

Submission by International Social Service Australia to the
Senate Standing Committees on Community Affairs

March 2011

Inquiry into Commonwealth contribution to former
forced adoption policies and practices

Terms of Reference:

That the following matters be referred to the Community Affairs References Committee for inquiry and report by 30 June 2011:

- a) the role, if any, of the Commonwealth Government, its policies and practices in contributing to forced adoptions; and
- b) the potential role of the Commonwealth in developing a national framework to assist states and territories to address the consequences for the mothers, their families and children who were subject to forced adoption policies.

Submission:

International Social Service (ISS) Australia is a national charity with over 50 years' experience providing a range of social work services across international borders. ISS Australia works with those who are separated by international borders, with an emphasis on the best interests of the child. ISS Australia is the independent Australian arm of an international network spanning over 140 countries, based in Geneva, with advisory status at the United Nations. ISS Australia is an independent, not-for-profit, non-governmental organisation.

ISS Australia intends to address part b) of the Terms of Reference in this submission. In particular we would like to highlight the issue of accessing information as one of the issues faced by people who are affected by adoption that requires a national solution.

ISS Australia provides a post-adoption tracing and reunification service to assist people who have been affected by adoptions that have taken place across international borders. For example, a person may have immigrated to Australia and the adoption took place overseas or the adoption occurred here and subsequently one or more of the people concerned may have gone overseas.

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The majority of our clients are in the 40 years and over age bracket and inevitably this has meant a number of them have been subject to poor past adoption practice and policies including forced adoptions, the promotion of closed adoptions and the maintenance of secrecy. This has left some mothers and fathers with unresolved issues of grief and loss and the need to find out what happened to their son or daughter, or for the person who is adopted to understand what happened and to 'fill in the missing pieces' of their life and identity, something which the majority of us have the luxury of taking for granted.

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Anyone who has read accounts of or worked with clients who were subject to forced adoptions, whether mothers or fathers, would be hard pressed not to advocate for an apology, as the pain and suffering caused is clearly evident and continues to affect the present-day lives of those concerned. ISS Australia supports

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the call for an apology while acknowledging it is the mothers, fathers and children who were subject to such practices who must have the final say on the form and method of such an apology.

We would like to emphasise and recommend that an apology should and in fact can only be the first step in addressing the issues caused by the poor practices of the past. Regardless of who was at fault, an apology should be backed up by the implementation of appropriate policies and the allocation of resources allowing services in the post-adoption field to provide what, in our experience, those affected by adoption most require. This is the opportunity for equal access to counselling and information, and the opportunity for reunification with family members in a timeframe that takes into account the rapidly ageing demographic of this group.

ISS Australia believes a national framework could not only provide the opportunity for consistency and promotion of best practice across the country but also remove some of the barriers to clients accessing information in a timely way. Information is a precious commodity to those people affected by adoption. It is not possible to underestimate the importance of having access to birth and adoption records. It is to be commended that most, if not all, states and territories in Australia now have legislation providing those affected by adoption some level of access to their case files and identifying information, which will potentially provide answers and allow them to search for their family members.

Accessing birth records and identifying information, however, can take months. Further, once clients are in receipt of this information, the states and territories inadvertently proceed to tie one hand behind their back by allowing them only limited and sometimes costly access to additional information vital to the search process. An example of this is the restrictive nature of births, deaths and marriages (BDM) records. For instance, the NSW Adoption Act 2000 is more open than other Australian states legislation, therefore a NSW adoptee or parent named on the original birth certificate can apply to the NSW BDM Registry for various searches for their parent or child. However if the NSW adoptee or parent wishes to search for their family through other states and territories BDM Registries then this is often declined on the basis that the other state's or territories legislation does not allow the search.

This limits the adopted person or parent search avenues as often people moved inter-state or internationally, furthermore their journey to trace their parent or adopted child can end because of these restrictive privacy laws. By contrast internationally, our experience shows that following receipt of identifying information, it is easier and far quicker for ISS Australia to undertake a successful search of UK records via the internet or NZ records via our ISS NZ colleagues, than it is to access vital BDM records in this country.

We do not wish to criticise the BDM Registries, who in our experience will assist where legislation permits in providing information for the purpose of searching. However there is a lack of consistency across the country due to differing legislation and interpretation as to what information can be shared, particularly where an adoption took place in one state but the persons concerned moved to a different state. Accessing information can be a frustrating and slow process.

One solution to this would be to develop a national policy with regard to the release of BDM information solely for the purposes of post-adoption family tracing, ensuring consistency across the states and to allow clients timely access to information regardless

of their state or indeed country of residence. The policy could include the possibility of releasing information to an appropriate third party (for example, a recognised post-adoption agency) on a non-disclosure basis so as to protect the privacy of the person being sought.

Accessing information is a crucial part of the post adoption journey. Adoption policy in Australia in the last few years has changed so that people affected by adoption are being given access to their birth and adoption records. However what could then be a fairly straightforward process of going on to search for and locate family members has been made problematic by the difficulties in accessing BDM records.

ISS Australia recommends that as part of the development of a national framework the Commonwealth should take the lead in developing a national policy in respect of the release of BDM records for the purpose of post adoption tracing. This is to ensure that all people affected by adoption have equal access (including affordability) to vital records across Australia and it is not dependant on whether you reside in a particular state or territory.

Damon Martin
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