: I wanted to ask something in relation to the 514 referrals that came out of the royal commission. Can you explain the status of those referrals and whether there have been charges and convictions against a number of Jehovah's Witnesses' members as a result of those referrals?

Ms Kaput: Yes, I believe there have been, and I believe there have been a large volume that have, but I don't have that at hand with me at the moment. I can forward that information through. I'm sorry.

Senator HENDERSON: As you say, there have been a number of criminal convictions, and we are talking about very serious crimes here, of course. Has that been influential in giving you and other survivors the ability to take any sort of other civil action against the church?

Ms Kaput: Again, yes and no. It does give some people confidence, yet it's despair for others, because they're sitting behind the scenes, just hoping the government will see them, recognise them and understand intuitively what needs to be done, and therefore many people are not coming forward. They do not have the confidence yet. I'm sorry. I know I'm not answering that for you, but—

Senator HENDERSON: Maybe you could take that on notice and provide the committee with further information about the criminal convictions which have flowed as a result of the royal commission. Is there any particular element of the Jehovah's Witnesses organisation which gives rise to children being more exposed to child sexual abuse than children in other organisations or churches?

Ms Kaput: Yes. The number of clergy offending is 2.5 times in comparison to the Catholic Church, and we believe that the reason for this—and I must note that there's been no research into this, so this is anecdotal—is the shunning. For example, when you leave the Catholic Church, you are allowed to leave the Catholic Church. People don't shun you, which means they still continue to have meals with you, they will talk with you, and you won't be thrown out of the family. Jehovah's Witnesses have an extreme version of shunning. People may not look you in the eye. They will not have a meal with you. It is endorsed by the organisation officially. You can look it up on jw.org today. They also will separate you from not only your family but all friends within the Jehovah's Witnesses. If you are working for a Jehovah's Witness, they will take steps to stop you working. So it's a full social isolation. The fact that they can silence people through that mechanism means that a child saying, 'I have been abused,' can quickly be silenced not only by their internal family but from their congregation and from their wider friends network. It's quick. It's final. And it is the way that they operate globally. It's not just in Australia; 21 countries have reported on this.

Senator HENDERSON: I'm also keen to understand more details in relation to the barriers to class actions. I assume it would be more difficult to shun members or child sexual abuse survivors if most of the perpetrators were in jail or held to account for their crimes. The committee would obviously really appreciate that further information in relation to class actions.

Ms Kaput: Thank you, I will do that.

Senator HENDERSON: Thank you very much again for your evidence today and your incredible campaign for justice. We are very grateful.

Ms Kaput: Thank you all.

CHAIR: Ms Kaput, I thank you very much for your evidence again today. It's been very, very illuminating. I just remind colleagues and others who are witnessing this that, it's always open to the committee to recall witnesses if the committee does have any further questions or it would like to further examine some of the points that witnesses have made. Certainly, the points you make in regard to specific recommendations to this committee, I think, have been very, very constructive, so I thank you for that. We may be able to attend to some of those before we report. If the committee does have any additional questions, we have the option to recall you and to put questions on notice to you in writing. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors. Again, we thank you very much for your contribution this afternoon.

Ms Kaput: Thank you.

CHAIR: Thank you very much.