

# CHAPTER 1

## INTRODUCTION

### Terms of reference

1.1 On 18 September 2008 the Senate referred the following matter to the Community Affairs Committee for inquiry and report by the last sitting day in March 2009.<sup>1</sup> This date was subsequently extended till 25 June 2009.

Progress with the implementation of the recommendations in the reports by the Community Affairs References Committee, *Lost Innocents: Righting the Record*, a report on child migration tabled in August 2001, and *Forgotten Australians*, a report on Australians who experienced institutional or out-of-home care as children tabled in August 2004.<sup>2</sup>

### Conduct of the inquiry

1.2 The Committee's inquiry was focussed on the implementation of the recommendations from the earlier reports. The terms of reference did not provide scope for the Committee to undertake or reopen the broad range of issues that were covered in the earlier reports.

1.3 The inquiry was advertised in the *Australian* and on the Internet. The Committee invited submissions from Commonwealth, State and Territory governments and interested organisations and individuals.

1.4 The Committee received 64 public submissions and 13 confidential submissions. A list of individuals and organisations that made a public submission or provided other information that was authorised for publication by the Committee is at Appendix 1.

1.5 The Committee held five days of public hearings in Melbourne (30 March 2009); Perth (31 March); Brisbane (6 April); Sydney (7 April) and Canberra (8 April). Evidence was also taken by teleconference from Tasmania and South Australia. Witnesses who give evidence at the hearings are listed in Appendix 2.

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1 Following the restructuring of Senate Committees on 13 May 2009, the inquiry was continued by the Senate Community Affairs References Committee.

2 The *Lost Innocents* and *Forgotten Australian* reports are available at [http://www.aph.gov.au/senate/committee/clac\\_ctte/recs\\_lost\\_innocents\\_forgotten\\_aust\\_rpts/index.htm](http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/index.htm)

## The report

1.6 This report is divided as follows; Chapter 1 provides the background to the *Lost Innocents* and *Forgotten Australians* inquiries; Chapter 2 provides an outline of the evidence provided in relation to the implementation of recommendations dealing with national leadership, apologies, reparation and redress, and judicial inquiries and Royal Commissions; Chapter 3 outlines the evidence relating to delivery of services, preservation and access to records, and the operation of support groups; Chapters 5 and 6 provide a listing of all the recommendations made in each report and the former government's response to each recommendation and a comment on progress with implementation; Chapter 6 provides a discussion of the evidence on the major issues and contains the Committee's conclusions and recommendations.

## Background

1.7 30 August 2008 was the 7th anniversary of the tabling in the Senate of the *Lost Innocents* report and the 4th anniversary of the tabling of the *Forgotten Australians* report. The Community Affairs Committee agreed that it was time to update progress with the responses to its recommendations in these reports and sought the formal reference from the Senate.

1.8 Both of these inquiries had been established on the motion of former Senator Andrew Murray. He regarded the reports of these inquiries as rounding off a trilogy of reports on the treatment of children in Australia following the earlier report *Bringing Them Home* by the Human Rights and Equal Opportunity Commission.<sup>3</sup>

### *Lost Innocents: Righting the Record*

1.9 *Lost Innocents: Righting the Record* was the Committee's report on child migration to Australia under approved schemes during the twentieth century in which the British and Australian Governments entered into agreements for the migration of children to Australia. The schemes also included child migrants from Malta.

1.10 The operation of the child migrant schemes and the impact upon those involved had remained unknown to the general population for many years. Throughout the 1980s and 1990s, a growing number of concerns about the welfare of children who had been, or were still, in institutions and other child care arrangements were investigated. In 1985, the Senate Standing Committee on Social Welfare tabled its report *Children in Institutional and other Forms of Care: a National Perspective*.

1.11 Gradually, details of the history of child migrants were coming to light. A number of books were published on child migration, its history, the impact on the lives of former child migrants and the stories of individuals who were migrated to

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3 Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, April 1997, available at [http://www.hreoc.gov.au/social\\_justice/bth\\_report/index.html](http://www.hreoc.gov.au/social_justice/bth_report/index.html).

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Australia, Canada and New Zealand. *Empty Cradles* by Margaret Humphreys (1994) was a seminal work in this area. Child migration was also the topic of the television documentary *Lost Children of the Empire* (1989) and the mini-series *The Leaving of Liverpool* (1994). These publications led to a growing awareness and understanding of the history and issues surrounding child migration.

1.12 In November 1996 a Select Committee of the Western Australian Legislative Assembly tabled an Interim Report on child migration to WA, though an election intervened before further action was taken. In July 1998 the UK House of Commons Health Committee reported on an inquiry into aspects of child migration. The UK Government accepted the recommendations from the inquiry, resulting in some assistance for child migrants including support for a travel fund and tracing services.

1.13 During the late 1990s there had been a number of calls from different groups and individuals for an independent national inquiry into child migration to Australia, including calls for a joint or select parliamentary committee inquiry. The outcome of these calls was for the issue to be referred to the Committee in June 2000.

1.14 The Committee found that at the basis of the child migration schemes the Australian Government was the legislated guardian of the children but it then transferred responsibility for their care to State governments. In turn, the State governments transferred responsibility to receiving agencies.

1.15 While responsibility may have been transferred, the Committee heard during the inquiry that in many cases the duty of care and protection was not. Some child migrants made positive comments about their time in institutional care. Many others could only recall childhoods of loneliness, great hardship and privations. While under the custodianship of receiving agencies, there was a complete disregard for the needs, the safety and wellbeing of many child migrants.

1.16 The *Lost Innocents* report recognised that while some former child migrants have prospered in this country, have successful relationships with partners and children and never lost contact with family, many others are not in this position. The report illustrated the consequences of emotional deprivation and abuse in childhood, and the struggle such children face as adults to cope and contribute and to live fruitful and constructive lives.

1.17 The Committee detailed that the cost, both human and economic, of treating our children as described in the report is great. Equally grave, was that the damage done is passed on to subsequent generations.

1.18 Many of the submissions received by the Committee contained the most appalling stories of abuse and torment. The evidence received by the Committee overwhelmingly emphasised the dark, negative side of child migration—the brutality of life in some institutions where abuse and assault, both physical and sexual, was a daily occurrence and where hardship, hard work and indifferent care was the norm. Living such negative experiences led some child migrants into a life of family and

relationship breakdown and domestic violence, of crime and violence, and of substance abuse.

1.19 The child migration scheme is now universally recognised as having been fundamentally flawed with tragic consequences. Many of the sending and receiving agencies now recognise that the effects of the Scheme were profoundly damaging to many of the children involved and that they now share a continuing moral responsibility to the well-being of the former migrant children affected by their experience in the agencies' care.

1.20 The Committee acknowledged in *Lost Innocents* that child migration is a very emotive issue and that there is a diversity of strongly held views by individuals and groups. While the Committee was mindful that there were positive outcomes for many children from the child migration schemes, the overwhelming evidence of abuse and assault outlined in submissions and earlier reports remained the primary focus. The fundamental imperative for former child migrants of the recognition and acknowledgment of their past experience was constantly emphasised in evidence to the Committee.

1.21 Loss of identity, a sense of belonging and the loneliness of being far from home affected all child migrants. Thus, even though the report contains recommendations directed to the support of the most damaged former child migrants, there are many other recommendations such as those dealing with identity through access to records, family tracing, travel and reunion that will assist all former child migrants, their families and descendants who wish to access such information and services.

1.22 During the child migrant inquiry, the Committee also received submissions from Australian-born children who had been in institutional care; many of whom had lived in the same institutions as the child migrants. Whilst they were not removed from their country and culture, many suffered the same abuse and deprivations as child migrants in these and other institutions. Calls were made in evidence that a further inquiry should be conducted into these Australian-born children.

### ***Forgotten Australians***

1.23 In March 2003 the Committee duly received the reference on the Australians who experienced institutional or out-of-home care as children. The report *Forgotten Australians* was tabled in August 2004 after an extensive inquiry.

1.24 The Committee received hundreds of graphic and disturbing accounts about the treatment and care experienced by children in out-of-home care. Like the child migrants before them, many care leavers showed immense courage in putting intensely personal life stories on the public record. Their stories outlined a litany of emotional, physical and sexual abuse, and often criminal physical and sexual assault. Their stories also told of neglect, humiliation and deprivation of food, education and healthcare. Such abuse and assault was widespread across institutions, across States and across the government, religious and other care providers.

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1.25 But the overwhelming response as to treatment in care, even among those that made positive comments, was the lack of love, affection and nurturing that was never provided to young children at critical times during their emotional development.

1.26 The Committee concluded that upwards of, and possibly more than, 500 000 Australians experienced care in an orphanage, Home or other form of out-of-home care during the last century. However, it is now considered that this figure may be an underestimate. As many of these people have had a family it is highly likely that every Australian either was, is related to, works with or knows someone who experienced childhood in an institution or out-of-home care environment.

1.27 Children were placed in care for a myriad of reasons including being orphaned; being born to a single mother; family dislocation from domestic violence, divorce or separation; family poverty and parents' inability to cope with their children often as a result of some form of crisis or hardship. Many children were made wards of the state after being charged with being uncontrollable, neglected or in moral danger, not because they had done anything wrong, but because circumstances in which they found themselves resulted in them being status offenders. Others were placed in care through private arrangements usually involving payment to the Home. Irrespective of how children were placed in care, it was not their fault.

1.28 Children were placed in a range of institutions including orphanages, Homes, industrial or training schools that were administered variously by the State, religious bodies and other charitable or welfare groups.

1.29 The *Forgotten Australians* report outlines not only how complex and varied the long term impact of a childhood spent in institutional care can be for the care leaver but also that their children and families have also felt the impact, which can then flow through to future generations.

1.30 The Committee concluded that there had been wide scale unsafe, improper and unlawful care of children, a failure of duty of care, and serious and repeated breaches of statutory obligations.

1.31 The Committee further concluded that many comments in recent years by governments, churches and care providers reveal a complete lack of understanding of or acceptance of responsibility for the level of neglect, abuse and assault that occurred in their institutions. Actions and statements by these groups since the inquiry would indicate that in many instances there remains at best only a rudimentary awareness of these issues and their implications.

1.32 The Committee made a number of recommendations. Foremost among them was that the Committee believed that governments, the Churches and agencies should issue formal statements acknowledging their role in past institutional care policies and practices and the impact this had on the lives of many care leavers. These statements should express sorrow and apologise for the physical, psychological and social harm caused as a result of the care leavers' experiences as children in institutional care. The Committee also considered that these acknowledgments must be accompanied by

other positive measures as recommended in the report to ensure that they are not regarded as merely 'empty gestures' by the care leavers and the community generally.

1.33 Other key recommendations made by the Committee included establishing a national reparations fund for victims of institutional and out-of-home care abuse; providing improvements to the transparency and accountability of internal church processes for dealing with allegations of abuse and their commitment to address past grievances; a range of measures to assist in identifying, locating and accessing personal records; providing a raft of services to address the needs of care leavers, especially support and advocacy services, counselling and the need for specialised counselling services, and programs to tackle health and ageing, housing and homelessness, and adult literacy and numeracy and other education services are addressed.

#### ***Comment since Reports' tabling***

1.34 The evidence received by the Committee during the current inquiry has shown that the response to the recommendations of the earlier inquiries by the Commonwealth and State governments, the churches and agencies has been variable. In some instances considerable work and progress has been undertaken, in other areas progress is slow or no action has been taken. The discussion on the level of response by the different jurisdictions is in the following chapters.

1.35 Some of the notable developments that have occurred since the tabling of the earlier reports have been the holding of inquiries in some States, most notably the extensive Commission of Inquiry in South Australia by Ted Mullighan; the introduction of redress schemes in some States—though notably not in New South Wales or Victoria; the making of apologies in some States—though their content and manner of delivery were variable; and the growing membership and involvement of care leavers with support groups and the gathering of individuals to form more self-help and support groups, often through the lack of assistance from other services.

1.36 Since the tabling of *Forgotten Australians* in August 2004, the activities of support groups and reunions held by some homes and service providers has led to many people with a background of institutional care as a child finding out about the support and assistance that different groups can provide. Many did not know of the earlier Senate inquiry and as awareness increases so do requests for copies of the *Forgotten Australians* report. As at June 2009 just under 7000 copies of the report have been printed and distributed.