Chapter 8

The need for a national framework

Introduction

8.1 The committee's second term of reference asks it to contemplate the

> [P]otential 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.

8.2 As Chapters 5 to 7 have shown, the Commonwealth had a limited role in adoption policy between 1950 and 1970. Adoption legislation falls within the jurisdiction of the states and territories. Adoption orders in the 1950s–1970s were made, as remains the case, by state and territory courts. In addition, until 1973 the Commonwealth provided limited support for unmarried women through the social security system.

8.3 Regardless of Commonwealth responsibility, the committee heard evidence—summarised in Chapters 3 and 4—that the effects of forced adoption have been long-lasting and far reaching. The committee accepts that there is a need to address the consequences of past forced adoption policies and practices.

8.4 The committee agrees, as foreshadowed by the inquiry terms of reference, that the states and territories are best placed to address the consequences of former forced adoption policies. However, the Commonwealth should play a role in developing a national framework to assist the states and territories to address these consequences.

8.5 This chapter summarises the rapid change in values that has taken place since the 1970s on single parenting and how adoptions should be arranged. It shows that these changes in views were expressed at a national rather than a state level.

8.6 Adoption was just one of an increasing number of policy issues that were taking on national and international dimensions. Mechanisms developed to enable intergovernmental discussions about this growing range of topics, particularly ministerial councils such as the Community and Disability Services Ministers Conference (CDSMC). Between them, the various intergovernmental councils have made and implemented numerous agreements and frameworks.

8.7 The committee considers that the consequences of former forced adoption would be best addressed by a national framework, developed by the CDSMC. The Commonwealth, through its membership of the CDSMC, should play a leadership role in the development of the framework.

8.8 This chapter concludes by summarising what submitters to the current inquiry believed should be included in such a framework. The four major proposals—for a

formal apology, access to support services, reforms to information laws and services, and reparations—are examined further in Chapters 9 to 12.

Changes to adoption across Australia

8.9 The attitudes of Australians towards single mothers and adoption have changed considerably since 1970. This shift towards greater support for single mothers and open adoption happened across Australia—and indeed across the world—at the same time. For example,

- The Commonwealth introduced benefits for single mothers in 1973.
- National Adoption Conferences were held in 1976, 1978 and 1982.
- National lobby groups to support single mothers and to address the harms of adoption practices were established in the 1970s.
- All jurisdictions changed their adoption legislation in the period of 1984 to 1991.

8.10 There was also increasing reference in policy debate and international agreement to rights and to preventing discrimination.

- The Commonwealth signed the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention), and later took over primary responsibility for Australia's intercountry adoption programs.

8.11 This section briefly outlines these developments.

Support for unmarried mothers

8.12 Chapter 5 explained that the *Supporting Mothers' Benefit* assisted single mothers from 1973. This benefit was part of a wider social welfare and health care reform agenda which also included the elimination of sales tax on the contraceptive pill, the introduction of Medibank (now Medicare), legislation to establish the Family Court, the introduction of paid maternity leave in the Commonwealth Public Service, and the first Commonwealth childcare legislation.[1] Academic commentators have described the changed attitudes towards adoption as part of the wider social changes following the rise of feminism:

> However, by the 1970s a number of factors, including the complex social changes occasioned by feminism, saw adoption practices come under challenge as the impacts of these policies, on both relinquishing mothers and adopted children, became better understood. The social stigma associated with unmarried motherhood was brought into question and

1 *Child Care Act 1972 (Cth)*. See, for example, FaHCSIA, *Women in Australian Society—Milestones—1871–1983*, http://www.fahcsia.gov.au/sa/women/progserv/research/Pages/wia_milestones_1871_1983.aspx#1 (accessed 23 February 2012).

> ultimately reduced, in part as a result of the introduction of the Mother's Benefit for single mothers (1973). This was part of a raft of legislative and administrative reforms made by the Whitlam Government which effectively redefined 'family' in Australian legal practice in the interests of women, children, and diversity. The growing cultural value placed on female agency created a climate in which the stories of unmarried mothers who had been coerced into adopting out their children could be told.[2]

8.13 The 1973 reforms comprehensively demonstrated the national nature of both value changes and policy responses, but they had also been foreshadowed by the Commonwealth's 1968 legislation, which had moved to guarantee nationally consistent welfare benefits for single women. Such reforms demonstrated a significant value change, and a move towards addressing the concerns of single mothers on a national scale.

Lobby groups

8.14 The increasing empowerment of women, and their determination to eliminate institutionalised disadvantage, was demonstrated by the establishment of women's lobby groups such as the Council of Single Mothers and their Children (CSMC). The CSMC was founded in 1969, and expanded to become a national organisation in 1973:

> In late 1969, one of the members placed an advertisement in the *Melbourne Herald* inviting women to a meeting with the intention of forming a new organisation for single mothers. A large group attended, many remained silent, but it didn't take long to determine what their role would be—working within a self-help model with the aim of supporting single mothers as well as advocating Social and Legal Reform...
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> The National Council for the Single Mother and her Child (NCSMC) was set up in 1973...[a]t the National Conference the following motion was carried unanimously:
>
> *That the aims of NCSMC are best achieved through the operation of a nationally organised body, therefore we move that this organisation continue to function. In coming to this conclusion, it is simultaneously recognised that it is both valid and advantageous to have a national arena of operations.* [3]

8.15 Lobby groups to assist adopted people affected by adoption were established at a similar time, including Adoption Triangle and Adoption Jigsaw. Adoption Jigsaw WA's website provides a brief history of the organisation in that state:

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2 Kate Murphy, Marian Quartly and Denise Cuthbert, *'In the best interests of the child': mapping the emergence of pro-adoption politics in contemporary Australia*, Australian Journal of Politics and History, June 2009.

3 Council of Single Mothers and their Children, *History*, http://www.csmc.org.au/?q=history (accessed 24 February 2012). See also, CSMC, *Submission 303*, p. 1.

> Adoption Jigsaw was founded in 1978 by adopted adults, birth parents and adoptive parents for the purpose of lobbying for legislative change and more openness in adoption. Some changes came about in 1987, when adopted people were given the right to access records giving information about their birth parents, and in 1994 when birth parents were given similar rights regarding their children. Further changes were proclaimed in June 2003.
>
> Though support and lobbying were Adoption Jigsaw's initial priorities, partial funding from the Department for Child Protection enabled us to expand and professionalise our service, whilst maintaining the level of understanding that only personal, first-hand experience of adoption can provide.[4]

8.16 These groups had branches across different states. For example, Adoption Jigsaw Qld's submission to the inquiry indicates that it has an (inter)national scale but a local focus:

> Jigsaw was established in Australia and New Zealand in 1976 and was incorporated in Queensland in 1988. We have assisted over 17 000 people in their search for their biological heritage and many more who were not actively engaged in the process of searching or seeking reunion. Jigsaw Queensland services include:
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> - Emotional support by phone or email.
> - Monthly Support Group meetings for birth mothers, adoptees and an open group for all those affected by adoption.
> - Providing Information to assist with individuals with their own search.
> - Referral to professionals and other agencies.
>
> Jigsaw Queensland is a non-profit, member-based organisation relying on trained volunteer helpers to provide a range of services to all those affected by adoption. We rely on membership and donations from individuals, business and government to achieve our objectives and to help us provide ongoing services to our members and the community at large.[5]

8.17 The founders of adoption lobby groups in the 1970s considered that national coordination and cooperation would be advantageous. This demonstrated that there were people across Australia who held the same views about adoption and wished to 'join forces' to promote their views nationally.

National Adoption Conferences

8.18 Significantly altered attitudes towards adoption were also evident at the National Adoption Conferences held in 1976, 1978 and 1982. The first conference in

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4 Adoption Jigsaw, *About Us*, http://www.jigsaw.org.au/about-us/ (accessed 25 February 2012).

5 Jigsaw Queensland Inc, *Submission 188*, p. 1.

1976 was very significant as it marked the sector's recognition that Aboriginal children were best raised by Aboriginal families.[6]

8.19 A major issue raised during the 1978 conference was access to records. A keynote speaker, Dr John Triseliotis, then Director of Social Work Education at the University of Edinburgh, 'argued that it was essential that adults have access to their origins'.[7] At that time, adoption records in Australia remained relatively closed compared to the situation in Scotland.

> John Triseliotis...was able while he was there to address the parliamentary legislative review committee in relation to the rights of adult adoptees. There was by this time all over Australia a loud and insistent voice demanding such reform.[8]

8.20 Papers from the 1978 conference were framed by very different concerns than were evident in the 1960s. For example, the paper provided by the Western Australian group proposed a discussion of five themes, two of which were:

> Changing concepts in adoption with particular emphasis on access versus confidentiality, post relinquishment counselling and the issue of rights including those of the putative father.
>
> [and]
>
> Adoption—a middle class phenomenon: A look at the effects of outdated middle class value systems as major determining factors in the adoption process.[9]

8.21 As discussed in Chapter 7, WA child welfare officers expressed views during discussions on model adoption legislation in the 1960s that were very much pro-adoption, and particularly dismissive of birth fathers. The above example from WA social workers in 1978 demonstrates professional opinions almost diametrically opposed to those expressed by child welfare officers in 1962.

8.22 The third conference in Adelaide in 1982 addressed issues for birth mothers, and led to the establishment of the Australian Relinquishing Mothers Society (ARMS) self-help and lobby group in each state.[10] As the SA branch stated:

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6 Anna Haebich, *Many voices: reflections on experiences of Indigenous child separation*, National Library Australia, 2002, pp 214–216. In addition, Ms Christine Cole cites a reference that implies single mothers 'barely rated a mention' at this conference. *Supplementary Submission 223 (b)*, p. 14.

7 Anna Haebich, *Many voices: reflections on experiences of Indigenous child separation*, National Library Australia, 2002, p. 216.

8 Audrey Marshall and Margaret McDonald, *The Many-Sided Triangle*, Melbourne University Press, Melbourne, 2001, p. 41.

9 Workshop Papers prepared by the Western Australian Group, *Evaluation and Research*, Second Australian Conference on Adoption, Melbourne, May 1978, p. 1.

10 ARMS Vic, *Submission 196*, p. 2.

> That conference was probably one of the first times in Australia that a group of women separated from their children by adoption came together and compared their stories.[11]

8.23 As well as signalling a changed attitude towards adoption, the three conferences demonstrated the collective will of social workers across Australia to meet and debate issues of relevance to adoption.

Law reform

8.24 Together, the conferences provided an impetus for nationwide lobbying for legislative change away from the clean break theory and closed adoptions, toward open adoptions. In a 1992 article, J. Neville Turner, then President of the National Children's Bureau of Australia and law lecturer at Monash University, explained that each jurisdictions' amendments to adoption legislation enacted across Australia between 1984 and 1991 represented a significant departure from the model legislation of the mid-1960s:

> The current trend towards open adoption in Australia was sparked by a series of three conferences in the late 1970s and early 1980s. At these conferences, several papers were delivered emphasizing the harmful consequences of secrecy, which had been the hallmark of 'uniform' legislation passed in every Australian state in the 1960s.
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> Following these conferences, strong campaigns were waged throughout Australia to have the legislation passed in the 1960s repealed, and to pass new legislation giving parties to an adoption rights to ascertain the true situation. It was recommended that birth parents be provided with a mechanism by which they could trace the adoptive parents of their relinquished children. Likewise, adopted persons should be permitted, and indeed, encouraged to seek information about the circumstances of their birth.
>
> This new 'open' philosophy was first translated into legislation in 1984 in Victoria, following intensive debate and lobbying by interest groups. Now, it has been legislated for throughout Australia. But the legislation varies substantially from state to state.[12]

8.25 State and territory adoption legislation continues to vary between jurisdictions. These differences continue to affect the parties to adoptions that took

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11 ARMS SA, Transcript of speech given at the 8th Australian Adoption Conference, Adelaide April 2004, http://users.chariot.net.au/~jamiro/arms/paper2004.html (accessed 23 February 2012).

12 J Neville Turner, Review of the Adoption Information Act 1990 *(NSW)*, July 1992, New South Wales Law Reform Commission Report No. 69. Dr Turner cites the amended acts in each jurisdiction: *Adoption Act 1984 (Vic); Adoption Act 1991 (ACT); Adoption Information Act 1990 (NSW); Adoption of Children Act Amendment Act 1990 (NT); Adoption Legislation Amendment Act 1991 (Qld); Adoption Act 1988 (SA); Adoption Act 1988 (Tas); Adoption of Children Act 1896- 1991 (WA).*

place under the old 'closed adoption' regimes that were in place before the reforms of the 1980s. This is particularly true regarding access to information and is discussed further in Chapter 12.

Rights and anti-discrimination

8.26 As the states were contemplating changes to adoption legislation to promote open adoptions and access to information, other developments took place at the Commonwealth and international level. While HREOC was established by the *Human Rights and Equal Opportunity Commission Act 1986*, the organisation had operated from 1981, with lesser responsibilities, as the Human Rights Commission. In 1984, the Commission produced a Discussion Paper entitled *Rights of Relinquishing mothers to Access to Information Concerning their Adopted Children*.[13] The paper was written in response to complaints about 'adoption legislation and practice', and discussed how, in the case of adoption records, the different states' laws balanced the right to privacy and the right to information:

> The right of a relinquishing mother to information, particularly identifying information, about her adopted child has to be balanced against the rights of privacy of all the parties to adoption. At present the bearing of these rights on adoption matters is being reconsidered in response to a number of changes in social attitudes to adoption and to ex-nuptial birth. These changes have in their turn foregrounded a number of civil rights issues flowing from adoption, issues bound up with the Declaration of the Rights of the Child and with the Articles of the International Covenant on Civil and Political Rights (ICCPR) relating to privacy, access to information, discrimination on the grounds of status and the rights of the child. [14]

8.27 The discussion paper referred to the potential for actions taken to force unmarried mothers to have their children adopted to be considered discriminatory:

> If, for example, a hospital social worker were to put pressure...on single women to consent to adoption because an assumption is made about the capability of single women (as opposed to partnered women) to support a child, or because of an assumption that a single parent would be unable to provide a stable, happy background for the child, then that pressure could constitute a direct discrimination on the ground of marital status.
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> Similarly, if, once a mother had indicated her interest in the possibility of relinquishing her child, she became subject to any automatically applied rules which denied her access while in hospital to her child or to

13 Dr Kathy MacDermott, Human Rights Commission, *Rights of Relinquishing Mothers to Access to Information Concerning their Adopted Children*, Discussion Paper No. 5, July 1984.

14 Dr Kathy MacDermott, Human Rights Commission, *Rights of Relinquishing Mothers to Access to Information Concerning their Adopted Children*, Discussion Paper No. 5, July 1984, pp 3–4.

> information about her child, that denial could constitute indirect discrimination on the ground of marital status.[15]

8.28 As a discussion paper, the publication concludes with a number of recommended discussion points rather than definitive conclusions. The discussion points include the suggestion that 'the advantages of open adoption be carefully considered', and that 'all these considerations be taken into account in any review of ACT adoption legislation'.[16] Influential in the reform of ACT legislation, the discussion paper was also widely referred to by stakeholders around the country.

8.29 In 1990, Australia ratified the United Nations Convention on the Rights of the Child. The Convention included two articles that could be applied to the issue of adopted people's access to information about their birth parents:

> **Article 7**
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> The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
>
> States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.
>
> **Article 8**
>
> States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
>
> Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.[17]

8.30 Australia's ratification of the Convention was not the main reason for state adoption law reform. However, it provides a further illustration of the value changes that had taken place since the law reform of the 1960s, and of the extent to which this was perceived as a national and international issue, rather than one purely for individual jurisdictions. While the language of a 1961 brief from WA was couched in prioritising the 'rights of the child' over the 'rights' of the natural and adoptive

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15 Dr Kathy MacDermott, Human Rights Commission, *Rights of Relinquishing Mothers to Access to Information Concerning their Adopted Children*, Discussion Paper No. 5, July 1984, p. 45.

16 Dr Kathy MacDermott, Human Rights Commission, *Rights of Relinquishing Mothers to Access to Information Concerning their Adopted Children*, Discussion Paper No. 5, July 1984, p. 60.

17 Office of the United Nations Commissioner for Human Rights, *Convention on the Rights of the Child*, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entered into force 2 September 1990, http://www2.ohchr.org/english/law/crc.htm (accessed 20 February 2012).

parents,[18] subsequent meeting discussions were not centred on 'rights'. Rather, the language used mentioned the 'interests' of the parties and addressing existing 'shortcomings'. It was the 'welfare and interests of the child' that were to be paramount, not the child's rights.

8.31 However, the UN rights frameworks of the 1970s and 1980s did influence the language of public and government discourse in Australia, which extended to discussions about adoption. For example, the NSW Law Reform Commission's 1992 *Review of the Adoption Information Act 1990* shows the prominence of 'rights' based thinking and language:

> **Rights created by the Adoption Information Act 1990**
>
> 2.7 The *Adoption Information Act* 1990 represents a major change in the approach taken to confidentiality of information concerning parties to adoptions. The Act was passed in October 1990 and came fully into force on 2 April 1991...
>
> 2.9 The rights to information created by the Act are absolute, in that adopted persons cannot legally prevent birth parents from obtaining their amended birth certificates, nor can birth parents prevent the adopted person from obtaining his or her original birth certificate, and the other information specified in the Act.[19]

8.32 Subsequent headings include 'Adopted persons' rights to information', 'Adopted persons' rights to lodge a contact veto', 'Birth parents' rights to information' and 'Birth parents' rights to lodge a contact veto'.[20]

Intercountry adoption

8.33 The rights of the child in intercountry adoption were reinforced by the Hague Adoption Convention, which Australia ratified in 1998. Intercountry adoption programs to enable Australian adoptive parents to adopt children from overseas had begun in 1975 as a result of the Vietnam War.[21] However, AGD explained that in the past the states managed particular country programs on a 'lead state' basis (e.g. NSW

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18 NAA, A432 1961/2241 Part 1, Uniform Adoption Legislation - Material prepared by States, WA briefing paper, *Adoption – from the Welfare Viewpoint*, folio p. 8, digital p. 243.

19 NSW Law Reform Commission, *Issues Paper 7 (1992) – Review of the Adoption Information Act 1990*, http://www.lawlink.nsw.gov.au/lrc.nsf/pages/IP7TOC (accessed 25 February 2012).

20 NSW Law Reform Commission, *Issues Paper 7 (1992) – Review of the Adoption Information Act 1990*, http://www.lawlink.nsw.gov.au/lrc.nsf/pages/IP7TOC (accessed 25 February 2012).

21 Mr Damon Martin, NSW Service Coordinator, International Social Service Australia (NSW Office), *Inter country Adoption in Australia*, January 2009 http://www.iss.org.au/publications/reports-papers-and-articles/ (accessed 24 February 2012).

managed the Taiwan adoption program; Victoria managed the Philippines adoption program[22] etc):

> The department's contemporary portfolio responsibilities relevant to adoption relate to intercountry adoption issues. These arise from Australia's ratification in 1998 of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. At that time, the department's role was limited to ensuring that Australia as a whole met its obligations under the convention and performing minor functions as the Australian central authority. State and territory departments were also designated as central authorities under the convention, and different jurisdictions took the 'lead state' role in managing particular country programs.[23]

8.34 Since 2006, however, AGD has been responsible for intercountry adoption programs:

> In 2005, the House of Representatives Standing Committee on Family and Human Services conducted an inquiry into the adoption of children from overseas. A key recommendation of the resulting report was that the Australian government assumed primary responsibility for the establishment and management of Australia's intercountry adoption programs. A specific intercountry adoption branch was created within this department in 2006. The Commonwealth became responsible for strategic leadership and high-level management of Australia's intercountry adoption programs with other countries. State and territory central authorities retained responsibility for all casework.[24]

8.35 AGD also chairs two working groups of state and territory community and disability services officers. These groups address the harmonisation of legislation, fees and administrative procedures for, and alternative models of, intercountry adoption respectively.[25]

Why a national framework?

8.36 The preceding section has shown that since the early 1970s, the discussion of adoption policy has changed. With respect to content, there has been a shift away from closed adoptions towards support for single mothers to keep their children and open adoptions. The natural parents have a stronger voice in policy discourse, and there is

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22 House of Representatives Committee on Family and Human Services, *Report on Overseas Adoption in Australia*, 21 November 2005, p. 42.

23 Dr Albin Smrdel, Acting First Assistant Secretary, Attorney-General's Department, *Committee Hansard*, 28 September 2011, p. 1.

24 Dr Albin Smrdel, Attorney-General's Department, *Committee Hansard*, 28 September 2011, pp 1–2.

25 CSMAC, *Membership*, Intercountry adoption, http://www.csmac.gov.au/membership.aspx#other (accessed 25 February 2012).

greater recognition of their rights. Finally, adoption policy is predominantly discussed on a national scale, despite remaining state-based law.

8.37 The committee believes that a national framework is justified to address the consequences of former forced adoption. Firstly, the issues surrounding forced adoption are national in scope. Second, a national approach reduces the chance of significant policy inequities that can themselves cause distress for the people affected. This is a reason why both the Community Affairs and Legal and Constitutional Affairs Committees have in the past favoured a national response to the needs of children who were in institutional care: they have seen the poor results of variable state-based restorative action. Third, the mechanisms to discuss adoption are already intergovernmental. The committee is simply recommending that existing work in this area be extended to address a set of issues around past adoption practice.

National scope

8.38 The committee has received submissions from people affected by forced adoption from every Australian state and territory. In addition, the committee has visited each capital city, with the exception of Darwin. The evidence presented to the committee in submissions and at public hearings showed that the experience of forced adoption was similar and regardless of the submitters' state of origin.

8.39 In addition, the committee heard that the experience itself of forced adoption often traversed jurisdictional boundaries. As recounted in Chapter 3, the social stigma of unmarried pregnancy caused many mothers to be sent away from home to give birth, in some cases interstate. This has exacerbated the difficulties of adopted people and their birth parents seeking access to records while negotiating different regulations in different states. The interstate nature of the experience of forced adoption suggests that a national framework would be more appropriate in addressing its consequences.

Importance of national consistency

8.40 This is not the first time that the Senate's Community Affairs References Committee has advocated a national approach to addressing significant past injustices. Recommendations from the *Lost Innocents: Righting the Record* report (2001) the *Forgotten Australians* report (2004) and the *Lost Innocents and Forgotten Australians Revisited (2009)* recognised the national dimensions of wrongs experienced by child migrants and children in institutional care, and identified a role for the Commonwealth in rectifying these. The committee, in framing recommendations as a result of both inquiries, considered that the consistent pattern of the issues faced by affected people across the states justified a national approach. The committee considers that the parallel nature of the experiences and consequences of forced adoption across the states provides similar justification.

8.41 In addition, the committee notes that inconsistency in state action can cause inequity and distress to the very people restorative schemes are seeking to assist. In 2004, the committee recommended that a national reparation fund for people who had

suffered in institutional care be managed by the Commonwealth, and funded by contributions from a range of government and non-government parties.[26] However, the Commonwealth Government did not accept this recommendation, and instead, separate redress schemes were established in Tasmania, Queensland, Western Australia and South Australia.[27] New South Wales and Victoria advised the committee that payments were made on a case-by-case basis, and no such scheme was established in the territories.[28]

8.42 The Senate Legal and Constitutional Affairs References Committee examined this disparity between states' redress schemes in its 2010 report, *Review of Government Compensation Payments*. Several submitters to that inquiry expressed the view that redress should be 'dealt with as a national issue' and 'not depend on which state they grew up in'.[29] Other submitters noted the distress experienced by affected parties who found that their own state did not have a redress scheme.[30] In order to avoid a similar situation, the committee is strongly of the view that a national framework to address the consequences of former forced adoption must be implemented in a consistent manner across the states and territories.

Continuity in approach

8.43 The committee considers that a national framework is warranted as it has already been recognised by the jurisdictions that high-level policy in the area of adoption requires a national approach.

8.44 Adoption is currently being discussed at intergovernmental forums in two contexts. The first is intercountry adoption. The Attorney-General's Department explained that the Community and Disability Services Ministers Advisory Council (CDSMAC) monitors the operation of the Commonwealth State Agreement with respect to intercountry adoption:

> The 2008 Commonwealth State Agreement for the Continued Operation of Australia's Intercountry Adoption Programs, signed by the Attorney-General and all the state and territory human and community services ministers, sets out the framework for a cooperative scheme for intercountry

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26 Senate Community Affairs References Committee, *Forgotten Australians*: *A report on Australians who experienced institutional or out-of-home care as children*, August 2004, pp 226–228.

27 Senate Community Affairs References Community, *Lost Innocents and Forgotten Australians Revisited*, June 2009, pp 33–34; Senate Legal and Constitutional Affairs References Committee, *Review of Government Compensation Payments*, December 2010, pp 9–15.

28 Senate Community Affairs References Community, *Lost Innocents and Forgotten Australians Revisited*, June 2009, pp 37, 42–43.

29 Senate Legal and Constitutional Affairs References Committee, *Review of Government Compensation Payments*, December 2010, pp 27–28.

30 Senate Legal and Constitutional Affairs References Committee, *Review of Government Compensation Payments*, December 2010, p. 7.

> adoption in Australia. The Community and Disability Services Ministers Advisory Council formally monitors the implementation of the agreement and progresses work through several working groups. This department provides a secretariat and chair for the meetings of the Commonwealth, state and territory central authorities as well as the working groups I mentioned. It is through these relationships that this department's work can occasionally intersect with the state and territory central authorities' consideration of domestic adoption issues.[31]

8.45 The second area of existing inter-governmental policy work on adoption is the Enhancing Adoption as a Service for Children Working Group. This group, a body of the Community and Disability Services Ministers Advisory Council, was established in 2008, and is currently undertaking policy review work of direct relevance to the current inquiry, including a review of the National Principles in Adoption. We return to this in the final chapter.

Recommendation 1

8.46 The committee recommends that a national framework to address the consequences of former forced adoption be developed by the Commonwealth, states and territories through the Community and Disability Services Ministers Conference.

8.47 Having established that a national framework would be the most appropriate way for the consequences of former forced adoption policies to be addressed, the committee now turns to the substance of the framework, expanded upon in Chapters 9 to 12.

Suggested content of a national framework

8.48 Many submissions to the inquiry addressed the committee's second term of reference. The vast majority of submitters considered that forced adoptions constituted an injustice that should be addressed. However, opinions varied as to what kind of redress would be most appropriate.

8.49 Requests for an apology or similar recognition, and requests for compensation appeared to be intertwined, suggesting that compensation represents a tangible form of acknowledgement. Of those individual submitters who proposed compensation, only six did not also request an acknowledgement and/or an apology. These suggestions are discussed further in Chapters 9 and 11.

8.50 Secondly, a commonly expressed view was that the provision of counselling and mental health care services would be an appropriate way to address the continued pain of former forced adoptions. This is discussed further in Chapter 10.

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31 Dr Albin Smrdel, Attorney-General's Department, *Committee Hansard*, p. 2.

8.51 Thirdly, difficulties accessing information and birth records were raised by many submitters. It was suggested that improving access to adoption records throughout the jurisdictions would assist people affected by former forced adoptions. Access to information is discussed in Chapter 12.