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## Original Research Article

# Comparing Truth Regimes and Discursive Practices in State-Led Inquiries into Cases of Compulsory Social Measures in Switzerland and Australia

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## Abstract:

This paper explores approaches of two truth seeking commissions, the Australian Royal Commission into Institutional Responses to Child Sexual Abuse and the Swiss Independent Expert Commission (IEC) on Administrative Detention. It examines how the differing personnel compositions, mandates, and framing of issues in these two commissions shape their discursive practices in the form of recommendations and the broader national responses to institutional abuse. Based on their distinctive mandates, the Australian Royal Commission, as an official national truth commission, driven by practitioners with direct experience in law, mental health, and advocacy, adopts a forward-looking approach that emphasizes preventive measures and the protection of children in the present and future. In contrast, the Swiss IEC, as an academic research-led truth commission, composed mainly of academic scholars, focuses on historical analysis aimed at acknowledging and understanding past injustices. This results in divergent recommendations, with the Australian commission prioritizing systemic reforms for current child safety and the Swiss commission concentrating on historical redress, memory work and research-driven approach to preventing future abuses. The findings underscore the significance of context in shaping the outcomes of truth-seeking regimes in different national settings.



## Introduction

State-led inquiries play a crucial role in addressing historical abuses, as they present a comprehensive mechanism for admitting past injustices and providing a platform for victims to share and convey their experiences to the public.<sup>1</sup> These inquiries often open-up a way to legal and policy reforms, aimed at preventing the recurrence of similar abuses, and fostering the process of social healing (Hayner, 2011, p. 5). A collective memory of a nation or society develops, when these inquiries document abuses and create official records, encouraging societal reflection and dialogue around these harms (Boraine, 2006, p. 18). Extensive research has been devoted to these inquiries.<sup>2 3</sup> While this research has largely focused on implementing Truth Commission recommendations (Moffett, 2019; Skaar, 2019), there is a notable gap in studies exploring how these recommendations are shaped in the first place.

This study specifically explores the recommendations from two state-led investigations in Switzerland and Australia regarding cases of compulsory social measures. It compares two distinct approaches for seeking truth and making recommendations, investigating how different frameworks present varying discursive practices.

In Switzerland, tens of thousands of children and (young) people were subjected to compulsory social measures and placements until 1981, suffering severe physical, psychological, and sexual abuse. These measures included forcing children, known as *Verdingkinder* or 'contract children', to work on farms where they faced exploitation and abuse. Others were placed in harsh residential institutions or administrative detention without criminal charges, subjected to forced abortions, sterilizations, adoptions, and even medical experiments without consent.

In response to these injustices, the Swiss government took steps to address this dark chapter of its history. Between 2010 and 2013, formal apologies were issued, leading to the creation of the Federal Act on Compulsory Social Measures

<sup>1</sup> This article draws on research supported by the NRP76 grant 26042593

<sup>2</sup> See for example Van der Merwe for an overview of more than 70 countries (Van der Merwe et al., 2009).

<sup>3</sup> See, for example, Priscilla Hayner (2011) who has provided foundational work on the global rise of truth commissions, analyzing their processes and outcomes, while highlighting the importance of context in determining their success in achieving justice and reconciliation. Mark Freeman (2006) offers a comprehensive analysis of different truth commissions worldwide, highlighting their role in restorative justice, while Paul Gready (2011) explores the long-term effects of truth commissions in terms of institutional reform and victim rehabilitation. Catherine Cole's work (2019) analyses the role of cultural memory and performance in the aftermath of South Africa's truth commission. In the context of truth commissions in colonial and post-colonial settings, Karen Engle's (2020) research has brought attention to the limitations of truth commissions in addressing colonial legacies (Cole, 2010; Engle, 2020; Freeman, 2006; Gready, 2011; Hayner, 2011).



and Placements prior to 1981 (CSMPA) in 2014. The act provides a framework for acknowledging these injustices, offering financial compensation, counselling and support services. In the same year, an Independent Expert Commission (IEC) on Administrative Detention was established to further investigate these historical abuses, with a particular focus on cases of administrative detention (Federal Office of Justice, 2024). This initiative was followed in 2017 by the launch of National Research Programme 76 (NRP 76), which was tasked to go beyond a focus on administrative detention and to examine compulsory social measures more broadly. This program aimed to enhance the understanding of present-day social and legal frameworks, thereby contributing to shaping the future (Swiss National Science Foundation, 2025).

In contrast, the Australian Royal Commission into Institutional Responses to Child Sexual Abuse was established in 2013, as part of the government's broader nation-building agenda. Between 2010 and 2013, a wave of legislative changes brought significant reforms, particularly in education and disability insurance. The Royal Commission focused on addressing past injustices to ensure a safer future for children, serving as a significant element of Australia's drive for secular modernization (Gleeson & Ring, 2020, p. 2).

The inquiries in both Switzerland and Australia serve as a form of truth commission, however with differing frameworks. Freeman (2006) has defined a truth commission as:

A truth commission is an ad hoc, autonomous, and victim-centred commission of inquiry set up in and authorized by a state for the primary purposes of (1) investigating and reporting on the principal causes and consequences of broad and relatively recent patterns of severe violence or repression that occurred in the state during determinate periods of abusive rule or conflict, and (2) making recommendations for their redress and future prevention (Freeman, 2006, p. 13).

The Australian inquiry qualifies as an official national truth commission (Gleeson & Ring, 2020, p. 3), while Switzerland's IEC functions as an academic research-led commission (Paixão, 2019, p. 20).

This analysis is based on Foucault's theory of the 'regime of truth', which emphasises that each society develops its own 'politics of truth'. Foucault's concept of the 'regime of truth' is crucial to understanding how truths are constructed and validated in societies through institutional practices, discourses, and power structures. Foucault (1980) states that a 'regime of truth' is not only about what is considered true or false; rather, it is established in a society through long procedures, mechanisms and discourses. This framework describes the interwoven connection of power and dissemination of knowledge, stating that the accepted truth or falsehood is often a reflection of power dynamics. (Foucault & Gordon, 1980). Further, he describes his idea of the 'politics of



truth,' which refers to the ways in which methods of producing and validating truth are shaped by power relations. (Foucault, 1995, p. 26). These power relations allow only the power holder to speak the truth, legitimise knowledge, and grant power to certain institutions for producing it. In the context of truth commissions, their formation, given mandate, and compilation of inquiries directly influence their results and the 'truth' they produce.

State-led inquiries, such as the Australian Royal Commission and the Swiss Independent Expert Commission (IEC), can be investigated by using the framework of 'regimes of truth'. These commissions involve not only the documentation of past abuses, but they also engage in institutional processes for producing certain narratives around those injustices. Foucault's concept of discourse is crucial in understanding how these commissions frame problems like child abuse and compulsory social measures. These discourses are not only ways of describing reality, but they also shape and construct it.

Drawing on Foucault's concept of discourse as the foundation of 'truth' and the institutions that produce it, this study maps the 'regimes of truth' emerging from the Swiss and Australian commissions. It examines how elements such as each commission's formation, composition, issue framing, and mandate shape their respective 'regimes of truth.'

I argue that these structural factors that shape these two truth commissions — personnel, mandate, and framing—construct specific distinct discursive narratives about the abuses under investigation, ultimately leading to distinct discursive practices reflected in their recommendations. The Swiss IEC, driven by academic research, focuses on historical documentation and scholarly explanations of administrative detention, resulting in recommendations centred on memory work, victim rehabilitation and a research-based approach to examine past abuses to help prevent similar issues in the future. In contrast, the Australian Royal Commission prioritizes the prevention of future abuses, leading to recommendations for systemic reforms and the establishment of safeguarding bodies like the National Office for Child Safety.

These two cases were chosen to comprehensively compare how different types of truth commissions, that is the Royal Commission as an official national truth commission in Australia versus the IEC as an academic research-led truth commission in Switzerland influence the framing of issues and the resulting discursive practices in the form of recommendations. The choice of these cases thus ensures a more nuanced analysis, capturing the diverse ways in which power, history, and social structures shape regimes of truth and their outcomes.

This article delves into a comparative analysis of recommendations of the Swiss and Australian commissions. The study is grounded in an investigation of key reports: the Schlussbericht by the Swiss IEC (Germann et al., 2019) and the Annual Progress Report by the Australian Royal Commission (Commonwealth of



Australia, 2018). Space constraint has compelled the study to focus on selected recommendations to extract the broader argument.

This study frames its analysis as a comparison between the Australian Royal Commission into Institutional Responses to Child Sexual Abuse and the Swiss Independent Expert Commission (IEC) on Administrative Detention. Hence, all references to the Swiss case pertain specifically to the IEC, all references to the Australian case pertain specifically to the Australian Royal Commission. However, I do acknowledge the relevance of other truth commissions on similar issues in both Australia and Switzerland, such as the National Research Programme 76 (discussed below).

## Background information

The establishment of the Royal Commission in Australia and the Independent Expert Commission (IEC) in Switzerland reflects distinct political contexts that have shaped the scope and focus of their work.

### Setting up an academic research-led truth commission: Political conditions of production and composition of the Swiss IEC

Based on the mandate and personnel composition of the Swiss IEC, this commission can be classified as an academic university-led truth commission. The Swiss IEC positions itself among a broader international movement of truth commissions and inquiries that have emerged in recent years. These efforts reflect an increasing focus on addressing historical injustices linked to democratic welfare states in the post-World War II period.

The Swiss IEC was established following the passage of legislation aimed at rehabilitating individuals subjected to administrative detention. The Swiss Federal Council tasked the IEC with conducting a scientific and historical investigation into the use of compulsory social measures and forced placements prior to 1981. However, unlike the other commissions, its mandate was explicitly retrospective, oriented towards a historical reappraisal rather than addressing ongoing issues. This focus aligns with Switzerland's broader 'Erinnerungspolitik' or memory work (a national memory), which seeks to acknowledge and understand past injustices through historical inquiry, thus contributing to collective memory.<sup>4</sup> (Germann et al., 2019, p. 20) No immediate policy reforms were sought but the dissemination and use of the research are envisaged. This includes raising awareness among the public, authorities, institutions, and

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<sup>4</sup> The Swiss IEC states that «Die Entwicklung in der Schweiz ist in diesem Kontext insofern eine Ausnahme [...als das] der historischen vor einer juristischen Aufarbeitung Priorität [eingeräumt wurde].» ('The development in Switzerland is an exception in this context [...in that] historical investigation was given priority over legal proceedings.' (translation by the author)) (Germann et al., 2019, p. 20)



private individuals involved in compulsory welfare measures and out-of-home placements under current law (Bundesversammlung der Schweizer Eidgenossenschaft, 2014).<sup>5</sup>

Due to its mandate, the Swiss regime of truth is academically orientated, with its members primarily drawn from university settings. The commission includes scholars such as Prof. Dr Lukas Gschwend and Prof. Dr Martin Lengwiler, whose expertise lies in historical analyses, legal studies, and the social sciences. This composition emphasizes scholarly research and historical contextualization, reflecting a model of truth-seeking that prioritizes academic rigour and systematic exploration of historical and legal contexts over the practitioner-based approach seen in Australia (Unabhängige Expertenkommission, n.d.).

### **Setting up an official national truth commission: The Australian Royal Commission**

The Australian Royal Commission was initiated in response to a Letters Patent, which directed it to investigate institutional responses to allegations and instances of child sexual abuse (Australian Government, 2013). The Letters Patent required the Royal Commission to *'inquire into institutional responses to allegations and instances of child sexual abuse and related matters'* and produce findings and recommendations to *'better protect children against sexual abuse and alleviate the impact of abuse when it occurs'*. It is important to note that 'occur' is in the present tense, meaning that ongoing sexual abuse should be prevented rather than conducting a broad historical reappraisal. This directive led the Royal Commission to concentrate narrowly on sexual abuse, excluding

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<sup>5</sup> The IEC was conceived as a preparatory phase aimed at investigating historical practices, with the expectation that a second academic truth committee, the National Research Programme (NRP76) would follow, conducting further research and issuing recommendations.

In 2017, the NFP76 was tasked with deepening and expanding upon the work previously conducted by the IEC. (Leitungsgruppe NFP76, 2024, p. 9), looking at a wide range of compulsory social measures.

The NRP76 explicitly situates its work within a forward-looking paradigm. The program is not merely an exercise in historical documentation but is designed to make an impact in the present and future by drawing lessons from past experiences.

Structurally, NRP 76 is predominantly academic in its orientation, with limited involvement from practitioners working directly in the field. The composition of the research team reflects a commitment to rigorous scholarly analysis in the first place.

The mandate of NRP 76, as assigned by the Swiss Federal Council, was designed in order to *'die Bedeutung der historischen Aufarbeitung für die Schaffung von Gerechtigkeit zu berücksichtigen und ausgehend von der Vergangenheit den Versuch zu unternehmen, die Gegenwart zu verstehen, um die Zukunft besser gestalten zu können'* [*'take into account the significance of historical inquiry for achieving justice and, building on past experiences, to attempt to understand the present in order to shape the future more effectively.'*] (Knüsel et al., 2024)). It is important to note that the mandate emphasizes an attempt to understand and shape the future, rather than prescribing a definitive course of action.

The program aims to develop *'Grundlagen für künftiges Handeln in Politik und Praxis'* [*'foundations for future action in policy and practice,'*] (Leitungsgruppe NFP76, 2024, p. 9) This suggests that the program aims to establish a foundation for potential future action in policy and practice through research, rather than issuing explicit policy recommendations (Leitungsgruppe NFP76, 2024, p. 9).





other forms of child abuse (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, p. 7). Importantly, the Commission itself recognizes that the requirement to examine child sexual abuse in an institutional context gives them a narrower focus than most governmental and non-governmental institution redress schemes have had.

Based on its mandate, practitioners with direct experience in the relevant fields predominantly influence the Australian regime of truth. Members of the Royal Commission into Institutional Responses to Child Sexual Abuse, including Justice McClellan and Commissioner Helen Milroy, come from diverse backgrounds including law, policing, mental health, and advocacy. These commissioners bring practical, ground-based expertise to their roles, having worked with families, children, and vulnerable populations. This practitioner-oriented approach reflects a model of truth-seeking that prioritizes applied experience and direct engagement with affected communities (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017). This allows the commission to frame its recommendations around immediate, actionable measures to prevent future abuse and address ongoing issues within institutions. The commissioners' backgrounds in dealing directly with vulnerable populations and their firsthand experiences with the consequences of institutional failures likely contributed to recommendations that emphasize robust, proactive measures, such as the establishment of the National Office for Child Safety, and systemic reforms designed to protect children in the present and future.

Also comparing the chairs of the two commissions, that were appointed on the basis of the mandate, is revealing. Importantly, the Swiss Commission is chaired by Dr. Dr. h.c. Markus Nötter, a jurist by training who before his retirement worked as a policy administrator (Unabhängige Expertenkommission, n.d.). Furthermore, he served as the chair of the Foundation for Minorities in Switzerland (Gesellschaft Minderheiten in der Schweiz, n.d.) and the Foundation for the Future of Travellers (Schweizerische Eidgenossenschaft, n.d.), whose children were also deliberately placed in out-of-home care. As a result, he possesses expertise in this field. The chair of the Australian Commission is Justice Peter McClellan, who is a Judge of Appeal in New South Wales (Royal Commission into Institutional Responses to Child Sexual Abuse, n.d.).

The contrasting backgrounds of the chairs of the Swiss and Australian commissions highlight important differences in the leadership styles and the orientation of these truth regimes, which influence both the commissions' approaches and the outcomes of their work.

The chair of the Swiss Independent Expert Commission (IEC), a retired political leader, suggests an institutional and bureaucratic approach, emphasizing governance, consensus, and historical analysis in line with Switzerland's cautious political culture. This, combined with the academic composition of the



commission, prioritizes research and memory work. In contrast, the Australian Royal Commission, chaired by a lawyer, took a legalistic, justice-oriented approach, focusing on fact-finding, survivor engagement, and accountability. The legal expertise of the chair contributed to strong recommendations for systemic reform, redress, and future abuse prevention.

### **Discursive framing of the issue by the two truth commissions**

The Royal Commission into Institutional Responses to Child Sexual Abuse, as an official national truth commission, presents the issue as a discourse of practitioners on the ground. It frames the problem primarily within the context of sexual abuse in residential institutions, effectively narrowing the focus and, consequently, silencing other forms of abuse in diverse settings. Interestingly, the Royal Commission itself disapproves of this narrow focus, as the scope of our Letters Patent does not extend to addressing claims of physical abuse, neglect, or emotional and cultural harm unless these experiences occurred alongside child sexual abuse within an institutional context. The members of the Royal Commission regret that the mandate does not permit to consider redress for all individuals who were in state care, former child migrants, or members of the aboriginal '*Stolen Generations*' unless they specifically suffered child sexual abuse within an institutional setting (Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).<sup>6</sup>

The Commission emphasizes the recognition and condemnation of institutional child sexual abuse, portraying it as a long-standing issue that demands national acknowledgement. Survivors are portrayed with respect and elevated status, whose stories are vital for understanding the problem and informing future preventative measures. 'The survivors are remarkable people with a common concern to do what they can to ensure that other children are not abused. They deserve our nation's thanks' (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, p. 2).

This framing contributes to a national narrative that equates sexual abuse with severe, pervasive trauma, using strong condemnatory language to describe the abuse as 'one of the most traumatic and potentially damaging experiences', 'a national tragedy' and a 'fundamental breach of trust' (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, p. 5). However, the emphasis on trauma, framed through professional terminology, limits the discourse by sidelining other psychological consequences of sexual abuse, such as emotional and dissociative disorders. While the Commission's approach

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<sup>6</sup> The original text from the Redress and Litigation Report reads: '*We do not accept that our Letters Patent allow us to consider redress for those who have suffered physical abuse or neglect, or emotional or cultural abuse, if they have not also suffered child sexual abuse in an institutional context. Also, we do not accept that our Letters Patent allow us to consider redress for all of those who were in state care, who were child migrants or who are members of the Stolen Generations, regardless of whether they suffered any child sexual abuse in an institutional context.*' ((Royal Commission into Institutional Responses to Child Sexual Abuse, 2015, p. 6)





effectively highlights the gravity of institutional sexual abuse, it simultaneously constrains and silences the broader understanding of abuse and its varied impacts, potentially overlooking the complexity of survivors' experiences, despite their potentially equally devastating impacts. For example, child migrants and members of the Stolen Generations—groups who faced systematic abuse—are only included if sexual abuse in an institution occurred, neglecting broader harms like cultural displacement, physical abuse, or forced labour. While this allows for a concentrated inquiry, it risks overlooking significant dimensions of abuse that merit public acknowledgement and reparative measures. Although the Australian Royal Commission explicitly condemns past abuses, it frames them as part of a broader, ongoing failure to protect children, advocating for redress both for past and potential future abuses.

The Swiss IEC, as an academic truth commission, owing to its personnel composition of academics and to its mandate, presents its findings through a '*wissenschaftliche Synthese*' (scientific synthesis) focusing solely on administrative detention and excluding other compulsory social measures (which are addressed in other research programs like the Swiss National Research Programme 76). The Swiss IEC frames the issue of administrative detention as a historical injustice. Administrative detention is described as a '*historisches Ereignis*', which should be explained using the concept of '*historische Erklärungen*' acknowledging the limitations that come with it, such as sketchy historical records (Germann et al., 2019, p. 31). It frames the issue primarily within the context of administrative detention, effectively narrowing the focus and, consequently, silencing other forms of compulsory social measures in diverse settings. Due to its mandate, coming from law, the problem is framed within legal-administrative terms, with a strong emphasis on past-tense narratives, which reinforces the perception of administrative detention as a bygone issue, disconnected from contemporary relevance.

## Approaches to addressing abuse via recommendations

These commissions exhibit divergent approaches in handling abuse and rehabilitation in their recommendations based on their functions as an official national truth commission and an academic research-led truth commission, and their different setups in terms of mandate, composition and ultimate framing of the problem.

The Royal Commission's recommendations are predominantly forward-looking, aiming to enhance the protection of children in contemporary residential institutions and other settings. This future-oriented focus is evident in the commission's 17-volume final report, which emphasises recommendations aimed at improving the prevention, detection, and response to child sexual abuse in current institutional settings (Royal Commission into Institutional Responses to Child Sexual Abuse, 2015). This approach reinforces the commission's commitment to contemporary safeguarding measures. Only one volume,



'Redress and Civil Litigation', is specifically addressing redress for victims of historical abuse.

At the same time, the Australian Royal Commission recommends establishing robust oversight systems to ensure the recommendations are effectively implemented.

In contrast, the Swiss IEC's recommendations are rooted in a historical reappraisal, focusing primarily on achieving reconciliation and reparative justice for those affected by compulsory social measures before 1981. The IEC's recommendations, emphasize redress measures such as financial compensation, formal apologies, and access to personal files for the affected individuals. The commission's work, while acknowledging that '*questions of yesterday are questions of today*' recommends a research-based approach to understanding past abuses which should also help to prevent similar issues from arising today (Metraux et al., 2019). The recommendations of the two regimes of truth will be discussed in the subsequent sections, framed within distinct thematic contexts.

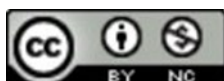
### **Different discursive practices across the two regimes of truth**

The themes presented by the Australian Royal Commission differ from those in the Swiss IEC. However, similar considerations were also observed, which are highlighted here.

## **Recommendations by the Australian Royal Commission**

### **Australian Royal Commission's Theme 4 – 'Criminal Justice and the Protection of Children'**

Theme 4, which is deeply rooted in a legal framework, centres around Working with Children Checks (WWCCs) in Australia that are a crucial component of a broader framework aimed at ensuring child safety within institutions. These checks serve to prevent individuals with known histories of child-related offences from engaging in work or volunteer activities involving children. However, the effectiveness of WWCCs is limited because they rely on prior reports or convictions, which only identify individuals, previously documented for such offences. Over-reliance on WWCCs can foster a false sense of security and may contribute to complacency in child protection efforts. To achieve comprehensive child safety, it is essential to implement a multifaceted strategy that includes



strong leadership, effective governance, robust recruitment practices, and ongoing training (*Working with Children Checks Report*, 2015, pp. 3–5).<sup>7</sup>

To further enhance child safety, a national approach to WWCCs has been recommended by the Royal Commission. This approach would involve standardizing the WWCC process, making checks portable across jurisdictions, and improving information sharing between states and territories. These reforms are crucial for better protecting children in Australia, and their implementation would represent a significant step forward in the country's child protection framework (*Working with Children Checks Report*, 2015, p. 60).

In a similar vein, in Switzerland, on December 13, 2013, the Swiss Parliament passed the 'Federal Act on Activity Bans and Contact and Exclusion Orders' (Amendment to the Criminal Code, Military Criminal Code, and Juvenile Criminal Law). These legal amendments, which took effect on January 1, 2015, established the legal basis for activity bans and replaced the previous professional ban. These legal amendments were not recommended by the Swiss IEC (as it was the case in Australia) but resulted from the implementation of a 'Volksinitiative' (popular initiative).<sup>8</sup>

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<sup>7</sup> The current state-by-state WWCC schemes are characterized by inconsistencies, complexities, and a lack of integration, which render significant gaps in child protection. One such gap is the inability to share information across jurisdictions, which creates opportunities for 'forum shopping', where individuals with adverse records in one region may obtain clearance in another. In response to these challenges, the government established a Working with Children Checks report working group, which developed the National Standards for WWCCs. These standards are aligned with the recommendations from the WWCC report and are intended to prevent ongoing sexual abuse by addressing the identified shortcomings. (*Working with Children Checks Report*, 2015, p. 60)

<sup>8</sup> Under this new legislation, convicted offenders who have violated the sexual integrity of a minor or a particularly vulnerable person permanently lose the right to engage in professional or voluntary activities with these groups (mandatory lifelong activity ban). These new prohibitions are enforced, among other means, through the instrument of the special private criminal record extract (Netzwerk 'Prävention sexueller Gewalt gegenüber Kindern und Jugendlichen im Freizeitbereich', 2020).



## **Australian Royal Commission's Theme 5 – Accountability and Annual Reporting**

The Royal Commission's framing of the problem as an ongoing abuse and trauma and the moral imperative to protect children reinforces the urgency of implementing its recommendations.

The theme addresses the current accountability measures of the Australian government, states, and territories concerning their response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. Notably, this accountability pertains to present actions rather than addressing past instances of child abuse. The key recommendations outlined include:

The Australian Government and state/territory governments have provided a formal response six months after the Final Report by the Royal Commission and conduct annual public reporting on the progress of implementation over five years, followed by a comprehensive review after ten years to assess the effectiveness of these measures.

Additionally, the preservation of the Royal Commission's website throughout the duration of the national redress scheme was advised, alongside the commissioning of a national memorial for victims and survivors in Canberra, which was developed with input from survivors (Commonwealth of Australia, 2020, p. 134).

the Australian Government's response to these recommendations has been notably comprehensive. The government has not rejected any of the Royal Commission's recommendations; instead, all have been either accepted, noted (particularly when they were considered the responsibility of state and territory governments), or are under further consideration. This commitment is reflected in the Annual Progress Report 2018, which details the current status of the implementations of the Royal Commission's 409 recommendations. (Commonwealth of Australia, 2020)

The involvement of other non-governmental institutions, such as the Catholic Church, in responding to the Royal Commission's recommendations further illustrates the broad engagement with the Commission's findings (Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).

This approach contrasts sharply with the situation in Switzerland, where the recommendations made by the Independent Expert Commission (IEC) regarding coercive welfare measures have largely not been implemented. Switzerland's absence of structured monitoring and reporting mechanisms could explain the limited accountability and slow progress in addressing the Commission's recommendations. This comparison highlights the importance of ongoing



oversight and transparency in implementing measures intended to redress past abuses and prevent future occurrences.

While Australia has taken a proactive stance by integrating the Royal Commission's recommendations into broader social policy frameworks, the Swiss approach remains more retrospective and research-based, with less emphasis on implementing comprehensive measures of social policy to prevent future abuses. This divergence highlights the different ways in which the two countries address the legacies of past abuses and their efforts to ensure such abuses do not recur in the future.

### **Recommendations by the Swiss IEC – Themes 2 and 3**

The IEC's recommendations as regards themes 2 and 3 are framed within a scientific expert discourse (*'Die Forschungsarbeiten der UEK haben bestätigt... [the research works of the IEC have confirmed...]* (Germann et al., 2019, p. 373)), focusing on the rehabilitation of those who were subjected to compulsory social measures. Theme 2 of the IEC's recommendations highlights the marginalization and isolation experienced by victims of compulsory measures, noting that these individuals were often denied opportunities for social participation. The IEC recommends the creation of spaces and instruments to mitigate these restrictions, such as substantial financial support for civic engagement, the creation of forums for political exchange, and the establishment of comprehensive financial support for individual and collective projects. The goal is to enable these individuals to participate more fully in public debates and political mobilizations, which they were historically excluded from (Unabhängige Expertenkommission, 2019, p. 376).

Theme 3 addresses the lack of access to education, which is identified as part of a vicious cycle involving economic precarity, social exclusion, and limited opportunities for civic participation. The IEC notes that victims of compulsory welfare measures were often subjected to forced labour with minimal educational or therapeutic support, affecting their long-term economic performance and social integration. In response, the IEC recommends measures to enable these individuals to exercise their right to education, including free access to training courses, museums, and public cultural and sports activities. This focus on redressing past educational disadvantages is not mirrored in the Australian recommendations, which are more concerned with current and future protections. While the IEC's recommendations are robust in their emphasis on historical redress, less focus is given to preventing future abuses.

### **Similar discursive practices across the two regimes of truth**

The Australian Royal Commission and the Swiss Independent Expert Commission (IEC), as two regimes of truth, share various more or less similar themes which are also evolving around redress and prevention.



## Discursive practices calling for redress of survivors of past abuses

Theme 2 Causes, Support and Treatment of the Royal Commission into Institutional Responses to Child Sexual Abuse delves into the complexities surrounding the reasons why child sexual abuse occurs within institutions. Also, necessary support mechanisms for children who are exhibiting harmful sexual behaviours are addressed. This theme is particularly focused on acknowledging the profound trauma experienced by survivors and emphasizes the importance of providing comprehensive support to facilitate their recovery. Theme 2 also advocates for the establishment of the National Center for the Prevention of Child Sexual Abuse and a national study on the current prevalence of child maltreatment (Royal Commission into Institutional Responses into Child Sexual Abuse, 2017, p. 42), both of which were put into practice.<sup>9</sup> This theme widens its focus to include targeted support for victims and survivors of past abuse, emphasizing the need for trauma-informed services.

Theme 3 Responses to Abuse (Redress and Litigation Report) of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse in Australia focuses on redress for survivors of historical child sexual abuse within institutional settings. The Commission's work, grounded in extensive evidence from public hearings, private sessions, and written testimonies, culminated in the 'Redress and Civil Litigation Report' (Royal Commission into Institutional Responses to Child Sexual Abuse, 2015) .

This report provides comprehensive recommendations for addressing the severe, lifelong impacts of abuse experienced by survivors. Based on these recommendations, the National Redress Scheme for Institutional Child Sexual Abuse was established under the National Redress Scheme for Institutional Child Sexual Abuse Act 2018. The scheme offers survivors access to counselling and psychological care, a direct personal response from the institution responsible for the abuse, and financial compensation, ranging from \$10,000 to \$150,000, based on individual circumstances.

In response to the Royal Commission's recommendations, the Australian government introduced a legal advice and assistance service alongside an information, referral, and support service. These services provide victims and survivors with essential information and trauma-informed legal advice regarding their options (Royal Commission into Institutional Responses into Child Sexual Abuse, 2017, p. 27). This legal support was a significant addition that was notably desired by participants in Switzerland's survivors, (Bundesamt für Justiz, 2013), but only partially addressed through non-legal information services

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<sup>9</sup> In 2021, the National Center for Action on Child Sexual Abuse was established. (*The National Centre for Action on Child Sexual Abuse*, 2024)





(Anlaufstellen)(Mottier et al., 2024; Eidgenössisches Justiz und Polizeidepartement EJPD, 2014).<sup>10</sup>

Additionally, under Theme 2, the Australian Psychological Society conducted further research into complex trauma, resulting in recommendations on best practices for treating survivors who have experienced complex trauma. This focus on evidence-based research approaches highlights the Royal Commission's commitment to ensuring that survivors receive the most effective support for their recovery. This commitment parallels efforts in Switzerland, but with a stronger emphasis on current and ongoing therapeutic interventions (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, p. 46).

Theme 1 Rehabilitation of victims of compulsory social measures by financial contributions by the Swiss IEC discusses the ongoing social, financial, physical, and psychological hardships faced by victims of coercive welfare measures in Switzerland. IEC identified that difficulties stem directly from their disrupted life courses, which are marked by forced placements and administrative detentions. The text highlights the severe marginalization, stigmatization, and detrimental conditions experienced in these institutions, which lead to lasting health and social integration challenges. The IEC recommends additional financial support beyond existing emergency aid and solidarity contributions<sup>11</sup> to improve their quality of life. Proposals include lifetime rail passes, tax relief, a medical expense fund, a special lifelong pension independent of social welfare, and the removal of deadlines for claiming solidarity contributions. These measures aim to address the enduring impacts of coercive welfare practices and the responsibility of authorities in mitigating these harms (Unabhängige Expertenkommission, 2019, pp. 373–374).

In contrast to Australia, the solidarity contribution is intended for all victims of coercive welfare measures, not solely those who suffered sexual abuse within institutions. Despite the IEC's recommendations, the removal of deadlines for claiming solidarity contributions has only been implemented so far. The contrast highlights differences in political will and public recognition of historical injustices, Switzerland's limited response reflects broader challenges in addressing past state-led abuses within its current political framework.

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<sup>10</sup> In Switzerland, we find divergent frameworks through which state and institutional actors, on the one hand, and victim activists, on the other, conceptualize the political process. While the former operates within the paradigm of restorative justice, the latter invoke the normative framework of criminal law. Many victim activists seek to attribute individual culpability and advocate for punitive measures, interpreting the authorities' reluctance to pursue legal avenues as a profound injustice. (Mottier et al., 2024, p. 79)

<sup>11</sup> The Federal Act on Compulsory Social Measures and Placements prior to 1981 (CSMPA) entitles victims of administrative detention to a solidarity contribution, which serves as a recognition of the injustice they have suffered and is intended to contribute to redress (Bundesgesetz über die Aufarbeitung der fürsorglichen Zwangsmassnahmen und Fremdplatzierungen vor 1981 (AFZFG), 2016)



## **Discursive practices calling for the prevention of the recurrence of past abuses**

Overall, while both regimes of truth emphasize the importance of addressing prevention measures of child sexual abuse, their approaches to achieve this differ in part. In both contexts, research is seen as a critical tool for uncovering the systemic issues that allowed such abuses to occur, thereby informing more effective prevention strategies.

However, due to its mandate, Australia's approach extends beyond research. The Australian strategy includes a broader array of social policy measures designed to make institutions safer for children. Notably, the Australian Royal Commission advocates for the establishment of a National Office for Child Safety, which would play a central role in coordinating efforts to protect children in institutional settings. This office would not only conduct extensive research but also implement and monitor practical measures that directly contribute to child safety, reflecting a more proactive and comprehensive approach to preventing future abuses (Commonwealth of Australia, 2018, p. 26).

The Australian framework also involves the development of a National Strategy to Prevent Child Sexual Abuse, which, like Switzerland's IEC, incorporates survivor involvement. However, unlike Switzerland, which focuses on historical cases, Australia's strategy addresses ongoing issues such as online child safety and safe sports environments.

Finally, the Australian safety measures extend across diverse environments, including the Australian Defence Force and detention settings (Commonwealth of Australia, 2018, p. 17). A notable parallel with Switzerland is the emphasis on archival practices. In Switzerland, the IEC recommends establishing archives to preserve documents related to the life courses of victims of coercive welfare measures, often in collaboration with existing archival institutions (Unabhängige Expertenkommission, 2019, p. 383). Similarly, the National Archives of Australia has issued guidelines for the management of documents related to child sexual abuse incidents, ensuring that survivors can access their records. This access is crucial for enabling disclosures and supporting claims related to past abuse.

The Swiss IEC's Theme 4 focuses on the production and dissemination of knowledge, framed under the title 'Rehabilitation of Victims of Compulsory Welfare Measures through the Production of Knowledge and Its Dissemination'.

The Swiss approach does not incorporate the same level of prescriptive institutional and social policy reform or forward-looking protective measures as Australia's broader child protection strategy.

However, the IEC emphasizes that the history of administrative detention, as documented in its findings, must be meaningfully addressed through concrete



political measures, some of which necessitate new legal provisions. The IEC suggests this can be accomplished by building upon and expanding existing initiatives (Unabhängige Expertenkommission, 2019, p. 372).

In this vein, the IEC recommends initiatives to produce and disseminate further knowledge on this topic, with a focus on underexplored aspects of coercive measures, particularly through participatory research that includes the expertise of those directly affected. This approach aims to challenge traditional academic knowledge and to empower victims to reclaim authority over their histories by correcting official records that have shaped their lives.

Finally, as regards knowledge dissemination, the Commission advocates for the integration of coercive welfare measures into school curricula, developed in collaboration with affected individuals, as a fundamental part of Swiss history (Unabhängige Expertenkommission, 2019, pp. 377–378).

The IEC highlights the importance of preventing the recurrence of past abuses by questioning the normative, social, and legal frameworks that once justified coercive measures. The commission calls for an additional systematic study of current laws to identify groups currently deprived of rights under Swiss law. Additionally, the IEC recommends developing a critical approach to the social norms embedded in today's welfare practices. The IEC suggests the introduction of a training program on the issue of criminal, civil, and administrative measures aimed at restricting individuals' freedom today. This training would be open to all stakeholders involved in the current implementation of these measures (for example, in the fields of law, social work, and healthcare). It is primarily designed to raise awareness of the negative consequences that have sometimes been associated with applying some of these measures in the past (Unabhängige Expertenkommission, 2019, pp. 377–378).

## Conclusion

This paper has examined distinct approaches of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse and the Swiss Independent Expert Commission (IEC) on Administrative Detention. The similarities and differences highlight the varying national responses to addressing past abuses and preventing their recurrence.

We see how each commission's personnel, mandate, and framing of each commission establish particular discursive narratives about the abuses they investigate. These discursive narratives directly shape the recommendations, which can be understood as discursive practices—manifestations of how the commission interprets and responds to past abuses within their respective truth frameworks, of academic-research led truth commission versus as an official national truth commission. Thus, each commission's regime of truth shapes how



recommendations are framed—whether as tools for societal reflection and memory or as instruments of policy change and reform.

The final report of the Swiss National Research Programme 76 (NRP 76) further exemplifies this distinction. Unlike the Australian Royal Commission, which issues direct and prescriptive recommendations and follows up on their implementation, the NRP 76 does not issue formal recommendations but rather impulses, primarily conceived as 'Denkanstösse' —that is, stimuli for further reflection and discussion. This non-binding nature is explicitly acknowledged in the synthesis report, which states: 'Die Leitungsgruppe hofft, dass die Akteur:innen sie prüfen und in ihren Handlungs- und Berufsfeldern aufgreifen.' ['The steering group hopes [but cannot guarantee] that stakeholders will examine these recommendations and integrate them into their respective fields of practice.'] (Leitungsgruppe NRP76, 2024, p. 9). Rather than prescribing concrete policy measures, these impulses serve as suggestions, entrusting relevant stakeholders with the responsibility for their consideration and implementation. This contrasts with the Australian Royal Commission's structured and mandatory monitoring mechanisms, which ensure that recommendations are actively pursued and implemented.

From a Foucauldian perspective, the findings of this paper underscore how truth commissions are not neutral arbiters of fact but are embedded within a 'regime of truth' that reflects the power dynamics of the society in which they operate. By examining how these commissions produce and validate certain truths, we see that their institutional practices, mandates, and personnel shape not only the narrative of past abuses but also how societies respond to those truths.

According to Foucault's theory, truth is constructed through discourse, shaped by power relations, and maintained by the institutions authorized to produce it. The Australian Royal Commission, by focusing on trauma and institutional accountability, amplifies a discourse that mobilizes legal and policy reforms. The Swiss IEC, by contrast, constructs a historical discourse that emphasizes reflection over action, largely because its academic framework is oriented toward understanding past events to prevent similar abuses in the future. Both commissions show how power operates through truth-seeking mechanisms to define what is remembered, acted upon, or left unresolved.

The differences between the Australian and Swiss commissions highlight key practical implications for future truth commissions.

The findings suggest that future truth commissions must carefully consider how to set up their truth commissions, as their composition, mandate, and framing influence not only the scope of their investigations but also the broader societal impacts of their work. It should be taken into account that the set-up of a truth



commission also shapes the discourse that emerges from each commission, determining how past abuses are understood, addressed, and remembered.

As regards the legacy of the regimes of truth, the success of implementing of the recommendations is crucial to understanding their long-term impact (see Theme 5). This paper emphasizes the importance of not only issuing recommendations, but, as the case of the Australian Royal Commission demonstrates, also establishing structured mechanisms for monitoring and reporting their implementation. The absence of such mechanisms, as the cases of the IEC and NRP76 demonstrate, can result in limited accountability and slow progress in addressing a commission's recommendations. To enhance the impact and effectiveness of truth commissions, it is critical to implement robust systems for ongoing oversight and evaluation, ensuring that recommendations are effectively put into practice. Truth commissions can have significant national-level effects by identifying the institutions - and, in some cases, individuals - responsible for past crimes, while also generating recommendations to prevent such conditions' recurrence in the future.

In this way, truth commissions play a critical role in nation-building, as they seek to expose past injustices and contribute to a new democratic trajectory. By confronting historical grievances, these commissions help foster human rights, reconciliation, and peaceful coexistence in post-conflict societies (Brahm, 2007, p. 21). The implementation of well-monitored recommendations is thus essential to ensure that the truth commission's work leads to substantive societal change and helps to prevent future abuses.

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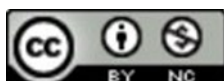
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