

## The Law and Poverty Report 40 Years On

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### Assumptions and Policy Making

The work of all official policy making bodies is underpinned by assumptions, explicit or implicit. The assumptions are often ideological in character, but they can reflect political or community perceptions as to the nature of problems requiring investigation and report. Either way, they influence if not dictate the outcome of the inquiries.

In the case of permanent statutory bodies, assumptions are built into the governing legislation. The functions of the Productivity Commission, for example, are skewed towards economic goals, such as promoting productivity, efficiency and international competitiveness.<sup>1</sup> The Human Rights Commission, by contrast, is obliged to ensure that its functions are performed with regard for the indivisibility and universality of human rights and the principle that every person is free and equal in dignity and rights.<sup>2</sup> While there is a degree of overlap in their functions,<sup>3</sup> it is not surprising that the Productivity Commission tends not to adopt a human rights perspective in its work and the Human Rights Commission tends not to regard international competitiveness or economic efficiency as its paramount objectives.

Some inquiries investigate past events on the basis that something has gone amiss and that remedial action is required. Sometimes the assumption is correct. For example, the terms of reference for the Royal Commission into Institutional Responses to Child Sexual Abuse rightly assume that over many years there have been unacceptable levels of child sexual abuse in Australia and that the responses of many institutions to abuse of children in their care has been woefully inadequate.<sup>4</sup>

<sup>1</sup> *Productivity Commission Act 1998* (Cth) ss 6, 8.

<sup>2</sup> *Australian Human Rights Commission Act 1986* (Cth) s 10A. The specific functions of the Commission are set out in ss 11, 31. None refers to economic concepts. The Commission is, however, obliged to perform its own functions 'efficiently': s 10A(1)(b).

<sup>3</sup> The *Productivity Commission Act 1998* (Cth) requires the Commission, among many other matters, to have regard to the need for Australia to meet its international obligations: s 8(1)(j). For an example of its approach to the legal system, see Productivity Commission, *Access to Justice Arrangements* (Inquiry Report No 72, 2014).

<sup>4</sup> The Royal Commission was established by Letters Patent dated 11 January 2013. The terms of reference can be viewed at <[www.childabuseroyalcommission.gov.au/about-us/terms-of-reference](http://www.childabuseroyalcommission.gov.au/about-us/terms-of-reference)>.

This is a preview. Not all pages are shown.