

Examining abusive pasts : reassessing institutional violence and care through commissions of inquiry

Autor(en): **Wright, Katie / Sköld, Johanna / Swain, Shurlee**

Objektyp: **Article**

Zeitschrift: **Traverse : Zeitschrift für Geschichte = Revue d'histoire**

Band (Jahr): **25 (2018)**

Heft 3: **Macht und Repräsentativität von Schweizer Parlamenten nach 1848 = Pouvoir et représentativité des parlements en Suisse après 1848**

PDF erstellt am: **15.08.2024**

Persistenter Link: <https://doi.org/10.5169/seals-813660>

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Examining Abusive Pasts

Reassessing Institutional Violence and Care through Commissions of Inquiry

Katie Wright, Johanna Sköld, Shurlee Swain

Are We in an Age of Inquiry?

In many western democracies during the 1990s and 2000s, widespread concerns emerged about out-of-home care provision and the role of past policies and practices in the denial of basic human rights to children and other vulnerable populations. A key international response to this development has been that governments have established commissions of inquiry to examine historical abuse and consider questions of compensation and restitution. Many inquiries, such as the Australian Royal Commission into Institutional Responses to Child Sexual Abuse (2013–2017), have focused on the victimisation of children in institutional settings. However, others, such as the Swiss Independent Expert Commission on Administrative Detention (2014–2019), have taken a broader view, examining past policy failings affecting both young people and adults. While different approaches have been taken in different inquiries and in various national contexts, a general trend appears to be that abuse inquiries are proliferating across western countries at a rate exceeding the truth commissions to which they have often been compared.¹ Indeed, inquiries into historical institutional child abuse have now been undertaken in more than twenty nations.

This article begins with a provocation: in light of the large number of governmental investigations into past abuses that have been completed recently, or are currently underway internationally, are we in an *age of inquiry*? To explore this proposition, the article presents preliminary findings from research that maps historical abuse inquiries globally.² It begins with some contextual background on inquiries as a mechanism used by governments to examine issues of major social concern. There is then a brief overview of the emerging field of studies on inquiries, apologies and redress. This is followed by a description of the research project on which this article draws. To illustrate the value of comparative analysis, the article then explores similarities and differences in inquiries within and across national contexts in relation to the forms of abuse examined. Finally, it is argued that the increasing number of inquiries exam-

ining care,³ violence and past policy wrongs may be understood, collectively, as an important international and transnational trend of the late twentieth and early twenty-first centuries.

Historical Abuse and Commissions of Inquiry

While inquiries into various forms of historical child abuse have been growing in number since the 1990s, the governmental mechanisms used to investigate this issue have a much longer history. Inquiries, broadly defined, have indeed been an instrument of state administration for many centuries. In Britain their use dates to the eleventh century, while Scandinavian examples can be traced to the seventeenth century. In colonial administrations such as Canada and Australia, governmental commissions have been employed since the nineteenth century, as they have in some form in the Swiss Federal State.⁴ Commissions of inquiry take different forms, both within and across jurisdictions, and their size, legal status and public and policy influence vary. The investigative process used differs according to the type of inquiry mechanism employed and the approach taken, but a common feature of historical abuse inquiries since the 1990s is a focus on victim testimony.⁵

The existence of many different inquiry forms presents challenges for comparative analysis.⁶ An influential definition of so-called public inquiries in the Anglosphere is that they are non-permanent, discrete and independent organisational units appointed by the government with clear publicly stated terms of reference.⁷ This is helpful for delineating characteristics of some inquiries, particularly statutory inquiries, such as the royal commissions held in Commonwealth countries, which are appointed by government but are fully independent and have a legal status that positions them in some respects as similar to a court of law. Yet this definition does not adequately capture types of inquiries which are part of the everyday operation of the state, for example, parliamentary committees and other types of commissions outside the Anglosphere. When examining inquiries internationally, it is therefore necessary to adopt a broad and inclusive definition that focuses on the features that the different types of inquiries share, namely, the objective of investigating public scandals and issues of major social importance and advising governments on how to respond to those issues by developing recommendations or appropriate policy responses.⁸

Governments value inquiries for their investigative and fact-finding functions, their ability to help reach consensus between conflicting interests, their role in crisis management, and their capacity for analysing complex policy areas and making recommendations for reform.⁹ In many countries, calls for an inquiry are

often made in the wake of accidents, disasters, public scandals and the exposure of significant wrongdoing. As such, inquiries have been an important mechanism for investigating systemic institutional child abuse. A common pattern is that they are established following media attention and the campaigning of advocacy groups that call for an inquiry.¹⁰ Nevertheless, alongside such demands for action there is commonly a degree of scepticism held by the wider public. This is based on concerns that an inquiry may be used by government to delay or avoid taking action, and/or to pacify vocal interest groups. Inquiries may also be seen as a waste of limited public resources. As with investigations into other matters, inquiries into past abuse have generated a range of responses. In Australia and Northern Ireland, there was widespread public and political support for recent child abuse inquiries. However, similar inquiries in the UK, one covering England and Wales and the other covering Scotland, have been subjected to much criticism.¹¹

As abuse inquiries began increasing in number, so too did scholarly analysis of them. By the early to mid-2010s, following Ireland's decade long Commission to Inquire into Child Abuse (Ryan Commission) and amid a rising number of inquiries internationally, there was increasing attention given to governmental investigations into institutional child abuse and related matters, such as political apologies and redress schemes.¹² As Sköld noted in 2013: "historical abuse [had become] a contemporary issue".¹³

Three major strands of research may be identified. One is historical analysis of past welfare practices, particularly coercive measures involving children; inquiries have provided new source material and perspectives on the history of childhood and the legacy of past policies, and research in this area is sometimes combined with memory studies.¹⁴ Another strand focuses on questions of justice; this is most commonly undertaken by legal scholars and political scientists examining rights, collective responsibility, and reparation and redress.¹⁵ The third, and most recent, strand of research is the emerging interdisciplinary field of study focusing on historical abuse inquiries, apologies and redress as sociohistorical phenomenon of the late twentieth and early twenty first centuries.¹⁶

Scholars have positioned the emergence of inquiries into historical institutional child abuse as part of a so-called politics of apology and regret – which took shape in the late twentieth century – and also within the wider field of transitional justice.¹⁷ The term transitional justice has multiple meanings. It describes a range of mechanisms, for example truth commissions or legal responses, that are aimed at redressing human rights abuses. It is also a theoretical concept that frames a field of research concerned with how societies come to terms with abusive pasts. Primarily, this has been drawn upon to understand societal transitions from authoritarian regimes to democracy. The application of the concept of transitional justice to explain child abuse inquiries points to processes of democ-

ratification, at least in some western countries, in relation to children's rights and the claiming of those rights by adults who had been victimised when they were children. However, other kinds of retrospective transitional justice projects have been criticised for focusing on "making whole what has been smashed" in the past, rather than formulating progressive ideas about the future development of democracy and welfare.¹⁸ It remains to be seen what outcomes and implications the child abuse inquiries we witness today will have on the future of democracy and children's rights.

Despite a growing body of scholarship, the focus of much scholarly research has been on individual inquiries or single jurisdictions.¹⁹ The limited amount of research literature that employs comparative and/or cross-jurisdictional approaches is understandable given the considerable challenges that exist in conducting studies of this kind. Yet to better understand the significance of inquiries in the current era, and the historical, social, political and cultural factors that have given rise to concerns with past abuse and demands for redress and reparation, attention needs to be paid to the international and transnational dimensions of the so-called inquiry phenomenon. Central to this is identifying similarities and differences between inquiries to understand the ways in which inquiries in one setting may have specific local factors but are also part of wider international movements, networks and knowledge flows. This requires accurate and internationally comparable data about individual inquiries, including their form, structures and processes. In addition, information is needed on the factors that trigger inquiries and the roles played by advocacy groups and other key players in their establishment, particularly the media in generating understanding of relevant issues and eliciting public support. What is also important is an account of the ways in which governments respond to calls that something be done when past abuses come to light.

The Age of Inquiry

In a new digital research project, *The Age of Inquiry*, we have begun the task of mapping inquiries into historical institutional child abuse and documenting their key features – over time and across jurisdictions – to further understandings of the form and remit of different inquiries, and to illuminate global trends and national differences. The project has a particular focus on investigations into institutional child abuse, which encompasses a range of settings, typically outside the family but including arrangements such as foster care. In addition to this primary focus on institutional child abuse, inquiries with a wider remit, for example those that include abuses of both adults and children, are also being documented.

The aim of the project is to build a knowledge base that is publicly available through an online web resource. This involves generating a complete *corpus* of historical abuse inquiries conducted globally, using consistent categories of analysis in order to provide the basis for comparison across jurisdictions, over time, and in different political contexts. It is envisaged that the database will serve as a knowledge resource for scholars, politicians and policy makers, victims/survivors, care providers, professionals and other stakeholders.

A major initial challenge was to develop a classification typology that covered each inquiry's key attributes but still offered comparable categories. Abuse inquiries take many forms – for example, some have a formal legal status while others do not – and their reports vary in content, scope and language. Hence, it is a delicate interpretative task to generate comparable data. Taking account of these variations, we define an inquiry as an official review or investigation, typically ordered by government, to examine the facts or causes of events, about which there is significant public interest, with a view to making recommendations, usually to government.²⁰ A broad definition of inquiries opens up new possibilities for comparative research, both within and across jurisdictions. It also challenges existing typologies of inquiries, which have focused on their form and structure – for example, their legal basis or the means by which they are constituted.²¹

We have instead developed an approach that begins with the issue under investigation (historical institutional child abuse – broadly defined). Documenting an inquiry's features, such as its form and structure, is important to understanding the range of different approaches taken to investigate similar issues in different contexts. The project thus captures a range of investigative mechanisms used across the globe that share a common set of objectives: to examine how and why abuse occurred in the past; to provide some form of justice for victims and survivors; and to shape policy in the future. To understand inquiries and their effects in the present and recent past, it is necessary to look closely at how the issue under investigation is framed, the processes different inquiries employ, the findings they deliver, and the outcomes they achieve.

The period covered by the project is from the 1980s to the present. While there were earlier inquiries into allegations of abuse in institutional care settings, as Swain's work has shown, such inquiries often functioned to minimise the reputational damage of the institution and avoid scandal.²² This period covers the emergence, during the 1980s, of institutional child abuse as a named social problem and the associated sharp increase in subsequent years in the number of child abuse inquiries established as a key government response.²³ This timeframe also covers inquiries which resulted from the advocacy of victim and survivor groups, media attention and public scandals. The most notable feature of inquiries in this period – and a central

concern for this project – is that they capture the voice of victims and survivors. This has become a defining feature of historical abuse inquiries.

The first phase of the project sought to identify inquiries internationally which were part of a general trend of official government responses to allegations of child abuse in institutional settings, not as individual or isolated incidents but as a pervasive and systemic problem. Categories for documenting the key features of individual inquiries were then developed. These include:

- The focus of the inquiry – including the types of abuse being investigated and the settings or locations where it occurred.
- Periods of investigations – when the abuse occurred and the historical period covered by the inquiry.
- Investigative mechanisms employed – such as individual testimony, interviews, public hearings, contracted research.
- The legal status of inquiries – including governing legislation, where applicable.
- Location/s in which the inquiry took place.
- Numbers of witnesses and their characteristics – including gender and age.
- Types of evidence provided – for example, oral testimony, documentary sources.
- Personnel of the inquiry panel.
- Findings of the inquiry and details of its final report(s).
- Recommendations made.
- Further action that resulted – e. g. redress schemes, apologies, subsequent inquiries.
- Publications – including details of the final report and related material.

The pilot phase of the project, completed in 2017, documented 40 inquiries across ten national contexts. This represents only some of the many abuse inquiries that have been undertaken across a range of jurisdictions since the 1980s. Until our research is complete, it is not possible to estimate how many such inquiries have been held worldwide. For example, the web resource does not yet include inquiries that have taken place in the Netherlands, Belgium, Germany, Austria, Iceland, Finland and Scotland. In order to widen the national contexts and include additional inquiries, we depend on assistance from international colleagues willing to contribute to the database.²⁴

At present, two countries, Australia and Norway, have been comprehensively mapped, providing rich and detailed information on over 20 institutional child abuse inquiries in those nations. The creation of a comprehensive dataset is the focus of the next stage of the project, where we aim to develop a truly global picture. Yet, even with the limited number of inquiries documented thus far, what is emerging is a rich and complex picture that suggests local and global trends and transnational connections.²⁵ For example, small inquiries sometimes spark larger ones, approaches taken in one jurisdiction often inform the design of inquiries in

other locations, and the existence of an inquiry in one country or region may put pressure on governments elsewhere to initiate similar investigations.²⁶

The majority of inquiries currently recorded were established by governments (of varying levels). Reports of research projects are typically not included, although some exceptions have been made for major reports that have had a significant impact. This is particularly important because a new trend appears to be emerging where governments and other responsible bodies commission research by professional scholars in place of a formal inquiry. The report produced by the Welfare Museum of Svendborg at the request of a care leaver organisation, but with funding from the Danish Ministry of Social Affairs, was an early example of this phenomenon.²⁷ Other examples include commissions set up as interdisciplinary expert panels for the purposes of collecting narratives from victims and looking more broadly into the mechanisms of abuse and detention from historical, pedagogical, psychological and legal perspectives.²⁸

These examples would support Melissa Nobles' contention that, for campaigns for justice to succeed, survivor groups, state officials and academic researchers all need to be actively involved.²⁹ For this reason, it is important that the database maps not only inquiry structures and functions but also the people involved in the inquiry process. While researchers have much to contribute to both the fact-finding and contextualisation of historical child abuse, their role also extends to the politically contested processes of redress and reconciliation. In the Finnish case the research team produced solid and politically neutral knowledge, but its recommendations on increased public auditing were not embraced nor were the care leavers' expectations of redress. The Finnish research team suggests that although there were high expectations of their work, a number of factors enabled politicians to ignore their recommendations. Issues they identified included their investigation being constituted as a research project rather than a government commission, its limited timeframe and purpose, and the lack of a government mandate to implement recommendations.³⁰ In the case of some other ad hoc inquiries, for example in Sweden, civil servants who had worked within the inquiry were able to keep the lessons and recommendations of the inquiry alive.

While the main focus of the database is government-initiated inquiries, it also includes some other investigations that have significantly shaped public understandings of child abuse and led to further action. The reports produced by the John Jay College of Criminal Justice in the USA for the United States Conference of Catholic Bishops is one such example. While police investigations are generally excluded, Operation Yewtree in the United Kingdom is an exception in being part of the dataset. It began as a police investigation of allegations against a single individual but became a full criminal investigation involving examination of allegations

against many people and institutions, and was instrumental to the establishment of the Independent Inquiry into Child Sexual Abuse in England and Wales (IICSA).³¹ In addition to including a variety of types of investigations as *inquiries*, a note should also be made about the broad inclusion criteria pertaining to the remit of these investigations. Most of those currently included were set up primarily, or exclusively, to examine the abuse and maltreatment of children in institutional settings, particularly in residential care. However, many important findings about past abuse of children have emerged from inquiries with a much broader remit, sometimes even from inquiries that were intended to examine quite different matters. An example here is the Australian Royal Commission into the New South Wales (NSW) Police Force. It was set up to examine the existence and extent of police corruption in that state. However, after initial investigation, its terms of reference were expanded to include investigation into the protection of paedophiles by NSW Police. It warrants inclusion because it was a public inquiry that uncovered substantial evidence of paedophilia and institutional failure.

Similarly, inquiries into past policies that have adversely affected children, such as forced placements and adoptions, are also included. A selection criterion that errs on the side of inclusion will result in a far more useful resource than one that prematurely limits its scope. The potential disadvantages of these broad inclusion criteria are mitigated by the detailed information provided about the features of each inquiry. Thus, including inquiries specifically established to examine institutional child abuse, alongside those that may have a more indirect link, allows users of the resource to determine which inquiries and what information is relevant for their purposes.

Comparative Analysis of Abuse Inquiries

The Age of Inquiry web resource is designed to facilitate comparative analysis. One example is the examination of different kinds of abuse that have been the focus of inquiries globally. The exclusive focus, in several jurisdictions, on historical child sexual abuse, has been met with criticism that care leavers who experienced other kinds of abuse are excluded from such investigations.³² In the Netherlands, for example, the establishment of a new commission in 2015/2016 to investigate physical and psychological abuse of children in out-of-home care (*Commissie Onderzoek naar Geweld in de Jeugdzorg*) came in the wake of concern about the focus on sexual abuse in the inquiries that reported in 2011 and 2012. This is an example of what Sköld has conceptualised as “national chains of inquiries”, where inquiries are connected to each other in some way, in this case, with earlier inquiries leading to establishment of new investigations.³³

The Australian chain of historical abuse inquiries developed in a different direction from that of the Netherlands. One of the earliest historical abuse inquiries focused on violations of Indigenous people's human rights and forced child removals, and included findings of brutality in institutional care. Subsequent inquiries were then set up to examine various forms of abuse of children in out-of-home care settings, while the most recent inquiries, including a large royal commission, have focused more narrowly on institutional child sexual abuse. In Australia, as in other nations, inquiries into institutional child sexual abuse have arisen within the wider context of the clergy sexual abuse scandal and, more broadly, what Daly describes as "the increased focus on *sexual* victimisation in non-family settings".³⁴ In addition, in some countries, media stories of past abuse have tended to focus almost exclusively on sexual abuse.³⁵

The focus of most institutional child abuse inquiries since the 1990s that we have documented thus far has been abuse of children in out-of-home residential care and sexual abuse in a range of community settings – often churches. In this context, it is important to note the crucial role played by the new discursive context around child sexual abuse, which developed from feminist activism in the 1970s and 1980s, and which has been important in shaping contemporary inquiries. While feminist analysis focused initially on intrafamilial abuse, in the 1990s it came to include extrafamilial abuse embodied in the paedophile, providing a language through which survivors could articulate their accusations. The expansion of psychological understandings of trauma also played an important role.³⁶ With the transformation of child sexual abuse from an individual pathology to a social problem, it became a political issue "demanding action from governments and the courts".³⁷ This new discursive context was an important prerequisite for the establishment of abuse inquiries during the 1990s and early 2000s. Yet, other aspects of social change are also implicated.

In some national contexts, such as Sweden, there was heated debate in the 1990s about historical abuse, an issue that became widely known in that country as "the dark side of the welfare state". Interventionist social policies, such as involuntary sterilisations embraced by eugenically motivated laws operating between 1935 and 1975, sparked a discussion about the rights of the victims of welfare. This debate marked a shift where aspects of the previous social policy were reconsidered at the same time as new systems of public governance related to New Public Management were enforced. In the light of this historical development, Malin Arvidsson has concluded: "Victims of abuse in Swedish institutions for children thus raised their voices for redress at a time when the politics of regret had emerged as new international norm, a re-evaluation of the welfare state had taken place and the public critique of the civil rights infringements involved in interventionist social policies were well accepted."³⁸

Furthermore, the growing “prizing of childhood” has been noted as an important factor in recognition of abuse in the last quarter of the twentieth century.³⁹ This occurred amid medical and technological advances, such as contraception, which was one element in the decrease in family size during this period. More broadly, the 1970s and 1980s were also a time in which the rights and legal status of children came to the fore – evident, for example, in new legislation, such as mandatory reporting, which updated older child protection laws. The United Nations (UN) General Assembly proclaimed 1979 as the International Year of the Child and a decade later came the 1989 UN Convention on the Rights of the Child. The UN initiatives reflected a new societal importance accorded to childhood. They also built on earlier efforts to recognise children’s rights, such as the League of Nations Declaration of the Rights of the Child in 1924 and later with the 1959 UN Declaration of the Rights of the Child.⁴⁰ The inquiries that emerged in the late twentieth century and increased in number during the 2000s and 2010s reflect both changing attitudes towards children and a broader social imperative of reflecting on past wrongs.⁴¹ While sexual abuse has been a major focus of some inquiries, other kinds of abuse have received far less attention. Labour exploitation is one such example, ignored in three out of seven Norwegian inquiries. In several Australian inquiries it was identified as part of a broad suite of abusive practices but was not the primary focus and has not resulted in a new inquiry into this issue. Unlike sexual abuse, which was never normative, labour exploitation has been examined in ways that more closely align with investigations into physical punishment, always considered as a matter of degree as to what was acceptable. The boundaries are often not clear. For example, working class children always worked and were subject to physical punishment, so inquiries often struggle to define the point at which practices in children’s homes became aberrant. In Switzerland, however, attention to labour exploitation of both adolescents and adults, who were subject to administrative detention, is at the core of the Independent Expert Commission (IEC) and the debate that precipitated its establishment. Following a pattern that has emerged in many countries, the inquiry was a response to pressure from victim advocacy groups and political parties, fuelled by an exhibition and a movie about the forced removals of poor and/or illegitimate urban children to farms in the countryside where they were exploited as labourers, a practice that only ended with the mechanisation of agriculture in the 1960s.⁴² In 2013, the Justice Minister Simonetta Sommaruga apologised to the victims on behalf of the government.⁴³ By 2014, a fund for compensating the victims⁴⁴ and the IEC had been set up. This followed and built upon earlier research programs, for example, one that focused on child labour in the Canton of Berne.⁴⁵ The mandate of the IEC includes consideration of “the use of administrative detention in relation to other compulsory measures and custody arrangements before 1981

(in particular, the use of adolescents as indentured labourers, their placement in families or homes for boarding or foster care, the treatment of itinerant labourers, compulsory sterilisation and castration, and forced adoptions)".⁴⁶

Although many inquiries have included within their wider investigations attention to the work undertaken by children in out-of-home care, labour exploitation has more often been the focus of inquiries into institutions that also accommodated adults. This was a key component of the Irish investigation of state involvement with the Magdalen Laundries, with compensation for unpaid labour one of the "two heads of claim" in the redress scheme that followed.⁴⁷ In Australia, the labour performed by Indigenous children received little attention in the *Bringing them Home Report*, while a subsequent inquiry into wages stolen from Indigenous workers focused more on the infantilisation of adults subject to regimes of protection than on the children also swept up by the scheme.⁴⁸ Few financial compensation schemes address unpaid wages to children as means of redressing the past. The reason for this is not clear, but it raises important questions regarding the normative assumptions about children and adults that underpin which forms of abuse become the focus of inquiries and how age matters in defining the types of claims that victims of residential abuse are able to invoke.

Other forms of historical abuse examined by inquiries internationally include racial discrimination, and to a lesser extent, abuse of people with disabilities. Several Canadian inquiries have investigated issues pertaining to Indigenous peoples, their history and relationship to broader Canadian society, and various policy and welfare matters. The Canadian Truth and Reconciliation Commission (2008–2015) examined the legacy of that nation's church run residential schools. This followed a royal commission on Aboriginal Peoples in the 1990s. More recently, there was a national inquiry into missing and murdered Indigenous women and girls. The mandate of that inquiry was to investigate the systemic causes of all forms of violence by looking at patterns and structural factors.⁴⁹ The abuse of adults and children with disabilities has been included as part of broader investigations in a number of inquiries and has also been the sole focus of some inquiries. In Australia, for example, experiences of children with disabilities were included in the Royal Commission into Institutional Responses to Child Sexual Abuse and in a previous inquiry into residential care in the state of South Australia. There have also been Australian inquiries focusing exclusively on the abuse of both adults and children in disability services, including a state inquiry in Victoria and a national parliamentary inquiry.⁵⁰ As *The Age of Inquiry* web resource expands, and more data is generated, further analysis will become possible.

Conclusions and Implications

Inquiries are established in specific contexts, typically in response to an issue or a set of issues that gain traction at a local, regional or national level. Thus, they are tied to particular localities and must be understood in that context. However, with the increasing number of inquiries globally, it is clear that inquiries are also part of a wider trend that extends beyond national borders. They must therefore also be conceptualised as an international phenomenon, grounded in particular local contexts while also being part of the wider social and political landscape of contemporary western democracies. There is a clear need to examine the implications of this development in order to better understand the social, cultural and political significance of victim centred abuse inquiries as a feature of late modernity. This is an issue that calls for analysis from multiple disciplinary perspectives.

A single discipline, like history, can benefit from interdisciplinary and transnational learning, which can be facilitated by historians sharing their experiences of working with or within inquiries. Historians have much to offer, but taking part in the political processes of inquiries also means that the historian faces certain challenges. For example, exposure to traumatic stories of abuse carries an emotional risk. As Shurlee Swain points out, historians, seldom professionally trained for reflecting upon their own as well as their informants' emotions, need to be attentive to their reactions and learn from other academic fields in order to avoid vicarious trauma.⁵¹ Another challenge is that inquiries address multiple audiences (victims, politicians, former care providers, academics and the general public) with the objective of both acknowledging victims' testimonies of abuse as well as offering an account of what happened in the past based on multiple perspectives and sources. This dual aim means that the historian may have to re-evaluate her/his epistemological stance and perhaps also navigate between different methodological approaches and ethical positions. Nell Musgrove has described how her professional sensitivity to ethical issues as a child welfare historian was sharpened by shifting the focus from archival case records to victim testimonies in inquiry reports: "Reading the testimonies made me question my theoretical deconstruction of case records in new ways. Was I really recognizing the integrity of the stories people were telling about themselves? [...] I met some care-leavers at this time, a period during which many still felt great anger at the lack of a formal government response to inquiry recommendations, and while I came to see that I had knowledge that was of interest to them, the way I had acquired some of that knowledge was problematic. No matter whether or not I saw myself as their advocate, why should researchers be entitled to read through case files which people themselves struggled to access?"⁵²

The fact that inquiry commissioners can access information that is codified puts ethical issues to the test at times. Johanna Sköld and Bengt Sandin have highlighted the blurred distinctions between legal regulations of research ethics and the ethical guidelines that instruct government commissions in Sweden. In general, the latter, have far wider mandates than researchers usually have, which means that any researcher hired by an inquiry commission must balance very carefully their role as a researcher and a commissioner.⁵³ Furthermore, the victim testimony model that has dominated historical abuse inquiries since the 1990s can be critically examined for the risks it entails in terms of re-traumatisation for victims that come forward. Carol Brennan has noted that while the setup of an inquiry can symbolise long-awaited action for victims, they have limited influence on how the inquiry is organised to collect evidence and “they are not in a strong position to bargain” about the options. Therapeutic story-telling has been put forward as a healing mechanism for victims, but as Brennan demonstrates, this is a complicated matter. It may be an important part of the healing process for some but, for others, participating in an inquiry can be traumatic.⁵⁴ Challenges of this kind are accentuated when individual cases are tested against legal requirements within a financial redress process, as a forthcoming article about the Swedish redress scheme reveals. While the objective was to offer the victims redress, the process was designed as a judicial procedure that came to reject 54 % of the applications from claimants seeking economic compensation for past harm. The potential of re-traumatisation in this case was enormous, yet very difficult to foresee for any individual claimant.⁵⁵

An important area that has been under-researched, perhaps due to the challenges of such work, is evaluation of inquiry outcomes; in other words, how effective they are at achieving their stated objectives.⁵⁶ Conventionally, outcomes have been measured in terms of redress and reparation for survivors, and policy reform that aims to prevent or minimise the occurrence of abuse in the future. The size of an inquiry seems to impact the extent to which policy reforms are implemented. There is little question that inquiries have generated important knowledge of past abusive practices, although the extent to which this reaches welfare professionals and the general public is hard to determine. It is also clear that some areas are more complex than others, with redress being a notoriously difficult matter.⁵⁷

While there is an emerging body of research on historical abuse inquiries, there remains, as we have outlined, many challenges to developing international and comparative perspectives. These include accessing and compiling information on inquiries across jurisdictions, classifying different types of inquiries, and considering commonalities and differences in their form, function, scope, remit, findings and outcomes. *The Age of Inquiry* project is laying the foundation for this comparative work. In time, it will provide a comprehensive picture of in-

quiries across the globe, which will enable development of new perspectives. An important area to which it will contribute is childhood and welfare history. While each inquiry generates unique knowledge about specific locations, time periods and forms of abuse, historical abuse inquiries collectively have an important story to tell about childhood and welfare measures in the past, and the ways in which understanding of this is being politicised, represented and rewritten in the present – both locally and transnationally. Collating information generated from inquiries internationally will enable examination of complex questions regarding the effects and outcomes of inquiries, including social policy and child protection, justice and redress, and new perspectives on childhood history and the role of inquiries in reshaping understandings of the past.

Acknowledgements

We extend our thanks to the contributors to *The Age of Inquiry* web resource for sharing their knowledge and to Sari Braithwaite for valuable research assistance. This article benefited from key points made by Martin Lengwiler, Ernst Guggisberg, Loretta Seglias and Sonja Matter. Katie Wright is the recipient of an Australian Research Council Discovery Early Career Researcher Award (ARC DECRA) [DE140100060] “Childhood Maltreatment and Late Modernity: Public Inquiries, Social Justice and Education”, 2014–2018. *The Age of Inquiry* pilot study was funded by La Trobe University, Transforming Human Societies Research Focus Area (2016–2017).

Notes

- 1 Priscilla Hayner, *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions*, 2nd ed., New York 2011.
- 2 Katie Wright, Shurlee Swain, Johanna Sköld, *The Age of Inquiry. A Global Mapping of Institutional Abuse Inquiries*, Melbourne 2017, DOI, <http://doi.org/10.4225/22/591e1e3a36139> (20. 5. 2018).
- 3 The term “care” is problematic. As a large number of inquiries across different jurisdictions and various national contexts have now demonstrated, abuse was pervasive and there was a distinct absence of care in many institutions set up to look after children.
- 4 Jason Beer, “Introduction”, in Jason Beer (ed.), *Public Inquiries*, Oxford 2011, 1–31; Hugh McDowall Clokie, Joseph William Robinson, *Royal Commissions of Inquiry. The Significance of Investigations in British Politics*, Stanford 1937; Gregory Inwood, Johns Carolyn, “Why Study Commissions of Inquiry?”, in Gregory Inwood, Carolyn Johns (eds.), *Commissions of Inquiry and Policy Change. A Comparative Analysis*, Toronto 2014, 3–19; Patrik Marier, “Public Inquiries”, in Marleen Brans, Iris Geva-May, Michael Howlett (eds.), *Routledge Handbook of Comparative Policy Analysis*, London 2017, 169–80. It should be noted that the early inquiries mentioned here were set up to investigate a range of matters and had various

- functions, for example, national commissions played a crucial role in establishing new sets of laws in Switzerland in the late 19th and early 20th century. Expertenkommission über den Vorentwurf zu einem Schweizerischen Strafgesetzbuch, Schweizerisches Strafgesetzbuch, Zurich 1904; Expertenkommission, Schweizerisches Zivilgesetzbuch, 3 vol., Berne 1901–1903.
- 5 Shurlee Swain, *History of Australian Inquiries Reviewing Institutions Providing Care for Children*, Sydney 2014; Johanna Sköld, Åsa Jensen, “Truth-Seeking in Oral Testimonies and Archives” in Johanna Sköld, Shurlee Swain (eds.), *Apologies and the Legacy of Abuse of Children in “Care”*. *International Perspectives*, Basingstoke 2015, 159–171; Anne-Marie McAlinden, Bronwyn Naylor, “Reframing Public Inquiries as Procedural Justice for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice”, *Sydney Law Review* 38 (2016), 277–310.
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 - 7 Scott Prasser, *Royal Commissions and Public Inquiries in Australia*, Sydney 2006.
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 - 10 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, sup 1 (2013), 5–23; Johanna Sköld, “The Truth about Abuse? A Comparative Approach to Inquiry Narratives on Historical Institutional Child Abuse”, *History of Education* 45/4 (2016), 492–509; 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.
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 - 15 Daly (see note 11); James Gallen, Kate Gleeson, “Unpaid Wages: The Experiences of Irish Magdalene Laundries and Indigenous Australians”, *International Journal of Law in Context* (November 2017), 1–18; Stephen Winter, “Two Models of Monetary Redress: A Structural Analysis”, *Victims and Offenders* 13/3 (2018), 293–311; Kjersti Ericsson, “Victim Capital and the Language of Money: The Norwegian Process of Inquiries and Apologies”, *Journal of The History of Childhood and Youth* 8/1 (2015), 123–137.
 - 16 Sköld/Swain (see note 4); Ronald Niezen, *Truth and Indignation. Canada’s Truth and Reconciliation Commission on Indian Residential Schools*, Toronto 2013; Wright (see note 9).
 - 17 Sköld/Swain (see note 15).

- 18 John Torpey, *Making Whole What Has Been Smashed. On Reparations Politics*, Cambridge, London 2006.
- 19 There are some notable exceptions, including Sköld's comparative study of institutional child abuse inquiries in Ireland, Sweden and Denmark, see especially, Sköld (see both citations in note 9). Daly's comparative studies of redress also include examination of institutional abuse inquiries across a number of jurisdictions; see Daly (note 11).
- 20 Here we build on Jay Makarenko's definition, see "Public Inquiries in Canada", *Mapleleaf-web*, www.mapleleafweb.com/features/public-inquiries-canada.html#introduction (1. 5. 2018).
- 21 Beer (see note 3); Prasser (see note 6).
- 22 Swain (see note 4).
- 23 Brian Corby, Alan Doig, Vicky Roberts, *Public Inquiries into Abuse of Children in Residential Care*, London 2001.
- 24 We strongly encourage scholars and inquiry staff who are willing to contribute to the database to contact us, www.lib.latrobe.edu.au/research/ageofinquiry/contact.html.
- 25 Johanna Sköld, "Apology Politics: Transnational Features" in Sköld/Swain (see note 4), 13–26.
- 26 Sköld (see note 22); Wright (see note 9).
- 27 Maria Rytter, *Godhavnsrapporten*, Odense 2011.
- 28 Apart from the reports mentioned above, this is also true for the Finnish inquiry, which operated from 2014 to 2016 was and chaired by the history professor, Pirjo Markkola (translated as *The inquiry into neglect, abuse and violence against children in institutions and foster homes, 1937–1983*), the ongoing Netherland inquiry chaired by the professor of psychology and pedagogy Micha de Winter (Commissie Onderzoek naar Geweld in de Jeugdzorg, translated as *The Inquiry Commission on Violence in Child Welfare*) and the current Swiss commission chaired by jurist Markus Notter (translated as the Independent Expert Commission (IEC) on Administrative Detention).
- 29 Melissa Nobles, *The Politics of Official Apologies*, Cambridge 2008, 14.
- 30 Antti Malinen, Pirjo Markkola, Kirsi-Maria Hytönen, "Conducting Commissioned Research: The Finnish Inquiry into the Failures of Child Welfare, 1937–83", unpublished manuscript 2018.
- 31 Operation Yewtree is the police investigation into allegation of child sexual abuse, primarily against the late British media personality, Jimmy Savile. Allegations against Savile led to the setting up of Operation Yewtree and, eventually, the IICSA. See Jo Aldridge, "'This Is Not Just About History ...' Addressing the Disconnect in Historic (Non-Recent) Child Abuse Investigations", *Child Abuse Review* 27 (2018), 24–29.
- 32 Aside from the clergy sexual abuse scandals that have been investigated in various parts of the world, government initiated inquiries that have focused exclusively on child sexual abuse include: the Australian Royal Commission into Institutional Responses to Child Sexual Abuse; the Independent Inquiry into Sexual Abuse in England and Wales; de commissie-Deetman van Onderzoekscommissie Seksueel Misbruik and the Commissie Samson on Sexual Abuse of Children in Out-of-home Care 1945–2010 in the Netherlands.
- 33 Sköld (see note 22).
- 34 Daly (see note 11).
- 35 Daly (see note 11).
- 36 Lisa Featherstone, "'Children in a Terrible State': Understandings of Trauma and Child Sexual Assault in 1970s and 1980s Australia", *Journal of Australian Studies* 42/2 (2018), 164–176; Katie Wright, "Challenging Institutional Denial: Psychological Discourse, Therapeutic Culture and Public Inquiries", *Journal of Australian Studies* 42/2 (2018), 177–190.
- 37 Shurlee Swain, "Why Sexual Abuse? Why now?", in Sköld/Swain (see note 4), 90.
- 38 Malin Arvidsson, "Contextualizing Reparations Politics", in Sköld/Swain (see note 4), 75.
- 39 Corby et al. (see note 21), 43.
- 40 Cynthia Price Cohen, "The Role of Nongovernmental Organizations in the Drafting of the Convention on the Rights of the Child", *Human Rights Quarterly* 12/1 (1990), 137–147; Vir-

- ginia Murphy-Berman, Victoria Weisz, “UN Convention on the Rights of the Child: Current Challenges”, *American Psychologist* 51/12 (1996), 1231–1233.
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- 42 Kavita Puri, “Switzerland’s Shame: The Children Used as Cheap Farm Labour”, BBC News, 29 October 2014, www.bbc.com/news/magazine-29765623 (22. 4. 2018).
- 43 “Swiss Minister Apologizes to Victims of Forced Welfare”, *Reuters*, 11 April 2013, www.reuters.com/article/us-swiss-politics-apology/swiss-minister-apologizes-to-victims-of-forced-welfare-idUSBRE93A0WU20130411 (22. 4. 2018); “Bundesrat entschuldigt sich bei Opfern fürsorgerischer Zwangsmassnahmen”, *Der Bundesrat. Das Portal der Schweizer Regierung*, www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-48480.html (30. 6. 2018); Markus Föhn, “Ich bitte Sie von ganzem Herzen um Entschuldigung”, *Beobachter*, www.beobachter.ch/administrativ-versorgte/zwangsvorsorgte-ich-bittesie-von-ganzem-herzen-um-entschuldigung (30. 6. 2018); “Sommaruga bittet Verdingkinder um Entschuldigung”, *Neue Zürcher Zeitung*, www.nzz.ch/schweiz/sommaruga-bittet-verdingkinder-um-entschuldigung-1.18062492 (30. 6. 2018).
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