Submission to the Inquiry into matters related to the Civil Liability (Institutional Child Abuse) Amendment Bill 2018.

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My interest in this Bill.

I am a former Head of the Department of Journalism at the University of Queensland where I was responsible for, and editor of, *The Weekend Independent* and *Independent Monthly* newspapers, as well as several privately published news magazines.

In the mid-nineties I began (with the assistance of students) to investigate the matter of paedophilia … which was never mentioned in those days, but I knew would have to exist. This work quickly led me to what had happened in the state's orphanages and detention centres … principally Neerkol, Nazareth House, Silky Oaks orphanages and the John Oxley and Sir Leslie Wilson detention centres.

I managed to locate scores of victims of abuse suffered in those places and in the case of Neerkol sent those I could find a questionnaire and a request for their stories. I still have dozens of the replies I received. I also spoke at length with many of those who replied and with a number who said they could not read or did not understand the words on the questionnaire and anyway could not reply because they could not write.

Some of their stories appeared in the newspapers I edited at the University or in the news magazines I published privately.

Their stories were appalling. The brutality and deprivation that so many children suffered in Neerkol (and Nazareth House) in particular, can only be described as horrendous.

The material in one of my magazines (March 1998) was picked up by the international news agency, Agence France Presse, and stories from it subsequently appeared in media outlets around the globe. The BBC's coverage is still available on the Net today.

It is now 20 years since I wrote those stories and I am now following up what has happened to the people involved (or those I can find) since.

I can only say, I believe the abuse they suffered in places like Neerkol did not end when they left the institution … as their efforts to obtain some justice for the dreadful abuses they suffered appear to have been consistently thwarted by legal and bureaucratic indifference including deliberate indifference on the part of the State of Queensland (despite the 2007 Redress Scheme … 8 years after the Forde Inquiry report!) .

My concerns about the Bill.

It seems to me from reading the preamble to the Bill, that the matters which the Bill addresses are being addressed only because the recent Federal Royal Commission has forced the State of Queensland to act.

All of this could have been done, and ought to have been done, almost 20 years ago … when the Forde Inquiry Report was completed and submitted. There is nothing in, for example, the recent Royal Commission's Report of Case Study 26 into Neerkol, that we did not know 20 years ago!

Of course, what has changed is the fact that all kinds of witnesses, nuns, priests, workmen and public officials, are either no longer with us, or their memories are no longer reliable, etc. Which, I do worry, could be convenient.

Who is an "institution"?

The definition of "institution" in the explanatory notes would seem to embrace "the State of Queensland". But that is not explicitly made clear. It should be. The reason is, the State of Queensland was responsible for the outrageous abuse suffered by those who were placed by the State into these orphanages … to be left to the mercy of some people (men and women) who were either fiends or mad … such was the torment and criminal acts they inflicted on children.

As the recent Royal Commission pointed out in its Case Study 26 (Neerkol) Report at page 8:

"We are satisfied that the Queensland Government failed to adequately supervise and protect from harm the children for whom it was guardian in the orphanage by:
. not ensuring adequately trained staff were employed as department inspectors
. not ensuring that it provided adequate scrutiny over the circumstances in which the children were living".

The Report notes the legal framework involved in establishing the Queensland government's role in the running of the orphanages and its position of responsibility for what happened there.

The definition of "serious physical abuse".

Given that the Bill now seeks to add "serious physical abuse" to the already covered matter of "sexual abuse" in the relevant legislation, it is important to know what "serious physical abuse" means.

If all it means is the application of some violet physical force on a child (such as the innumerable bashings, thrashings, beatings, beltings, whippings, etc. that were handed out to children in the orphanages, then the definition is seriously inadequate.

The Explanatory Notes contain the following (added emphasis is mine):

Child abuse means any of the following perpetrated in relation to an individual while the
individual is a child–
- sexual abuse;
- serious physical abuse;
- any other abuse perpetrated in connection with sexual abuse or serious physical abuse of the child, whether or not the other abuse was perpetrated by the person who perpetrated the sexual abuse or serious physical abuse.

Clauses 5 to 7 - Limitation of Actions Act 1974
The Bill amends the *Limitation of Actions Act 1974* by changing the application of the

removal of limitation periods from narrowly applying only to child sexual abuse to applying to serious physical and other abuse (where it is connected with either the sexual or serious physical abuse). This creates consistency with other jurisdictions and consistency with the definition of child abuse proposed by this Bill to be used in the *Civil Liability Act 2003.*

Clauses 8 and 9 - Personal Injuries Proceedings Act 2002

Similarly, the Bill amends the *Personal Injuries Proceedings Act 2002* replacing the definition of child sexual abuse with a definition of child abuse that applies to serious physical and other abuse (where it is connected with either the sexual or serious physical abuse) to maintain legislative and procedural consistency.

Thus, "other abuse" is clearly linked to the administration of "serious physical abuse". But that is not the totality of what happened.

The "other abuses" children suffered were endless torment, and in the words of many of those who responded to my survey, "torture". The psychological and mental abuse dealt out to these children, has to be recognised. I will provide a list of examples at the conclusion of this submission.

But to provide some idea of what the psychological and mental abuse meant, I will quote the words of just a couple of the victims who responded to my survey:

"I lived a nightmare. No one would believe it. Physical abuse and cruelty, psychological abuse and torture. Sexual abuse … If they called out your name you would pee or even [redacted] yourself because you knew what they were going to do to you".

And, another:

"During puberty I went through the humiliating stage of having to wear a nappy to school … The humiliating part was that it was put on me in front of thirty something girls …".

And so on:

"I had no education. For years I'd have to turn my back to the class with a dunce hat on. I was in the same class for three years without them teaching me a thing. I was a child that was not to be taught a thing".

I could go on. See other examples below.

My point is, is being at the age of puberty and made to wear a nappy to school, "serious physical abuse"? (My emphasis).

It is clearly "serious abuse" … but "physical"? I suspect there will be a lawyer somewhere who would say such treatment is not "physical abuse". Or living in fear is not physical abuse.

All of the respondents to my survey said they had suffered psychological and mental abuse or torture.

Thus I am concerned to discover what the definition of "serious physical abuse" embraces. And I suggest that the matter of what that term means be put beyond doubt in the legislation.

Torture, torment, psychological and mental abuse.

Are the following examples of "serious physical abuse"?

Being taken at night and locked in the dark under the floorboards of a dormitory without sufficient room to stand, and left there for days in the dirt with only three slits in the brick foundations for ventilation and light (during the day). Or, at lunch time, tied by the neck to a pole next to the so-called playground. Or shut in a box attached to a wall of one of the buildings. (I have photographs).

As one respondent told me:

"When we played in the courtyard poor Helen had to be tied up to a pole 'cause the nun said she was mad. Many a time I would cop a flogging for untying her or because I refused tie her up … My heart used to cry for poor Helen seeing her tied up and treated like the mad animal she wasn't … and she used to get

locked up at night in the laundry darkhouse … This nun tried to send her mad. Thank God she hung on … and Helen is still alive."

(She is, and I have permission to use her name … her full name, if need be).

Being shut under a performance stage with insufficient room to stand, or locked in a cupboard and left for hours and longer (Neerkol and "the glory hole" as it was called at Nazareth House.

Being held by the legs and suspended inside a well and threatened to be dropped into the water below.

Being dangled over a bridge by a priest and threatened to be dropped into the fires of Hell.

Being sent to a mental institution (Wolston Park) for 21 days and being left there for 15 months despite having been found to have no psychiatric disorder and to be of normal intelligence and exhibiting excellent behaviour. (Is such treatment "serious physical abuse"????).

Being 36 years-old and unable to read a newspaper … and certainly not a questionnaire. And being unable to reply because she could not spell the words. Or not being able to read and write until you were 41.

I could go on.

My point is, if these things are "serious physical abuse", then say so, for goodness sake. If they are not, then we have a problem with this legislation.

And, all the above (and heaps more), were done while these children were in the care of the State of Queensland.

Is the State of Queensland prepared to accept responsibility for its egregious failure to care for them?

A mystery.

Many years ago I found the victim of a pack rape incident while she was held in the John Oxley Youth Detention Centre.

Some years later she was paid, it has been reported and not denied, $140,000 by the State of Queensland. The three-year liability limitation period was in force at that time. How is it that that woman was given some compensation while others have had their claims rejected because, when released from care at age 18, with no social skills, little or no education, and living on the streets, they should have known they had three years to file a claim?

Just double standards I guess. Or could it have something to do with John Oxley and the need to keep matters associated with that place quiet?

Conclusion.

The explanatory notes provided say in the final paragraph:

This definition of child abuse is also consistent with the National Apology delivered by
the Federal Government and Federal Opposition on 22 October 2018, the Federal
Parliament unanimously acknowledging *all forms* of child abuse.

What does that mean?

It may be consistent with the National Apology, and recognised that the Federal Parliament unanimously acknowledged *all forms* of child abuse, but where does this legislation say it recognises *all forms* of child abuse. The fact is, it doesn't. It recognises *serious physical abuse*. And that is it.

The State of Queensland has much to answer for in the matter of the abuse of children in its care. I shall be interested to see how, or if, it accepts any such responsibility.

Bruce Grundy

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