

PUBLIC SUBMISSION

We write to you as Australian citizens and in our capacity as economic historians of Australia, the United Kingdom, and the British empire. Please consider our general comments, which are followed by five specific recommendations.

General Comments

The Truth and Justice Commission Bill 2024 presents a much needed opportunity for all Australians to understand their history and to move towards a better, more reconciled future.

It is all the more powerful that the Bill embodies a key aspect of The Uluru Statement from the Heart. Truth telling is conceptualised, advocated and widely supported by Indigenous Australians, and we add our names to the list of non-Indigenous Australians who also demand past injustices are voiced. All Australians deserve the right, and bear an obligation, to understand their country's past and its ramifications for the present and future.

The bill is also strengthened by being brought by Senator Dorinda Cox, a Yamatji Noongar woman with extensive work into gendered violence, and lawyer Senator David Shoebridge, with specialisation in discrimination and employment law and active engagement in reforming legal practice pertaining to child sex abuse. Both have a professional understanding of what it takes to survive profound trauma. That is the essence of the Truth and Justice Commission Bill.

Australian history long ignored pre-colonial society and the violence and destruction of colonial conquest which undermined that society. Public attempts to redress this – W.E.H. Stanner in the 1968 Boyer Lectures, H.C. Coombs, Marcia Langton, the late Lyndall Ryan, C.D. Rowley, Henry Reynolds, Bruce Pascoe, Ann McGrath, Tony Birch, Aileen Moreton-Robinson, Gary Foley, Heather Goodall, David Marr, and others – too often meet with much silence or open hostility. While the quest for Truth, however complicated, remains the highest scholarly ideal, it behoves the Nation to grapple openly with its past and ongoing implications. Uncomfortable truths must be told and heard across the country.

Around the world steps are being taken to address the devastating consequences of imperialism on colonised peoples. Most famously, South Africa held its Truth and Reconciliation Commission. There is a Caribbean movement to prosecute Britain's Black Debt and Australia's government could likewise consider the issue of rent for Aboriginal land, the value of which still underpins Australian wealth. Globally steps are being taken to repatriate stolen heritage, including biological specimens from the disgraceful 19th century trade in Indigenous body parts. The time to act is now.

Rather like dynastic wealth, trauma is ongoing, intergenerational. Arguably, it is inherited socially, culturally, economically, politically. According to recent research into epigenetic effects, physically too. Surviving trauma and healing includes articulation, acknowledgement, redress. This Bill is an important stage in that process. It must lead to meaningful change.

Five Specific Recommendations on **Section 8 Terms of Reference**

1. The Terms of Reference 8(1)(a, b and c), refer to injustices perpetrated by the Commonwealth Government and non-government bodies. There was no Commonwealth Government prior to 1901. If this wording is literal, where do the actions of Colonial, State and Territory Governments fit? That is, governments that affected First Peoples' lives and welfare. We recommend adjusting the wording to be inclusive of all responsible governments by inserting the following words:

(a) historical injustices perpetrated by the Commonwealth government, Colonial governments, State and Territory governments, and associated Commonwealth government bodies and non-government bodies against First Peoples since pre-colonial times, including, but not limited to

2. The Terms of Reference (a – iv and v) specifically identify a number of crimes and practices to be considered, such as massacres, wars, killing and genocide, forced removal of children, etc. Yet, there is no specific reference to sexual violence, ad hoc or systematic. Rape is now well recognised as an instrument of war, of domination and oppression. Sexual slavery and abuse has also been identified as reward for the agents of British imperialism. We would recommend sexual violence and slavery be specified at clause (iv) by inserting the following words:

(iv) massacres, wars, killing, rape, sexual slavery and genocide or other acts of a similar gravity

3. Is the remit of this Commission only concerned with Commonwealth government behaviour? Terms of Reference (a – vi) raises unfair labour practices and gives the example of the treatment of returned soldiers. The role of the Commonwealth Court of Conciliation and Arbitration from 1904 (later divided into the Commonwealth Conciliation and Arbitration Commission and Commonwealth Industrial Court) clearly falls within this scope. But what truth telling will there be about Corporate behaviour? Historic injustices in employment practices cross the 19th and 20th centuries and include stolen wages (Rosalind Kidd 1997, 2006), poor living conditions for Aboriginal workers on cattle stations (Frank Stevens 1968, 1974, Dawn May 1994), dangerous employment (for example, lack of protection in asbestos mining), as well as the manipulation of cultural practices and violation of cultural sites. There are long histories here, including companies that persist from colonial days such as the Australian Agricultural Company and the Van Diemen's Land Company (recently renamed Van Dairy Limited). Union policy, too, should be scrutinised, and that of Missionary Societies that held so much sway over the education, training and work of people in their care. We recommend the following changes to the wording of (vi):

(vi) unfair labour legislation and practices, including those cemented by Wages Boards and Arbitration Courts, lobbied by Unions and Employer Groups, imposed by Corporations and other employers, and the treatment of returned soldiers

4. The Terms of Reference (a – vii through ix) address unfair practices regarding the legal system, family and welfare, labour relations, health and healthcare, but there is no specific mention of education. Access to, and the nature of, education and training in the past turned assumptions about Indigenous children into predetermined labour market outcomes. Education has been a specific tool for assimilation, as in Canada where policy aimed at ‘Killing the Indian in the Child’. We suggest that an additional clause on education practices and access, at all levels of education and training, could usefully be specified on the list for consideration, and recommend the following wording:

(+) unfair policies, practices and access to education and training at every level

5. Finally, Terms of Reference clause (c) combines the historical study of colonisation with a second, contemporary study of policies, practices, conduct and law. For clarity, these are distinct studies and should be included as separate sub-clauses as follows:

(c) research to be conducted and reports written on:

- (i) The causes and consequences of historical injustice, including a historical analysis of the impact of colonisation;
- (ii) An evaluation of the contemporary relationship between First Peoples and the Commonwealth government and the impact of contemporary policies, practices, conduct and laws on First Peoples

A comprehensive list of references is available upon request.

With thanks for your consideration.

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