Introduction

The Academy of the Social Sciences in Australia (ASSA) has as one of its aims the provision of evidence-based advice on policy issues. In fulfilling this aim the submission argues for the importance of incorporating the knowledge and skills of historians into the Royal Commission's terms of reference and operation and makes recommendations in relation to the scope of the terms of reference and the form which the Royal Commission should take. It has been prepared by three Fellows of the Academy with recognised expertise in this area.

- **Professor Shurlee Swain**: Professor of Humanities, Australian Catholic University, and co-chief investigator on the ARC-funded projects: Who Am I? (which informed Government responses to the Forgotten Australians Inquiry) and the History of Adoption project (which contributed to the Forced Adoptions Inquiry), and currently the chief investigator managing the historical elements of the FaHCSIA-funded Find & Connect Web Resource project. She is also one of two Australian members of an international scholarly consortium on the legacy of historical child abuse.

- **Professor Ann McGrath**: Professor of History and Director Australian Centre for Indigenous History, Australian National University, History Co-ordinator of the Royal Commission into Aboriginal Deaths in Custody, Expert witness in Land Claims, Gunner & Cubillo case; co-editor (with Iain McCalman) *Proof and Truth: The Humanist as Expert*; Lead Chief Investigator of three current ARC-funded projects.

- **Professor Joy Damousi**: Professor of History, University of Melbourne, and Co-investigator on A History of Violence project which includes 'Remembering Children' as a key research strand which explores how violence towards children has been suppressed in cultural memory. She has published in the field of the history of sexuality, and in the area of history of grief and trauma in Australia. Her current research project on Greek child migration to Australia in the 1940s and 1950s also explores the rights of the child in the post-war period.
The Scope of the Terms of Reference

As the experience of past inquiries into welfare practice has shown, attempts to limit the scope of any inquiry only serve to generate demands for further inquiries from those who feel excluded. Hence we would argue for terms of reference which allow for the maximum breadth possible within the limits of manageability. While the existing research, including that brought most recently before the Victorian Inquiry, justifies a focus on the procedures, practices and cultures within the Catholic Church, the terms of reference need to be broad enough to encompass the range of residential and non-residential institutions in which sexual abuse occurred. Abusers sought out sites in which they could gain access to vulnerable children - the Aboriginal child in domestic service; the institutionalised child migrant whom nobody visited; the fatherless child entrusted to a priest, minister, school teacher or scout master with the expectation that they would function as a substitute father, are but three examples - and no child care facility, child labour scheme, school, denomination or youth organisation was completely immune. It is important, too, not to confine the inquiry to a particular period in the past. Although there may not have been the language to describe the offence, evidence for child sexual abuse is available in the records of child protection agencies and Aboriginal protection boards, from their beginnings, and the practices continue into the present day.¹

The Consultation Paper identifies legal knowledge and experience in child welfare, health and social services as key components of the inquiry. ASSA argues that history should be added to this list as it is fundamental to the understanding of the underlying power relations, attitudes and cultural issues that created the environment in which child sexual abuse was able to occur, and attempts to arrest the practice were stifled. An understanding of historical context would not serve to excuse child sexual abuse but to explore and explain the structural and cultural factors which allowed it to flourish. As past inquiries have shown, detailed historical scholarship also helps victim/survivors to develop a context for their own experiences, removing the analytical focus from the personal to the systemic.²

Form of the Royal Commission

We would argue that the Royal Commission needs to have access to high-level historical advice. State Government and non-government archives contain evidence both for the existence of child sexual abuse and of the systemic attempts to contain and ultimately silence complainants, but this evidence is not always found in the obvious places. The history is complex, with differences in content, context and access provisions in each state and territory. A senior historian, with experience in the field, could direct a team of researchers in not only locating and accessing this information, but also, critically, in its interpretation.

Evidence from inquiries both here and overseas points to the importance of having historians as part of the investigation team. The Swedish inquiry employed historians as part of its investigatory team, while the Irish opted to commission research where the existing literature was inadequate. In Australia the best example of incorporating historians is in the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) where a state by state and national history project was co-ordinated by a senior historian, Professor McGrath, who brought together leading historians in the field. The RCIADIC's history project examined the establishment of the key relevant institutions and patterns of legislation, power relations and cultural issues that influenced the circumstances explaining state and Aboriginal attitudes to policing and custody. A summary of the project's findings informed the RCIADIC's Overview, and formed the key background paper in Volume 2 of the final report. While certain questions were known at the point of calling for the Royal Commission, others arose from the RCIADIC's research. Some of these could only be explained by historical analysis and the expert historians' knowledge of the archives, and the patterns and historical trends underpinning them deepened understandings of key causal factors.

Other key inquiries into Aboriginal child removal, the Forgotten Australians and forced adoption – suffered due to the paucity of historical research. Although investigators on these inquiries had access to the existing scholarly literature, and, on occasions, ventured into archival sources, they seldom had the skills needed to synthesize key historical facts. In the case of the Stolen Generations Inquiry this has led to the veracity of its historical claims being

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4 For a discussion of the role played by historians in the Swedish Inquiry see Johanna Skold, Emma Foberg and Johanna Hedstrom, "Conflicting or complementary narratives?", *Archives and Manuscripts* 40. no. 1 (2012), pp.15-28.
disputed in the media and in subsequent legal cases. In such cases historical knowledge was actually seen as having explanatory power that would undermine the Crown's defence against breach of fiduciary duty.

Conclusion

We believe that the terms of reference must pay attention to societal context by including the word 'history'. This submission has argued that in addition to the already identified substantial legal knowledge and experience in child welfare, health and social services, the Commission should have access to historical expertise as an integral part of its team. We recommend a History Sub-Project of the Royal Commission be established to address the underlying issues to be tackled. Skilled historical input is required not only to identify and research key archival sources, but to interpret and analyse the archival and scholarly resources to which the Commission will require access. This will be a crucial element in enabling the Commission to gain an optimal understanding of the societal context in which child sexual abuse has occurred, and the circumstances which allowed it to persist. In addition, as past experience has shown, questions will arise in the course of the investigation, which only a properly constituted History Project would be equipped to investigate, and to respond promptly with valuable advice. This would not be costly. Nor would it be 'window dressing' or an optional add-on. We believe that well-informed and expert historical advice, in the form of state by state briefing papers and a collated national paper, as well as occasional issues papers, would be integral to a well-researched Royal Commission with enduring impact.

As Fellows of this learned academy with expertise in this area, we welcome the opportunity to have input into the important decisions that need to be made in establishing the Royal Commission, and would be pleased to discuss any of the issues we have raised at the early stages of setting up the enquiry.

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