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Australian Standing Committee on Community Affairs
Legislation Committee
P.O. Box 6100
Parliament House Canberra ACT 2600

RE: Commonwealth Redress Scheme for Institutional Child Abuse Bill 2017 and Consequential
Amendments

Dear Senate members:

Thank you for allowing us to provide the following written testimony regarding the Commonwealth Redress Scheme for Institutional Child Abuse Bill 2017 and consequential amendments. Restorative Justice International (RJI) was glad to provide written testimony on cases of child sexual abuse to the Royal Commission into Institutional Responses to Child Abuse in 2015. Since RJI's last submission in February 2017 we are concerned that the Senate has not embraced restorative justice processes in the proposed legislation. We urge you to do so at this critical time especially given the result of the Chilean clergy abuse cases and now the conviction of the Archbishop of Adelaide Philip Wilson.

Restorative Justice International (RJI) is a global association and network of over 5800 members and affiliates. We support the use of victims-driven restorative justice in response to crime, violence and conflict. It is RJI's position that restorative justice can best address the needs of crime victims, and communities also injured by crime, by holding offenders accountable for their actions. Through restorative justice processes restoration of victims, on some level, is more likely to occur than by using any other intervention or process. We reach this conclusion based on international evidence-based research in the field of restorative justice and by working directly with victims of violent crime. RJI's work includes responding to and advocating for the

needs of crime victims including victims of sexual abuse by clergy members or institutional staff. Restorative justice is not only critical for victims it allows change in the lives of offenders through direct accountability while restoring peace to communities also injured by crime.

RJI appreciates the efforts of Parliament in taking the findings of the Royal Commission's five-year inquiry and translating those complex findings into public policy. RJI agrees with the statement referring to the Commission's commitment to survivors of sexual abuse and its desire for accountability. It reads as follows:

The royal commission's Redress and civil litigation report recommended the establishment of a national redress scheme for survivors of institutional child sexual abuse. All governments and individual institutions were directed to make amends and take responsibility for the shameful acts inflicted on children while in their care. Critically, the royal commission determined that the payment of redress must align with institutional responsibility for the harms that were suffered and so redress should occur on what has become known as a responsible entity basis

RJI agrees with the emphasis on making amends which is a key tenet of restorative justice principles. We share the following concerns and recommendations regarding this early version of the legislation: 1) there is a need for direct victim offender dialogue when requested by the victim reflecting our strong global support for a crime victim's right to restorative justice, 2) the restitution (compensation) amount is far below any kind of average monetary compensation currently paid out to victims of sexual abuse around the world, 3) additional language is needed to require offenders found to have abused children (or adults) to participate in in-prison restorative justice programs using victims (e.g. Sycamore Tree Project or other similar program models where victims meet offenders to discuss crime), and 4) propose adding language stating there should be no statute of limitations in child sexual abuse cases to provide victims with sufficient time to come forward, tell their stories, and be granted redress for the injuries they have suffered.

Regarding victim offender dialogue (#1), RJI asks for clarification and we propose language regarding the definition of direct personal response. The current language reads as follows:

Direct personal response

Survivors will also have the opportunity to receive a direct personal response from the participating institutions responsible for the abuse. A direct personal response is a statement of acknowledgement, regret and apology and will be delivered to survivors by the relevant participating institution after the survivor has accepted the offer of redress.

The response may be delivered through a range of mechanisms including face-to-face meetings with an appropriate representative of the institution or through written engagement with the survivor. The participating institution will be required to make quite clear what they are willing to offer by way of a direct personal response to survivors and what that process will involve.

The direct personal response will give the survivor the chance to be directly acknowledged and to tell their personal story of what they experienced and the way in which it has impacted upon them. Through this process, a participating institution can develop a shared understanding, a critical understanding, of what happened to the survivor and the harm that was caused, which will enable the institution to consider what else it may need to do to prevent such abuses and harm occurring in the future.

RJI supports a victim's right to restorative justice which is central in supporting the needs of all crime victims. Victim offender dialogue is the best example of restorative justice at work; it is the gold standard. We would urge this legislation reflect restorative justice principles by replacing the term "direct personal response" with victim offender dialogue. When victim offender dialogue is not possible, and not chosen by the victim, other restorative justice type processes can be used (e.g. surrogate restorative justice programming). It is important that all victims of abuse in the cases under review, and future cases, know that restorative justice is an option. A victim's right to restorative justice is a new robust global policy position which is growing in support today. Thus, victims must be informed that restorative justice is an option. Structures must be in place and programming funded nationally to make restorative justice accessible. Since victim offender dialogue, or family group conferencing which includes families of the victim and the offender, often uses trained facilitators such facilitators should be available for this purpose. For real accountability in child sexual abuse cases restorative justice must be an option to allow healing, on some level, in the lives of victims of abuse while urging direct offender accountability and institutional accountability.

Regarding restitution (#2), the amount of \$150,000 is a very low amount of compensation to victims of child abuse. Given the severity of the harm done and the long-term impact the compensation should be \$1 million or higher reflecting similar compensation in cases of child victim abuse. Given the legislation states that there is a cap on compensation once a victim accepts the \$150,000 compensation RJI believes this amount is inadequate and unfair restitution.

RJI is available to answer any additional questions or provide the committee guidance regarding restorative justice and its application. Our positions are based on our work with victims of abuse including clergy sexual abuse and advocating for their needs since 2001 through the work of RJI and previously the Justice & Reconciliation Project (JRP) in the United States and globally.

We thank you for allowing us to provide this legislative response to this version of the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017. RJI continues to work for ways to restore victims of sexual abuse and transform the lives of all those injured by abuse wherever the injury has occurred. RJI remains available to work with the Senate regarding any public policy response to institutional abuse. Thank you.

Sincerely,

Lisa M. Rea

Lisa M. Rea
President

cc: RJI Global Advisory Council, Edan Resolutions