

Title: **Speaking the Unspeakable, Naming the Unnameable: The Royal Commission into Institutional Responses to Child Sexual Abuse**

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Abstract

The establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse followed years of lobbying by survivor groups, damning findings from previous inquiries, and increasing societal recognition of the often lifelong and intergenerational damage caused by child sexual abuse. Through extensive media coverage, the Royal Commission brought into public view the reality that the sexual abuse of children was widespread, and its recommendations are prompting organisational, policy, and legislative reform. This article explores the background to the Royal Commission, situating it within the history of previous inquiries and growing community outrage at the failure of institutions to adequately protect children and respond appropriately when abuse occurs. The article explores the ways in which the Royal Commission, more so than previous inquiries, brought child sexual abuse into public discourse. It also serves as an introduction to this special issue of the *Journal of Australian Studies*, which illustrates how the Royal Commission has fostered new scholarship across a range of disciplines as researchers engage with complex issues related to institutional child sexual abuse, its history, causes, impacts, and the important role of inquiries in confronting it.

Keywords

Child sexual abuse; institutional abuse; public inquiries; royal commissions; Royal Commission into Institutional Responses to Child Sexual Abuse

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Introduction

On 12 November 2012, Julia Gillard, then Australian prime minister, announced the intention of the Commonwealth government to establish a major public inquiry, which would become the Royal Commission into Institutional Responses to Child Sexual Abuse (hereafter, the Royal Commission). Gillard described child abuse as “a vile and evil thing” with its detrimental effects compounded by institutional complicity. In the press conference called to announce the inquiry, she stated that too many children have “not only had their trust betrayed by the abuser, but other adults that could have acted to assist them have failed to do so”. She went on to say: “There have been revelations of child abusers being moved from place to place rather than the nature of their abuse and their crimes being dealt with. There have been too many revelations of adults who have averted their eyes from this evil. I believe in these circumstances that it’s appropriate for there to be a national response through a royal commission”.¹

Momentum had been building for a royal commission, the most

¹ “Transcript: Read the PM’s Full Statement on the Child Sex Abuse Royal Commission,” *Newcastle Herald*, 12 November 2012, <http://www.theherald.com.au/story/969662/transcript-read-the-pms-full-statement-on-the-child-sex-abuse-royal-commission/>.

powerful form of public inquiry in Australia.² There had been extensive campaigning from a range of advocacy groups and individuals over many years and several previous inquiries.³ However, media attention throughout 2012 created a flashpoint, bringing together the two previously separate but related strands of concern, one focused on the historical abuse of children in out-of-home residential “care”, the other on clerical sexual abuse in community settings.⁴ On 13 April that year, the *Age* newspaper in Victoria reported that leaked confidential police reports had detailed the suicides of at least forty people who had been sexually abused by Catholic clergy in that state. The article suggested that the church knew of the high rate of premature deaths linked to sexual abuse but had “chosen to remain silent”.⁵ The following day, the same newspaper published an article headlined “Inquiry looms as more suicides linked to sexual abuse by Catholic priests”. The *Age* reported that a legal researcher had uncovered a further five deaths linked to a paedophile priest.⁶ Several days later the Victorian premier announced that a parliamentary committee would investigate the handling of child abuse by religious and other non-government

² Scott Prasser, *Royal Commissions and Public Inquiries in Australia* (Sydney: LexisNexis Butterworths, 2006).

³ Advocacy groups represented survivors of clerical abuse and people who had been abused in out-of-home “care”.

⁴ The term “care” is used with quotation marks to acknowledge the lack of care, and, in many cases, abuse and maltreatment that historical accounts of out-of-home care have brought to light. The term “care leaver” refers to people who experienced out-of-home care as children. For a discussion of care leaver narratives and the importance of language, see Jacqueline Z. Wilson and Frank Golding, “Contested Memories: Caring about the Past – or Past Caring?” in *Apologies and the Legacy of Abuse of Children in “Care”: International Perspectives*, ed. Johanna Sköld and Shurlee Swain (Basingstoke: Palgrave Macmillan, 2015), 27–41.

⁵ Nick McKenzie, Richard Baker, and Jane Lee, “Church’s Suicide Victims,” *Age*, 13 April 2012, <http://www.theage.com.au/victoria/churchs-suicide-victims-20120412-1wwox.html>.

⁶ Nick McKenzie, Richard Baker, and Josh Gordon, “Inquiry Looms as More Suicides Linked to Sexual Abuse by Catholic Priests,” *Age*, 14 April 2012, <http://www.theage.com.au/victoria/inquiry-looms-as-more-suicides-linked-to-sexual-abuse-by-catholic-priests-20120413-1wz3h.html>.

organisations.⁷

By mid-2012, a newspaper in the Hunter region of New South Wales, the *Newcastle Herald*, began calling for a royal commission. This followed extensive work undertaken by investigative journalist Joanne McCarthy and the suicide of a victim of clerical abuse who reportedly said that he could no longer deal with the memories of his abuse.⁸ However, the tipping point for a royal commission came several months later with publicly aired allegations of cover-up in the Catholic Church made by a senior police officer on national television.⁹ On 8 November 2012, the *Newcastle Herald* published an open letter to the NSW premier from then Detective Chief Inspector Peter Fox, who later that evening appeared on the ABC television program *Lateline*. In his letter to the premier, Fox wrote, “I can testify from my own experience that the church covers up, silences victims, hinders police investigations, alerts offenders, destroys evidence and moves priests to protect the good name of the church.”¹⁰ The NSW premier responded decisively, announcing, on the following day, that a special commission of inquiry would be established to examine “the investigation of certain child sexual abuse allegations in the Hunter region”.¹¹

⁷ Josh Gordon, “Baillieu Bows to Pressure on Church Sex-Abuse Probe,” *Age*, 17 April 2012, <https://www.theage.com.au/national/victoria/baillieu-bows-to-pressure-on-church-sex-abuse-probe-20120417-1x4sn.html>.

⁸ Helen Gregory and Newcastle Herald Reporters, “Gallery: 2012’s Big Stories,” *Newcastle Herald*, 28 December 2012, <http://www.theherald.com.au/story/1208090/gallery-2012s-big-stories/>.

⁹ Katie Wright, Shurlee Swain, and Kathleen McPhillips, “The Australian Royal Commission into Institutional Responses to Child Sexual Abuse,” *Child Abuse & Neglect* 74 (2017): 1–9.

¹⁰ Peter Fox, “Opinion: Don’t Block Your Ears to Abuse, Mr Premier,” *Newcastle Herald*, 8 November 2012, <http://www.theherald.com.au/story/757111/opinion-dont-block-your-ears-to-abuse-mr-premier/>.

¹¹ Margaret Cunneen, *Special Commission of Inquiry into Matters Relating to the Police Investigation of Certain Child Sexual Abuse Allegations in the Catholic Diocese of Maitland*–

Prime Minister Julia Gillard's intervention came three days after the NSW inquiry was announced. At her press conference, she pointed to the role of the media in the growing pressure for a national investigation: "Australians know from the revelations that they've read in recent weeks that too many children have suffered child abuse. They have also seen other adults let them down."¹² As an article published in the *Newcastle Herald* reflecting on the events of 2012 put it, "Prime Minister Julia Gillard bowed to the inevitable" when she announced the Royal Commission.¹³

This article explores the background to the Royal Commission and situates it within the context of previous Australian inquiries into child maltreatment, growing societal concerns about child sexual abuse, and the failure of institutions to adequately respond. An overview of the work of the Royal Commission is provided before exploring the ways in which the Royal Commission, more so than previous inquiries, challenged established public discourses and understandings of child sexual abuse in Australia. Finally, the article serves as an introduction to this special edition of the *Journal of Australian Studies*. It provides an overview of the issues examined in individual articles and across the volume, each of which offers important perspectives on the role of the Royal Commission in fostering new scholarship and in advancing knowledge of child sexual abuse.

Previous Australian inquiries into institutional child abuse

The Royal Commission followed a large number of previous investigations

Newcastle (Newcastle: State of NSW, 2014).

¹² "Transcript: Read the PM's Full Statement."

¹³ Gregory and Newcastle Herald, "Gallery: 2012's Big Stories."

into the abuse of children in Australian institutions. In a historical survey of inquiries concerned with institutional “care” for children, Swain identified more than eighty since the mid-nineteenth century. She categorises these inquiries into three broad types: those concerned with the development of the child welfare system (1850s to the postwar period); those established in response to allegations of abuse (1860s to the 1990s); and those focused on listening to the testimony of victims and survivors (1990s to the present).¹⁴ The Royal Commission may be usefully understood as part of the third category of testimonial-driven inquiries. While it also shares with many previous inquiries a focus on responding to allegations of abuse from victims, what distinguishes this third category from other approaches is the centrality that they give to individual testimony.

The turn to testimony saw a radical shift in the operation and outcomes of inquiries. As Swain argues, “The practices of individualising accusations of sexual abuse, discrediting witnesses and minimising reporting in the interests of public morality were successful only while inquiries looked to experts rather than victims for the answers to the problems they were addressing. The inquiries since the late 1980s, which have actively sought survivor testimony, have broken open such silences.”¹⁵ The Royal Commission is part of a wave of inquiries across many Western countries over the last two decades that have examined various forms of abuse and neglect in out-of-home “care” settings. Child sexual abuse, more specifically, has also been the focus of many investigations across a range of institutional

¹⁴ Shurlee Swain, *History of Australian Inquiries Reviewing Institutions Providing Care for Children* (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2014).

¹⁵ Swain, *History of Australian Inquiries*, 9.

settings, predominantly churches but also schools, voluntary clubs, and sporting associations.¹⁶

The Human Rights and Equal Opportunity's National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families was the first such Australian inquiry to adopt the testimonial-driven model.¹⁷ What became known as the "Stolen Generations" inquiry took testimony from 535 Indigenous people in Australia.¹⁸ Many of their stories were conveyed through its report, which opens with extracts from two confidential submissions that underscore the trauma of forced child removal and resultant familial and cultural dislocation. The uniqueness of the inquiry and significance of the testimonial-driven approach it took was acknowledged in its report, which stated, "It is no ordinary report. Much of its subject matter is so personal and intimate that ordinarily it would not be discussed."¹⁹ As Whitlock observes, when the report was released, Australians became "immersed in an ocean of testimony."²⁰ The question of how to respond to the report became contentious.²¹ Yet the approach taken

¹⁶ Johanna Sköld, "Historical Abuse—A Contemporary Issue: Compiling Inquiries into Abuse and Neglect of Children in Out-of-Home Care Worldwide," *Journal of Scandinavian Studies in Criminology and Crime Prevention* 14, no. suppl.1 (2013): 5–23; Kathleen Daly, *Redressing Institutional Abuse of Children* (Basingstoke: Palgrave Macmillan, 2014); Johanna Sköld and Shurlee Swain, eds., *Apologies and the Legacy of Abuse of Children in "Care"*; Katie Wright, "Remaking Collective Knowledge: An Analysis of the Complex and Multiple Effects of Inquiries into Historical Institutional Child Abuse," *Child Abuse & Neglect* 74 (2017): 10–22.

¹⁷ Johanna Sköld and Shurlee Swain, "Introduction," in *Apologies and the Legacy of Abuse of Children in "Care,"* 1–9.

¹⁸ Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Sydney: Commonwealth of Australia, 1997), 16.

¹⁹ Human Rights and Equal Opportunity Commission, *Bringing Them Home*, 3.

²⁰ Gillian Whitlock, "In the Second Person: Narrative Transactions in Stolen Generations Testimony," *Biography* 24, no. 1 (Winter 2001): 198.

²¹ Whitlock, "In the Second Person."

in that inquiry shaped many subsequent investigations into historical abuse. Indeed, reflecting on childhood experiences and throwing light on matters that would usually not be spoken of was to become a defining feature of abuse inquiries, both in Australia and internationally.

Musgrove notes that, during the 1990s, the historical abuse of children in out-of-home “care” was predominantly understood as an Indigenous issue.²² However, the campaigning of other care leaver groups, which had formed in the wake of the Stolen Generations inquiry, led to recognition of abuse in “care” as a wider and systemic problem.²³ Two Senate inquiries conducted in the early-to-mid 2000s, which owed much to earlier work undertaken on the Stolen Generations inquiry, also gave voice to people who had experienced past policy wrongs and suffered abuse and neglect in institutional “care” settings. The first was an inquiry into child migration schemes. Its report, *Lost Innocents*, which was tabled in Parliament in 2001, began with a cautionary note: “This report describes a very sorry chapter in Australia’s history. It is a story which has to be told.”²⁴ The inquiry received 99 confidential and 153 public submissions, many of which, it was noted, contained “the most appalling stories of abuse and torment”.²⁵ Three years later came the report of the inquiry into Australians who experienced out-of-home “care”. The *Forgotten Australians* inquiry received 440 public and 174 confidential submissions: “Without doubt ... the largest volume of highly personal, emotive and significant evidence of any

²² Nell Musgrove, “The Role and Importance of History,” in *Apologies and the Legacy of Abuse of Children in “Care,”* 147–58.

²³ Nell Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children’s Institutions* (Melbourne: Australian Scholarly Publishing, 2013).

²⁴ Australian Senate Community Affairs References Committee, *Lost Innocents: Righting the Record: Report on Child Migration* (Canberra: Senate Printing Unit, 2001), 4.

²⁵ Australian Senate, *Lost Innocents*, 5.

Senate inquiry”.²⁶

In all three of these national inquiries, sexual abuse emerged through witness testimony, although it was not part of their initial terms of reference.²⁷ The *Forgotten Australians* inquiry recommended a full investigation of criminal accountability to determine “the nature and extent within these institutions of criminal physical assault, including assault leading to death and criminal sexual assault, and to establish and report on concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant authorities, charities and/or church organisations”.²⁸ It went on to note that, if governments, charities, and churches did not willingly respond to requests to open their files, then a royal commission should be established to investigate these matters. While there were a number of state-based inquiries following the *Forgotten Australians* report, it was almost a decade later—when the issue of clergy child sexual abuse and associated institutional cover-up could no longer be ignored—that the federal government established a royal commission.

The Royal Commission

The groundwork for a royal commission had been laid through decades of survivor activism, a long succession of previous Australian inquiries into

²⁶ Australian Senate Community Affairs References Committee, *Forgotten Australians: A Report on Australians Who Experienced Institutional or Out-of-Home Care as Children* (Canberra: Senate Printing Unit, 2001), 3–4.

²⁷ Shurlee Swain, “Giving Voice to Narratives of Institutional Sex Abuse,” *Australian Feminist Law Journal* 41, no. 2 (2015): 289–304.

²⁸ Australian Senate, *Forgotten Australians*, xxi–xxii.

institutional child abuse and a growing number of inquiries internationally.²⁹ While the explosive allegations, by a senior police detective, of Catholic Church cover-up was the immediate catalyst, this built on ongoing pressure from two distinct victim groups: people abused in institutional “care” and people exposed to sexual predators in other non-residential community settings, primarily churches.³⁰

On 11 January 2013, two months after the prime minister’s announcement, the Royal Commission was formally established.³¹ Six commissioners were appointed, the largest number for any royal commission in Australia’s history, underscoring the scale and significance of the inquiry. The commissioners brought an impressive range of skills, with professional expertise in law and the judiciary, public policy, child and adolescent psychiatry, the abuse of children in institutional settings, and governance, politics and advocacy. The Royal Commission ran for five years (2013–2017) and was allocated substantial funding, approximately \$500 million, giving it more resources than any previous inquiry undertaken in Australia.³² Unlike other inquiries internationally, there was little public commentary or debate about its budget allocation, underscoring the widespread support the Royal Commission received from special interest

²⁹ Shurlee Swain, “Why Sexual Abuse? Why Now?” in *Apologies and the Legacy of Abuse of Children in “Care,”* 83–94; Katie Wright, Shurlee Swain, and Johanna Sköld, *The Age of Inquiry: A Global Mapping of Institutional Abuse Inquiries* (Melbourne: La Trobe University, 2017); Daly, *Redressing Institutional Abuse of Children*; Swain, “Giving Voice to Narratives of Institutional Sex Abuse”; Swain, *History of Australian Inquiries*; Sköld and Swain, *Apologies and the Legacy of Abuse of Children in “Care”*; Wright, “Remaking Collective Knowledge.”

³⁰ Swain, “Why Sexual Abuse? Why Now?”

³¹ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).

³² Wright, Swain, and McPhillips, “The Australian Royal Commission.”

groups, the media and the broader public.³³

The terms of reference directed the Royal Commission to examine how institutions had responded to child sexual abuse. It was charged with investigating systemic failures and with making recommendations for policy, practice and legal reform to ensure that institutions were safer places for children in the future. It was also tasked with making recommendations as to how the effects of abuse could be alleviated and how victims could receive justice.³⁴ As with most public inquiries, it was at once concerned with both the past and the future.³⁵ A central focus was learning lessons from people's experiences of institutional child sexual abuse and institutional responses to allegations or instances of abuse, to improve the lives of children in the future. The common refrain, articulated by Gillard when announcing the inquiry and by many others subsequently, was that its chief purpose was to ensure that what happened to children in the past could never be allowed to happen again.³⁶

In its *Interim Report*, delivered in 2014, the Royal Commission articulated the need for such a large investigation. It stated, "Although there have previously been some inquiries with limited terms of reference, in recent years it became clear to the Australian community that there needed to be a broad-ranging national response."³⁷ In contrast to some of the key inquiries

³³ Wright, "Remaking Collective Knowledge."

³⁴ Royal Commission into Institutional Responses, *Final Report*.

³⁵ Nicky Stanley and Jill Manthorpe, "Introduction: The Inquiry as Janus," in *The Age of the Inquiry: Learning and Blaming in Health and Social Care*, ed. Nicky Stanley and Jill Manthorpe (London: Routledge, 2004), 1–16.

³⁶ "Transcript: Read the PM's Full Statement."

³⁷ Royal Commission into Institutional Responses to Child Sexual Abuse, *Interim Report*, vol. 1 (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2014), 1.

that preceded it, but in line with the two smaller state-based inquiries established in 2012 in Victoria and NSW, the “broad-ranging national response” that the prime minister foreshadowed was to be limited to the issue of child sexual abuse only, rather than the full suite of abusive practices and criminal acts documented in several previous inquiry reports.³⁸ The focus on child sexual abuse to the exclusion of other forms of maltreatment was one of the few areas in which the Royal Commission was subject to critique.³⁹

The work of the Royal Commission rested upon what it termed its three pillars: private sessions, public hearings, and research and policy.⁴⁰ Private sessions were a key focus, designed as a means of gathering testimony in a setting not constrained by the public hearing room.⁴¹ The use of this form of investigation required an amendment to the *Royal Commissions Act 1902* to allow victims and survivors to speak privately to a commissioner. More than 8,000 people participated in a private session during the Royal Commission’s operation, with each session typically lasting an hour or more. For many people, talking to the Royal Commission was the first time they had disclosed their abuse, and information gathered from such testimony suggested that, on average, a period of twenty years had elapsed between the abuse and disclosure.⁴²

³⁸ See especially, Human Rights and Equal Opportunity Commission, *Bringing Them Home*; Australian Senate, *Lost Innocents*; Australian Senate *Forgotten Australians*. See also Swain, *History of Australian Inquiries*.

³⁹ Frank Golding, “Sexual Abuse as the Core Transgression of Childhood Innocence: Unintended Consequences for Care Leavers,” *Journal of Australian Studies* 42, no. 2 (2018): 191–203. It should be noted that the focus on sexual abuse was determined by the terms of reference developed by the Australian government.

⁴⁰ Royal Commission into Institutional Responses, *Interim Report*.

⁴¹ Royal Commission into Institutional Responses, *Interim Report*.

⁴² Royal Commission into Institutional Responses, *Final Report*.

The Royal Commission sat in public for 444 days, heard from over 1,300 witnesses during public hearings and examined the responses of 134 institutions.⁴³ Most of the fifty-seven public hearings it conducted began with survivor testimony, and each took the form of a case study that examined abuse within a single institution or a related set of institutions. An innovative series of review hearings was conducted, where institutions that were previously investigated were revisited to ascertain what progress had been made towards improving child-safe practices. Those hearings revealed mixed success; while some organisations had undertaken major reform, others, especially faith-based institutions (the Catholic Church in particular), appeared more resistant to change.⁴⁴

The third pillar of the Royal Commission was its research and policy program, which drew on information provided in private sessions and the findings of public hearings. It included an extensive program of primary research, with more than 100 research projects undertaken by contracted researchers or the internal research team.⁴⁵ A process of broad public consultation was also undertaken through issues papers, roundtables, written submissions and consultation papers, through which experts, advocates, and the broader community could provide input to inform the policy work.⁴⁶ Prior to handing down its final report, the commission published

⁴³ Royal Commission into Institutional Responses, *Final Report*, vol. 1, 34.

⁴⁴ Wright, Swain, and McPhillips, “The Australian Royal Commission.”

⁴⁵ Andrew Anderson and Leah Bromfield, “A Research Agenda for the Royal Commission into Institutional Responses to Child Sexual Abuse,” Academy of the Social Sciences in Australia Workshop: *The Royal Commission into Institutional Responses to Child Sexual Abuse: Institutional Cultures, Policy Frameworks and Social Change* (Melbourne: La Trobe University, 2017).

⁴⁶ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal Justice*

recommendations on a number of issues, including redress and civil litigation, pre-employment screening and criminal justice. Significant policy and legislative reform has been recommended. It is too soon to assess the full response of governments to those early recommendations, but there have been positive signs. For example, the Commonwealth government has made a commitment to establish a national redress scheme, and legislative reform in the states and territories is underway with “Working with Children Checks”.

The final report of the Royal Commission was handed to the Australian federal government on 15 December 2017. It is a lengthy document, consisting of seventeen volumes covering the conduct of the inquiry, historical context and descriptive detail, analysis of the nature, cases and impacts of abuse, issues around disclosure, advocacy and treatment, examination of different types of institutional settings, such as out-of-home care, schools, detention settings and religious institutions, and including topics such as record keeping, children with harmful sexual behaviours and the implementation of recommendations. In total, the Royal Commission made 409 recommendations covering policy, practice, and legislative reform.⁴⁷ At the time of writing, the Commonwealth and state and territory governments had not formally responded to the report. However, research on the responses to the recommendations of previous Australian inquiries into

Report (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).

⁴⁷ Royal Commission into Institutional Responses, *Final Report*. This number includes 189 new recommendations that were made in the *Final Report* and final recommendations made in three earlier reports; see Royal Commission into Institutional Responses, *Criminal Justice Report*; Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation* (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2015) and Royal Commission into Institutional Responses to Child Sexual Abuse, *Working with Children Checks* (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).

child welfare and protection suggests that implementation is a complex process that often takes considerable time.⁴⁸ It is likely that some recommendations will be implemented quickly, others considered over the longer term, while a number may not be implemented at all. Yet there is one outcome of the Royal Commission, not linked to recommendations but central to its purpose, which it clearly succeeded in achieving. It firmly brought into public consciousness the issue of child sexual abuse, making the problem nameable and the subject speakable in new ways.

Bringing child sexual abuse into public discourse

While previous inquiries and the activism of victims and survivors—along with the clergy child sexual abuse crisis and wider changes in norms of privacy and disclosure—were key factors in shifting discourses of childhood and abuse, the size, status, and timeliness of the Royal Commission meant that it attracted an unprecedented level of media coverage. Over its five-year term, it generated extensive public discussion about child sexual abuse. In Foucauldian terms, it may be understood as an incitement to discourse.⁴⁹ New media played a critical role in the dissemination of discourses of child sexual abuse, and the Royal Commission, as with its contemporary inquiries internationally, was active in this regard, with a user-friendly website on which all its material was publicly available and through regular updates on Facebook and Twitter.⁵⁰

⁴⁸ Parenting Research Centre, *Implementation of Recommendations Arising from Previous Inquiries of Relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse* (Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).

⁴⁹ Michel Foucault, *The History of Sexuality*, vol. 1, trans. Robert Hurley (New York: Vintage, 1990).

⁵⁰ Wright, Swain, and McPhillips, “The Australian Royal Commission.”

To consider the shift in public discourse, it is instructive to return to the 2012 press conference during which the Royal Commission was announced. It is telling that in delivering her prepared statement, the former prime minister did not explicitly refer to sexual abuse. Certainly, it was intimated throughout. The term “child abuse” was mentioned eight times and “abuser/s” twice. The opening statement referred to “instances and allegations of child abuse in Australia” and went on to assert that “any instance of child abuse is a vile and evil thing”. Mention was made of betrayal by abusers and of “child abusers being moved from place to place rather than the nature of their abuse and their crimes being dealt with”. It was made clear that the government would consult with organisations representing “survivors of child abuse” and that it was well known that other inquiries were underway “in relation to child abuse”. The prepared statement ended with the assertion that “child abuse is always wrong” and that “we all want to do everything we can to ensure that we do not see in the future institutions fail to respond if there are allegations of child abuse in their midst”.⁵¹

At the end of the prepared statement, the first question asked by a journalist was whether the Royal Commission would go beyond the Catholic Church, to which Gillard answered in the affirmative. The next three questions addressed issues related to the period to be investigated, scope and cost, and timing of its establishment, each of which was answered without explicit mention of sexual abuse. It was not until responding to the fifth question that it was made unambiguously clear that the focus of the

⁵¹ “Transcript: Read the PM’s Full Statement.”

inquiry would be sexual abuse. The question concerned the issue of whether the terms of reference would include consideration of compensation for victims, to which Gillard responded as follows:

We will take some advice on the terms of reference, but the focus here is on institutional responses to child abuse. Child abuse is of course wrong, and wrongdoers should be punished. This is an incredibly evil thing, and I think we'd all hope that anybody who has ever abused a child is held to account for that in the criminal courts. But beyond the evidence of abuse here, there is also I believe cause for concern that other adults who could have done something to make a difference to the lives of these children didn't do what they should have, either by becoming complicit in people being moved around for example, or by averting their eyes and by acts of omission. Now I think we need to learn the lessons about how institutions can best respond when there are allegations of sexual abuse of children.⁵²

While the implication was clear—"child abusers being moved from place to place" (read priests), "crimes [not] being dealt with" (read child sexual assaults)—some survivor groups who had advocated for many years for a royal commission were understandably hopeful that it would be a broad-ranging inquiry into all forms of institutional child abuse.⁵³ While the prime minister's reticence to speak plainly about sexual abuse may have been misleading for care leavers, it points to wider issues about limits on

⁵² "Transcript: Read the PM's Full Statement." This quotation draws on an audio recording of Gillard's press conference, which reveals slight differences to the published transcript.

⁵³ Golding, "Sexual Abuse as the Core Transgression."

public discourse around the topic at that time. While understandings and discourses of child sexual abuse have not remained static over time, the more euphemistic, benign, and encompassing term *child abuse* was clearly a more palatable term to use when announcing the Royal Commission.

Certainly, the terrain had been shifting for some time. A new discursive context had emerged in the 1970s, created by the intersection of feminist activism and the rise of psychological and therapeutic discourses, which made it possible to recognise and name child sexual abuse as a harmful act that had significant deleterious effects.⁵⁴ The clergy sexual abuse scandal, particularly from the early 2000s onwards, fostered discussion about institutional abuse and paedophile priests. Yet the reluctance of the prime minister to explicitly name child *sexual* abuse—even at the historic moment of announcing the Royal Commission—is telling. It points to the shame, stigma and taboo of child sexual abuse, which has come to be understood as the worst and most vile form of child victimisation.⁵⁵ This reticence was also evident throughout the term of the inquiry as it was commonly referred to as “The Child Abuse Royal Commission”. Given its lengthy formal title, this was a useful shorthand, but one that also suggests a level of ongoing discomfort with explicitly naming the type of abuse with which it was concerned.

⁵⁴ Swain, “Why Sexual Abuse?”; Swain, “Giving Voice”; Wright, “Remaking Collective Knowledge”; Katie Wright, *The Rise of the Therapeutic Society: Psychological Knowledge & the Contradictions of Cultural Change* (Washington, DC: New Academia, 2011); Katie Wright, “Speaking Out: Representations of Childhood and Sexual Abuse in the Media, Memoir and Public Inquiries,” *Red Feather Journal* 7, no. 2 (2016): 17–30.

⁵⁵ Swain, “Why Sexual Abuse? Why Now?”; Anne-Marie McAlinden, “An Inconvenient Truth: Barriers to Truth Recovery in the Aftermath of Institutional Child Abuse in Ireland,” *Legal Studies* 33, no. 2 (2013): 189–214.

Nevertheless, the establishment of the Royal Commission and other inquiries into child sexual abuse, both in Australia and elsewhere, may be taken as evidence of society's increasing willingness to name and confront this form of child maltreatment. In bringing child sexual abuse so powerfully into public discourse, in shining the proverbial light onto it, the aspiration, as Gillard articulated in her press conference, was to help "ensure that this never ever happens again".⁵⁶ The sobering reality is that the success of the Royal Commission will not be measured by its capacity to eliminate child sexual abuse but rather by its effect in minimising its frequency and in prompting policy, practice, and legislative reform that will ensure that when abuse does occur, it is responded to appropriately.

While the impact of the Royal Commission will be evaluated over time, what is clear is that it has been instrumental in facilitating more open discussion about child sexual abuse and its effects. A key factor in its capacity to do this has been the power and prestige of the inquiry form it took. Survivors of institutional abuse had long campaigned for a royal commission following the earlier national Senate inquiries. Royal commissions are established only in exceptional circumstances to deal with issues of major significance.⁵⁷ Survivors recognised that not only were the wide-ranging powers of a royal commission necessary to investigate criminal accountability but that the status of this inquiry type was required to generate sufficient political and community interest to establish a national redress scheme and stimulate policy, legislative, and institutional reform. What is also clear is that the magnitude of a large Commonwealth royal commission was also critical to foster wider discursive change. The Royal

⁵⁶ "Transcript: Read the PM's Full Statement."

⁵⁷ Prasser, *Royal Commissions and Public Inquiries*.

Commission helped make child sexual abuse speakable and nameable as a widespread and insidious social problem.

Articles in this volume

Most of the articles in this special issue draw on papers first presented at an Academy of the Social Sciences in Australia (ASSA) workshop held at La Trobe University in April 2017. The workshop, entitled *The Royal Commission into Institutional Responses to Child Sexual Abuse: Institutional Cultures, Policy Frameworks and Social Change*, brought together academics in the humanities and social sciences, lawyers and advocates, and survivors and care leavers. Over two days, participants explored the significance of the Royal Commission and considered its role in institutional, and legal reform and social and cultural change.⁵⁸

In the article that follows this introductory essay, Shurlee Swain explores the long history of institutions providing “care” for children and the existence of abuse within them. Through an examination of the functions that such institutions were designed to perform and the forms and structures that were formulated to best achieve those purposes, Swain argues that abuse was not simply inherent in settings established to “care” for children but indeed was often essential to their very operation. The article considers the various categories of children that were, at different historical periods, deemed in need

⁵⁸ The workshop was convened by Katie Wright, Shurlee Swain and Kathleen McPhillips. For an overview, see Katie Wright, *The Royal Commission into Institutional Responses to Child Sexual Abuse: Institutional Cultures, Policy Frameworks and Social Change* (Sydney: Academy of the Social Sciences in Australia, 2017), <http://www.assa.edu.au/wp-content/uploads/2017/04/Academy-Paper-Royal-Commission-Workshop-Report-Wright-2017.pdf>.

of institutional “care” and the process of “othering” that too often rendered them vulnerable to the abuse that was endemic within the system. Given the increasing number of inquiries into historical abuse across many Western countries, it might be assumed that the decline and ultimate closure of orphanages and children’s homes occurred because of revelations of abuse. Rather, as Swain shows, it was concern that these institutions had failed in their goal of “remaking the tainted child”. Societal silence about institutional abuse continued, Swain notes, until survivors began to advocate and campaign for recognition and redress.

This raises the question of how attitudes towards abuse began to change. In the next article, Lisa Featherstone explores the shifting terrain of concerns with child sexual assault in the 1970s. This was a time of increasing social concern about childhood and there was an emerging focus on the psychological impact of child sexual abuse. Featherstone shows how second-wave feminists were instrumental to this shift as they began to articulate the deep and often long-lasting psychological trauma resulting from abuse in childhood. The article charts a dramatic shift in public consciousness around child sexual assault and its associated harms. Yet it also shows how shifting social attitudes did not substantially change processes or outcomes in the criminal justice system at that time, suggesting that while cultural views had shifted, there remained entrenched barriers for those seeking justice through the courts.

Issues of societal recognition of childhood vulnerability and questions of justice are themes further explored in the next article. As Katie Wright notes, inquiries into historical child abuse over the last two decades have

included both justice and therapeutic objectives. As with earlier inquiries, the severe deleterious impact of abuse in childhood was underscored in findings of the Royal Commission into Institutional Responses to Child Sexual Abuse. Wright takes Australian institutional child abuse inquiries as a case study to consider how the psychologically infused therapeutic culture of the late twentieth century has been mobilised politically. She argues that therapeutically oriented and psychologically informed narratives of childhood trauma and its ongoing effects have provided a framework for understanding abuse and its effects, which has buttressed survivors' claims for justice. Exploring the imbrication of therapeutic culture and abuse inquiries, she argues, challenges overly negative social theoretical accounts of the spread of psychological knowledge as simply fostering narcissistic individualism and depoliticisation and, instead, draws attention to the ways this has facilitated the recognition of injustice.

The question of how inquiries may deliver or hinder justice is an issue explored in the article that follows. As Frank Golding writes, care leavers had long campaigned for a royal commission into institutional child abuse, so, when the Australian government announced one in 2012, it was widely welcomed. However, the focus on sexual abuse only, rather than an examination of the full spectrum of institutional abuse and neglect, which core advocacy groups had been calling for, was a source of disappointment. Golding argues that the terms of reference were both too broad and too narrow. While they encompassed a wide range of institutions, the focus solely on child sexual abuse denied a voice to those who had suffered other forms of abuse and neglect in institutional settings. As Golding outlines, this is not only a symbolic issue but one that has significant

material implications. Limiting the Royal Commission's remit to sexual abuse meant that the recommended national redress scheme would exclude care leavers who suffered a variety of other abuses, leading to a scheme that Golding argues is likely to be costly, complex, and politically unacceptable, despite support from powerful stakeholders.

Concerns about the justice implications of the national redress scheme announced by the Australian government late in 2017 is further explored in the next article. Kathleen Daly situates the proposed scheme in the wider international context. Drawing on her extensive research on justice responses to institutional child abuse internationally, Daly notes that the Royal Commission is the first case of a body established to investigate and make redress recommendations for institutional abuse of children in both "closed" and "open" settings. She argues that this is not only unique but also problematic for care leavers seeking justice, given the experiences of different types of wrongs committed by state and church authorities in out-of-home care and other settings. Daly argues that merging different survivor groups and the distinctive policy and other wrongs they suffered ignores the historical specificity of abuse in closed residential settings and undermines the possibility of equitable redress for adult survivors.

Turning from questions of justice to the wider impact of the Royal Commission, the following three articles illuminate various ways in which it has fostered new domains of knowledge production. How the large body of information generated by the Royal Commission can be used productively to develop new understandings is an issue of particular relevance to historians. As Fiona Davis reveals, analysing witness testimony collected during

historical institutional abuse inquiries presents considerable challenges. In choosing from existing methods, she notes, the historian is presented with three main options: a single-lens approach that focuses on a single issue across testimonies, a psychoanalytic approach to understand individual narratives, or an oral history approach. Yet each of these has limitations. Davis presents an alternative framework, one based on how different emotions, barriers, and memberships are articulated within inquiry testimony and, importantly, how such testimony is witnessed. The article draws on public hearing transcripts from the Royal Commission, focusing on the testimony provided by women who were sexually abused between the 1950s and 1970s in a girls' "reform home". Using these transcripts as a test case, Davis provides an alternative analytic framework, one that allows for a complex picture of how survivor testimony is both delivered and understood.

Throughout the Royal Commission's public hearings, a recurrent and prevalent theme that emerged was the trauma that often results from child sexual abuse. This is an issue explored in detail in the article by Kathleen McPhillips, who focuses on faith-based organisations and spiritual trauma. Accounts from survivor witnesses and expert testimony revealed that child sexual abuse not only has a traumatic effect on individuals but also on religious communities. McPhillips defines spiritual trauma as a form of personal disturbance caused by sexual abuse mediated through the institutional prism of religiosity. The article explores the ways in which the Royal Commission fostered new understandings of spiritual abuse. Drawing on public hearing transcripts, it aims to deepen existing conceptualisations of spiritual trauma and the impacts and outcomes of child sexual abuse. In addressing the question of justice, which is a theme that runs throughout this

volume, McPhillips suggests that the redress schemes for institutional child sexual abuse should be expanded to include and recognise spiritual trauma as a distinct outcome of abuse within faith-based organisations.

In the final article, Michael Salter undertakes an analysis of power to tackle the difficult question of how abuse is fostered or enabled within the context of particular organisational structures and settings. Drawing on critical theories of organisations and case study material from the Royal Commission, the article examines why child sexual abuse is a frequent correlate of male authority in religious institutions. While recognising that various factors are implicated, the article argues that the contemporary bureaucratic form is itself conducive to child sexual abuse. Through an analysis of allegations of child sexual abuse by the clergy and laity in the Anglican Diocese of Newcastle, Salter argues that rationalised structures of governance and oversight may serve to enable rather than impede child sexual abuse. His analysis questions the assumption that institutional abuse represents a paedophilic infiltration of otherwise neutral organisational arrangements. Instead, Salter emphasises how rationalised institutional structures can mystify relations of domination and promulgate a milieu in which children are viewed instrumentally.

Concluding comments

The Royal Commission is the largest and one of the most important public inquiries in Australian history. There was widespread endorsement of its value, it facilitated a national conversation about child sexual abuse and it is fostering policy, practice, and legislative reform. It made a large number of recommendations for improving child safety in the future as well as

addressing abuse that occurred in the past, including a national redress scheme for survivors of institutional child sexual abuse, the details of which are currently being determined. Both through its investigative inquiry processes and through its research program and public outreach, it has contributed significant new knowledge about child sexual abuse and its history, causes, and impacts.

The Royal Commission has demonstrated the important role of inquiries in confronting the pervasive and insidious issue of child sexual abuse. For a problem that thrives on cultures of silence and secrecy, such illumination has been crucial. As the psychiatrist Warwick Middleton and his colleagues noted after the announcement of the Royal Commission, “Society is attempting something that has never before been achieved—progressive exposure to public gaze of traumas that, despite earlier attempts to foster their recognition, have returned to or remained in darkness.”⁵⁹ Community concern about the abuse of children has waxed and waned since Kempe’s naming of the problem of the “battered child syndrome” in the early 1960s.⁶⁰ The Royal Commission has been a major intervention, one that has had a considerable impact on victims and survivors, on institutions, and on the wider society. Its influence has also been felt beyond Australia, where it has helped shape the work of similar inquiries in the United Kingdom and the recently established Royal Commission into the Abuse of Children in State Care in New Zealand. While it is too soon to evaluate its legacy, throughout its term the Royal Commission had a profound impact on

⁵⁹ Warwick Middleton et al., “Institutional Abuse and Societal Silence: An Emerging Global Problem,” *Australian and New Zealand Journal of Psychiatry* 48, no. 1 (2014): 23.

⁶⁰ C. Henry Kempe et al., “The Battered-Child Syndrome,” *JAMA* 181, no. 1 (7 July 1962): 17–24.

Australian social life through challenging established norms of privacy and creating a space to speak publicly about child sexual abuse, its prevalence and effects, and what can be done to prevent it.

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