

Chapter 9

A national framework: apologising for past wrongs

9.1 Many witnesses to this inquiry called for an apology from the Commonwealth government, and from other governments and organisations, for the effects of former forced adoption policies and practices. Some of the organisations responsible for institutions in which adoptions took place have offered apologies, and have recommended that governments acknowledge their own roles in past practices.

9.2 This chapter outlines these calls, discusses some of the apologies offered during this inquiry, and considers the way forward for governments and organisations in recognising and expressing regret for past adoption practices.

The need for an apology

9.3 The commonly-held but not unanimous view of submitters was that an apology from governments was a desirable step in reconciliation and healing. This is typical of the views of individuals who gave evidence:

I believe that an apology from the Commonwealth would have a profound and positive effect on the lives of all concerned. For the mothers who were treated with contempt and in many cases, outright cruelty, I think there would be some solace in an acknowledgement that forcing apart mothers and their children was wrong and damaging.¹

9.4 Organisations representing women affected by adoption practices, such as the National Council of Single Mothers and their Children and Origins Victoria, expressed a similar view:

NCSMC supports a Government led public apology as it serves many purposes. Firstly, it admits that it was pivotal in the causing of lifelong pain, injustice and human damage. However, it also gives voice to a matter that was often forged in silence and shame. The more that Australia is honest about our past mistakes the better adept we become in managing current mistakes, with the aim to prevent future mistakes. But most of all we owe public recognition to the lives that it impacted upon, marginalised, and took away.²

[Origins Victoria recommends t]hat the Australian Federal Government and their agencies issue a full and frank acknowledgment of their unlawful and harmful practices.³

1 Ms Kathryn Rendell, *Submission 184*, p. 3.

2 National Council of Single Mothers and their Children, *Submission 333*, p. 12.

3 Origins Victoria, *Submission 166*, p. 101.

9.5 Those who had experienced other apologies drew on those experiences to advocate for a national apology. This submitter had witnessed the apology made in the Western Australian parliament in 2010:

The Adoption Apology given in the Western Australian Parliament on 19th October 2010 was a very significant day for me and the many thousands of women who have suffered the loss of a child to adoption. The speeches made by the WA Members of Parliament should be read and taken into consideration by the Senate Committee.

It is my sincere hope that the Federal Parliament and every State Parliament in Australia will make a similar apology to that given on 19th October 2010. Nothing can change the past, but a formal recognition of the flawed adoption policies and practices of the past can provide a pathway to healing the lives of the mothers and children and their families.⁴

9.6 Another submitter had experience of an apology from the particular hospital where she had given birth:

Would I like an apology? The hospital has already given one, I believe. My mother has long ago wept and apologized. Shortly after my daughter's birth, the Federal Government introduced supporting mother's benefit alongside a wave of change in social attitudes. But before that, what role did Federal governments have in developing the processes around adoption and the attitudes that suggested that babies could be given up without terrible pain and suffering? For any active role government played, and any omissions by successive governments which denied the rights of mothers and their children, an apology is long overdue.⁵

9.7 A poignant call for an apology was from a nurse who worked at Royal Women's Hospital in Melbourne at the time:

I believe that a national apology to these women, their families and their children needs to be given in recognition of the pain and suffering that they may have experienced through this inappropriate, archaic and unwarranted process. Whilst at the same time an opportunity could be given for staff such as myself, who was involved in the adoption processes, to offer their own personal apology if they so desire.⁶

9.8 Several organisations which had been involved in care for pregnant women, and to varying degrees adoption, also supported a national apology:

[A]s has been the case for those who were part of the 'Stolen Generation' and 'Forgotten Australians' experience, it is important that an official

4 Name withheld, *Submission 142*, p. 5.

5 Ms Judith Newcombe, *Submission 332*, p. 3.

6 Ms Annie Florence, *Submission 36*, p. 2.

recognition and apology is made on behalf of the Government at both a Commonwealth and State and Territory level.⁷

[W]e believe there is a specific role for an apology of governments. We have issued our apology in recognition of the role of Catholic organisations in past adoption practices. The Western Australian government has done the same. Others should follow. The place where work on a government-led apology should start is the Community and Disability Services Ministers' Conference. We would be very happy to work with that conference in shaping such an apology and, indeed, the strategy that would need to go with the issue of such an apology.⁸

There is wide (although not universal) support for apologies by governments at both state and federal levels. We acknowledge the significant contribution of many birth mothers and support groups such as Adult Adoption Loss and Support and the Apology Alliance in advocating for apologies by state and federal governments... A public apology by the Commonwealth Government would also serve to educate the Australian public about past adoption practices.⁹

9.9 Meanwhile, many thought that it is these institutions who should themselves be offering apologies:

NCSMC calls upon the government to request that its own institutions, the nongovernment sector and faith-based institutions, which were all part of the forced adoption system demonstrate acknowledgment and remorse... The service system must publically acknowledge their role and form part of a national apology. The Government's willingness to review and take responsibility for its own actions needs to be accompanied with the decision to ensure that others do the same.¹⁰

9.10 Some submitters expressed particular views about how an apology should be undertaken, beyond expressing regret for painful past practices. For some it was about specifying what should be apologised for, and who should hear it. Mrs Noble stated that there should be an:

Apology to recognise that forced adoptions took place to meet the needs of infertile couples.

Apology to state that forced adoptions were illegal.

7 Uniting Care Wesley Adelaide Inc and Uniting Church of South Australia, *Submission 376*, p. 4.

8 Mr Martin Laverty, CEO, Catholic Health Australia, *Committee Hansard*, 28 September 2011, p. 45.

9 The Benevolent Society, *Submission 191*, p. 6.

10 National Council of Single Mothers and their Children, *Submission 333*, p. 13.

Apology to be published in all major newspapers so that it reaches as many adopted children as possible so that they might realise that they were loved by their natural mothers and that they were victims of a crime against humanity and that their human rights were abused by the system.¹¹

9.11 For others, it was about commitment to particular actions. VANISH Inc. commented:

In a national apology to the adoption community, there must be an acknowledgment that separation by adoption causes distress; henceforth the Australian Government will dedicate its resources to keeping families together. Any apology needs to confirm that the lessons of the past have been learned; that the Commonwealth's resources are to be redeployed in the name of family integration. At a federal level, this would mean a commitment to phasing out intercountry adoption, as this practice is based on separating a child from their original parents. Without this undertaking, any national apology will be undermined.¹²

9.12 Though opposition to an apology was rare, Origins SPSA Inc. disputed the effectiveness of an apology, unless it was in the context of other actions:

I do not know if the senators are aware that mothers were offered an apology, along with the forgotten Australians, that we rejected. The reason we rejected that was for the simple reason that mothers and adoptees have not had the opportunity of telling their stories. I think that every person that had an inquiry had that opportunity [first] and they got their apology, which is how it should be...

An apology without exposure, redress or accountability for criminal behaviour is not only an insult to an established legal system but also opens the opportunity for other types of criminal activity to occur on a grand scale, such as past adoption practices. Crimes can be perpetrated on victims with the knowledge that, if you can hide your crimes long enough, then you can get away with it.¹³

9.13 Instead, Origins SPSA sought reconciliation and 'to get the truth down on the record'.¹⁴

What constitutes an effective apology

9.14 In its 2004 report *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care*, this committee considered in depth the issues around the purpose of private and public apologies. The committee will not go over that ground again in this report.

11 Mrs Julie Noble, *Submission 362*, p. 2.

12 *Submission 160*, p. 5.

13 Mrs Lily Arthur, Origins SPSA Inc., *Committee Hansard*, 20 April 2011, pp 106–107.

14 Mrs Lily Arthur, Origins SPSA Inc., *Committee Hansard*, 29 April 2011, p. 28.

9.15 In its 2004 inquiry, the committee examined and reported on Canadian Law Commission research on the subject. The criteria established through that research are that this committee endorses for any apologies made in respect of past adoption policies and practices:

1. Acknowledgment of the wrong done or naming the offence—many victims want wrongdoers to acknowledge what they did and that it was wrong. They are, in effect, asking the wrongdoers to admit to them that they know they violated moral standards. Such admissions validate the injured parties' moral sensibilities, which were violated by the wrongs done.
2. Accepting responsibility for the wrong that was done—the apologiser must demonstrate to the recipient that he or she accepts responsibility for what happened. By accepting responsibility, the apologiser helps restore the confidence or trust of the injured party.
3. The expression of sincere regret and profound remorse—the centrepiece of an apology is an expression of sorrow and regret. When the apologiser expresses sincere remorse for the wrong committed or permitted to happen, then the person receiving the apology is reassured both that the apologiser understands the extent of the injury that was committed and therefore will not allow it to happen again.
4. The assurance or promise that the wrong done will not recur—victims need to be assured that the injury they experienced will not happen to them, or anyone else, again. Where official, public apologies are made, victims also want affirmation from the officials responsible that the mistakes of the past are not repeated.
5. Reparation through concrete measures—following serious wrongdoing, mere words of apology are not enough to repair damaged relationships. Verbal apologies must be accompanied by concrete measures, such as financial compensation, counselling and other measures. These measures help translate the static message of an apology into an active process of reconciliation and healing. Official apologies, in particular, need to be accompanied by direct and immediate actions.¹⁵

9.16 The committee believes that official apologies should satisfy the criteria outlined above.

Apologies to date

9.17 Prior to this committee undertaking its inquiry, there had been a small number of official apologies made for former adoption policies and practices. The only

15 S. Alter, *Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*, Law Commission of Canada, 1999 cited in *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care*, August 2004, pp 192–193.

apology that has come from a state parliament or government to date was the one moved by the Premier in the Parliament of Western Australia on 19 October 2010. The motion said:

That this house notes —

(1) that with regard to past adoption practices, it is now recognised that from the 1940s to the 1980s the legal, health, and welfare system then operating in Western Australia, in many instances, did not strike the correct balance between the goal of minimising the emotional and mental impact of the adoption process on unmarried mothers, with the goal of achieving what was considered at the time to be in the best interests of the child;

(2) that processes such as the immediate removal of the baby following birth, preventing bonding with the mother, were thought at the time to be in the mother's and the child's best interest;

(3) that this house recognises that in some cases such practices have caused long-term anguish and suffering for the people affected; and

(4) that the Parliament acknowledges that previous Parliaments and governments were directly responsible for the application of some of the processes that impacted upon unmarried mothers of adopted children, and now apologises to the mothers, their children and the families who were adversely affected by these past adoption practices, and I express my sympathy to those individuals whose interests were not best served by the policy of those times.¹⁶

9.18 This apology generally drew a positive response from those affected by these adoption practices, and many of them commented on it to the current inquiry. For some, it was supported because of its personal significance:

The 'adoption apology' at Perth WA was one of the most significant moments in my life...and trust me I've had a few...and witnessing the truth being spoken out in public, was certainly one of those.¹⁷

9.19 It was also endorsed as having healing or reconciliatory benefits for people affected:

I was present for the apology in Western Australia and it was enormously powerful. It was a very healing experience and it was very effective. I am speaking now specifically for mothers, but my son who was adopted was there with me and many other adopted people were also there. It was effective for many people whose lives had been affected by adoption separation. It was effective because it was an acknowledgement of what happened. It was very public and therefore it was educational for the community as well. I think a federal apology would also be very powerful and would be a significant part of the healing process.¹⁸

16 Legislative Assembly of Western Australia, *Hansard*, 19 October 2010, p. 7881a.

17 *Submission 183*, p. 4.

18 Ms Evelyn Robinson, *Committee Hansard*, 26 October 2011, p. 17.

9.20 Writing after the Western Australian apology, and shortly after this Senate inquiry was established, Marilyn Murphy expressed similar sentiments:

It is now 6 weeks since the Western Australian apology to Natural mothers, I was present on that day in the Western Australia parliament.

I feel exonerated now from a crime I did not commit, a crime that was committed upon myself and [m]y newborn daughter 40 yrs ago.

The Apology exceeded my expectations, and has given me hope that perhaps we are finally endeavouring to right the wrongs of the past in our society.¹⁹

9.21 The committee is aware of two organisational apologies offered by individual hospitals prior to the current inquiry: Royal Brisbane and Women's Hospital, made on 9 June 2009; and the Sisters of Mercy, St. Anne's Hospital in Perth in March 2010.²⁰

9.22 Four organisations have made apologies in conjunction with the current inquiry. The first of these was from Catholic Health Australia sent to the committee on 1 July 2011, and widely publicly reported around 24 July 2011. Their submission said in part:

In 2000, the NSW Legislative Council Inquiry into past adoption practices found these 'past adoption practices were misguided, and that, on occasions unethical or unlawful practices may have occurred causing lasting suffering for many mothers, fathers, adoptees and their families.' We echo that finding.

At this NSW Parliamentary Inquiry, representatives of Catholic adoption services that operated in the 1950s, 60s, and 70s apologised for the practices of that era and the pain felt by some. We echo that apology, and again through your Inquiry say sorry for the role of Catholic hospitals in past adoption practices that are no longer considered appropriate...

Catholic Health Australia would endorse a proposal to establish a national framework to aid those dealing with their post adoption circumstances. [This] should include a single identifiable access point, sufficiently resourced to enable access to records, support with family reunion where possible, counselling for those who seek it, and a fund for remedying established wrongs...The national framework would...find a place for the participation of those community and Church groups with historical involvement in adoption and current capacity to bring healing to those in need.²¹

9.23 The Benevolent Society is a charity that provides a range of social support programs, including some that cater for children and families. During the period of concern to the current inquiry, it operated the Royal Hospital for Women and an

19 Ms Marilyn Murphy, *Submission 150*.

20 Cited in Barbara Maison, *Supplementary Submission 14 (a)*, p. 3.

21 *Submission 279*, p. 2.

adoption agency at Scarba House, both in New South Wales.²² On 31 October 2011, it issued the following statement:

While The Royal Hospital for Women had no official role in organising adoptions, we recognise and acknowledge that unmarried women in our care from the 1940s to the 1980s were not always given the care and respect that they needed during this difficult period of their lives and were sometimes coerced to give up children for adoption. We also recognise and acknowledge our involvement in arranging adoptions in the past through the adoption agency we ran at Scarba House.

The Benevolent Society deeply regrets past practices based on policies which, while influenced by societal attitudes of the time, we now know to be deeply flawed and damaging to many unmarried women who gave birth at the hospital.

The Benevolent Society apologises unreservedly for any pain, unresolved grief or suffering experienced by mothers, fathers, adoptees, adoptive parents and their families as a result of the past adoption practices of The Benevolent Society, the Royal Hospital for Women or Scarba Welfare House for Children.

In the context of a society that stigmatised motherhood out of wedlock and did not provide adequate financial, legal and psychological support for unmarried mothers, adoption was widely assumed to be the only possible option for unmarried pregnant women.

We now recognise that great damage has unintentionally been done to people's lives as a result.

We now understand and acknowledge the deep grief that many mothers experienced after the loss of a child to adoption, and the lack of support available to manage their grief.

Through our extensive work with people affected by adoption over the past 20 years as part of our post adoption support services, we understand the intense shame and secrecy that surrounded past adoptions. What was done cannot be undone but, for many, lifting the burden of secrecy is an enormous relief and an important step towards acknowledging the grief they have carried for so many years.

We have been and still are in the position of being able to offer people affected by past practices specialised support to help them with their lives today. We will help anyone affected by past adoption practices to access assistance and support from the Post Adoption Resource Centre in NSW or Post Adoption Support Queensland. Both services provide telephone support, specialist face-to-face counselling, intermediary services to assist individuals approaching birth relatives, and assistance in accessing adoption records.

We respectfully request that this apology be received in the spirit in which it is offered, as part of our commitment to assisting those affected by past

22 *Submission 191*, pp 1–3.

adoption practices in their lives today and ensuring the mistakes of the past are not repeated.²³

9.24 When the committee held a hearing in Hobart in December 2012, Major Graeme McClimont appeared on behalf of the Tasmanian Division of the Salvation Army. In the course of evidence, Major McClimont offered a statement of regret in relation to services offered at one of their facilities, Elim Maternity Hospital:

We also recognise that one person may well respond to a situation in a very different way to another, and do recognise that whilst many experienced the service we had to offer in a positive way inevitably others will have the opposite experience. If this occurred as a result of providing maternity services at Elim, we deeply regret it happening. We recognise also that with the passage of time a person may well reflect on the chaos and stress of a former experience and relive again that moment as deeply traumatic, being able to articulate it perhaps for the first time. If this has happened as a consequence of the actions of the Salvation Army at Elim, we deeply regret it.²⁴

9.25 Royal Women's Hospital in Melbourne is Victoria's largest maternity hospital and arranged over 5000 adoptions between 1940 and 1987. On 24 January 2011 it made a submission to the current inquiry, which comprised a statement by the hospital's Chief Executive Officer and a research report by academic Professor Shurlee Swain.²⁵ The CEO's statement said in part:

Professor Swain's report, *Confinement and Delivery Practices in Relation to Single Women Confined at the Royal Women's Hospital 1945–1975*, found no evidence of illegal practices at the RWH and no evidence of hospital-wide policies that discriminated specifically against single mothers. However, it is clear that many single mothers suffered as a result of the practices conducted at the hospital and the attitudes of some of the staff.

The past practices at the RWH, and elsewhere in the nation, were in keeping with social attitudes, available financial support, and medical and social work knowledge and beliefs of the time. Some of these practices, such as the immediate removal of the baby following birth to prevent bonding, were thought at the time to be in the best interests of the mother's emotional and mental health post-relinquishment. Others, such as the belief that a couple was better suited than a single mother to bring up a child, were reflective of both the era's societal attitudes towards illegitimacy and the then extremely limited social and financial support available to single

23 Benevolent Society, Statement of apology—Adoption at the Royal Hospital for Women and Scarba House, 30 October 2011, http://www.bensoc.org.au/director/newsandevents/news.cfm?item_id=47ABF826BCFCD9B81247C329F89E6577 (accessed 12 February 2012).

24 *Proof Committee Hansard*, 16 December 2012, p. 7.

25 *Submission 399*.

mothers. When considered by today's standards, these past adoption practices were clearly misguided.

The Royal Women's Hospital acknowledges that, whatever the intentions and beliefs of the time, past adoption practices caused lasting consequences for many relinquishing mothers, and sometimes also for their children and their extended families.

On behalf of the staff, past and present, of the Hospital, I apologise to every woman who felt she had no choice but to relinquish her baby for adoption while in our care.

I understand that many relinquishing mothers experienced, and continue to experience, feelings of grief, pain, anger, helplessness and loss, and for this I apologise unreservedly.

I also offer an unreserved apology to any adoptees and other family members who have also experienced, and continue to experience, feelings of grief, pain, anger and loss.

I hope the Hospital's efforts towards uncovering our role in past adoption practices, our sincere apologies and our acknowledgement of pain and loss will bring some comfort to relinquishing mothers and their families, and be accepted as evidence of the regret and sorrow we feel for our involvement in past adoption practices.²⁶

9.26 The apologies made during the current inquiry drew a range of reactions. The one from Royal Women's Hospital in particular triggered angry correspondence from some submitters to the current inquiry. This section considers how official apologies can effectively acknowledge the wrongdoing, and properly take responsibility for those wrongs. It concludes with some comments about ensuring reparation through concrete measures.

9.27 The discussion uses the apologies made during the current inquiry to help understand the issues involved in making meaningful apologies for past adoption practices. As the following discussion demonstrates, one of the most important issues regarding adoption policy and practice is for governments and organisations to correctly identify what wrong was done at the time. Having named it, they need to acknowledge it without qualification. Otherwise, the integrity of the apology is undermined, and its healing power diminished.

What should be apologised for?

9.28 The first criterion for an apology is that it be an acknowledgment of the wrong done, or 'naming the offence'. This has proven to be difficult in the case of former forced adoption practices.

9.29 The Royal Women's Hospital statement began by noting that the study undertaken for them 'found no evidence of illegal practices at the RWH and no

26 *Submission 399*, pp 1–2.

evidence of hospital-wide policies that discriminated specifically against single mothers' and insisted that practices 'were in keeping with social attitudes, available financial support, and medical and social work knowledge and beliefs of the time'.

9.30 This kind of claim directly contradicts those of the individuals who gave evidence to the committee and organisations representing people affected by former forced adoptions, such as Origins SPSA and the Apology Alliance. As might be expected, therefore, apologies like the above were sometimes greeted with scepticism, and the statement by Royal Women's Hospital in particular was not well received.

9.31 The apology from Catholic Health Australia differed somewhat, in that it stated that Catholic Health 'echoed' the findings of the NSW Parliamentary Inquiry that there may have been unethical or illegal practices involved. Although Catholic Health Australia later advised that it was 'not aware of any material that substantiates inferences that laws in place at different points in time were not complied with', it accepted that there remain unresolved grievances regarding women's treatment during the consent-taking process.²⁷

9.32 However, potentially illegal or unethical actions are not the only things that deserve apology. The Benevolent Society noted these, but also other wrongs:

Adoption practices which were seen at the time to be in the best interests of a child, are now acknowledged as cruel and damaging to both the mother and her child/ren. The apology should recognise that vulnerable mothers were not given the care and respect that they needed during this difficult period of their lives. Due to the secrecy surrounding adoption in the past, birth mothers were frequently forced to internalise their loss and grief, typically being told to 'get over it and get on with their lives'. We now recognise how faulty this belief system was and the damage that these attitudes and practices caused...

Many of the women we now see in counselling report that they were coerced into signing adoption consents or believe that no consent was taken. Many were told they could only see their babies once consent was given. We have also heard reports that mothers were not allowed to leave hospital until they signed consent forms. This practice was unethical and went against legislation which allowed mothers to revoke consent. Many clients we see today were unaware at the time of their right to revoke consent...²⁸

9.33 The Benevolent Society went on to recommend:

That the Commonwealth Government issue a formal statement of apology that acknowledges, on behalf of the nation, the hurt and distress suffered by

27 Correspondence to the committee from Mr Martin Laverty, Catholic Health Australia, 20 October 2011, p. 5.

28 *Submission 191*, pp 6–7.

many mothers whose children were forcibly removed and by the children who were separated from their mothers.²⁹

9.34 The committee agrees with the recommendation (and returns to this subject later). However, 'acknowledging' hurt and distress is not the same thing as stating what caused it, and then taking responsibility for that action. One of the principal concerns of submitters was that forcibly removing a child from his or her mother was unethical and illegal, and the committee now turns to this issue.

Were there any unethical or illegal actions?

9.35 The committee's evidence from its witnesses consistently questioned whether the actions of hospitals and other institutions were ethical or legal at the time. This is what most participants in the inquiry believed governments and institutions should be apologising for.

9.36 As the statement from Royal Women's Hospital in Melbourne was the most unequivocal in suggesting that there were not illegal or discriminatory policies or practices, the committee reviewed its submissions to identify the kinds of issues raised by witnesses who had given birth at that institution. A range of submissions were relevant, covering the period 1959 to 1974. This submitter, whose name is withheld, was in Royal Women's Hospital in 1959:

On the sixth day a nurse came to my bed and told me that someone wanted to talk to me in a nearby room. I went to this room and I now realise the person in it was a social worker. She started talking to me about my baby son. I can't remember what she said to me except these words; 'I should not have been breast feeding him and I had no rights to him.'

I was extremely shocked, I believed that he was mine. She then placed in front of me some papers and told me to sign them: they were adoption papers.

Numbly I signed them.

As I was in complete shock I returned to my bed immediately, my baby was taken away and a nurse bound my breasts tightly and painfully to dry up my baby's milk.

I never saw my baby again.³⁰

9.37 Ms Marigold Halyer provided the account of her sister's experience at RWH in 1960, as her sister has since died:

[T]he relentless pressure on [name withheld], who was a shy and gentle young woman, by the medical and hospital staff at the Royal Women's Hospital in Melbourne, the hospital social worker, and our mother, centred around the injunction that 'if she loved her baby she should give it up to a

29 *Submission 191*, p. 7.

30 Name withheld, *Submission 28*, p. 1.

married couple who could give the baby everything...' Shame played a big factor in the coercion of my sister. She was not informed of any help she could get if she wanted to keep her daughter, the opposite was the case in all respects.³¹

9.38 June Smith, who lost her son to adoption in 1961:³²

[M]y son, my beautiful son, was pulled from my arms because I did not want him adopted...I was condemned into silence for decades by the words and deeds of hospital staff at the Royal Women's Hospital Melbourne, I was told in no uncertain terms that I was worthless, that I had disgraced myself to society by being a single mother. I was told my baby would be better off without me. I was told that if I loved my son I would sign consent to adoption and not be selfish and want him to stay with me. I was given drugs. I was treated with contempt by nursing staff. I was never treated with the dignity that was my right as my son's mother.³³

9.39 Ms Lynette Kinghorn in 1963:

I was taken to the almoner [at Royal Women's Hospital] where it was discussed between my mother and the almoner that my baby would be taken for adoption. I was never given any other option...someone was sent to the hospital from Berry St [a home for expecting mothers] to collect me I ran screaming for help to a sister who had cared for me I was hysterical she put her arms around me and said go home and be a good girl, I was dragged out without my baby screaming it was the worst experience of my life and still is. I still had not signed consent to adoption.³⁴

9.40 Ms Rosemary Neil in 1966:

I was taken to the Royal Women's Hospital for the delivery of my baby... [during labour] I asked the staff if they could ring my Aunty but I was told the only person the staff could ring was [at] the [Presbyterian Sisterhood in North Fitzroy], so I was given Heroin I didn't know what it was at the time, I was given other painkillers and I took them all because I didn't want my baby to be born because my baby would be taken from me at birth. Even though I protested and I couldn't see her when she was born, (I believe because of the amount of pain killers I had taken), I wasn't able to push and she was delivered by forceps...

I asked to hold or feed my beautiful baby and was told that because my baby was to be Adopted I couldn't do either, the nurse brought her to the window but I was crying and couldn't see her properly...

[The submitter was eventually persuaded to sign the papers.] On the 29th day after [my baby] was born I took my papers back to the Women's

31 Ms Marigold Halyer, *Submission 32*, p. 1.

32 *Committee Hansard*, 20 April 2011, p. 33.

33 June Smith, *Submission 83*, p. 10.

34 *Submission 8*, p. 1.

Hospital to take my baby home, I was laughed at and told she wasn't here she had gone to her Adopted family and if I wanted I should go to the Court House, when I asked where it was I was told to look it up in the phone book...³⁵

9.41 Spring Blossom described her experience in 1968:

My next stop within the hospital was a visit to a social worker. The social worker was located within the premises of the RWH. It was my desire to question her about what to expect from birth and how to look after my baby. From our first contact, the social worker insisted that I would be unable to look after my child myself, and would have to give him up for adoption if I 'really cared about him'. As I had been raised to respect authority, and the social worker was presented to me as an authority on children and family, her advice caused me great internal conflict and distress. I visited the hospital once a month for physical examinations, and each time I was sent to visit the social worker. She continued to re-affirm her position; that I would be an inadequate mother to my baby, repeatedly using the phrase 'if you really care about your baby, you will give him up'...

I awakened from the birth of my baby very confused and disoriented. I found out later I had been given heroin and pethadine...

I had also been given something to dry up my breast milk...This drug was Diethylstilbestrol. I was informed of this by a sister when I asked why my breasts were unnaturally hard and sore. When she told me I would have no breast milk again, I began to wail as I realized I would not be able to feed my baby. I asked to see him and was told he was being given away for adoption and I could not see him. For three days I asked continually for my baby, and began to cry, beg, and eventually scream when I was denied him. I was told I would be disciplined for being selfish and disturbing the other patients. I was given no information about his progress or well-being. Many years later I received a letter saying that although I had not signed an adoption consent, there is no record of me being asked for, or giving, consent for him to be removed from the hospital. He was taken with no authority, no consent, no permission.³⁶

9.42 Ms Christen Coralive in 1974:

A week later I attended the Royal Women's Hospital, with a \$2 plastic gold ring on, mumbling about how my partner was interstate and would be back soon. That didn't fool them. They tried all their tactics. As soon as my daughter was born she was separated from me. I was drugged. I came to the next morning in a ward. The other mothers were brought their children. When my baby didn't appear I started making lots of very loud noises. A bit of coincidence kicked in, then. One of the sisters had grown up in the same small community as me and she ensured that my daughter was brought to me. For five days I was subjected to an enormous amount of pressure. On

35 *Submission 151*, pp 1–2.

36 *Submission 118*, pp 6–7.

the fifth day, I needed to sign a piece of paper giving permission for a blood test for my daughter. The paper was folded, and underneath two signatures were required. The underneath piece of paper was a relinquishment.³⁷

9.43 The above accounts do not represent all of the submitters to the inquiry who gave birth at Royal Women's Hospital. Other Victorian submitters did not name the institutions at which they gave birth or at which adoption was arranged, while many others are confidential.

9.44 One nurse who worked at Royal Women's Hospital in the 1960s or 1970s, while both remorseful and supportive of an apology, also indicated that staff believed they were acting professionally:

Yes, we had taken babies from their mothers at birth, without them holding or even seeing their child. The mothers were then admitted into wards without their babies and ostracised in many different ways, finally being discharged about 1 week later, never having seen or held their baby or the 'new' parents who had adopted their baby...

I felt very sorry for what I had done even though at the time we believed what we were doing was 'right' for the child and the mother. However I now believe that the process was very cruel, unjust and very dehumanising to both mother and child.³⁸

9.45 The committee does not express a view about whether any particular event described by a witness involved an illegal action. However, in light of the evidence it has received in relation to practices at hospitals such as Royal Women's, the committee queries whether the conclusion that it could find 'no evidence of illegal practices at the RWH and no evidence of hospital-wide policies that discriminated specifically against single mothers' may be premature. The accounts of women, who were obviously eyewitnesses to their own mistreatment, must be taken seriously as evidence.

9.46 This committee is not the only body to have considered evidence that laws were broken or rights not respected. The Human Rights Commission's review of the ACT Adoption of Children Ordinance, conducted in 1986, discussed historical trends in adoption. It observed:

Adoption procedures have also largely disregarded the rights of the parent considering relinquishment to be made aware of alternative options to adoption, and to full and disinterested support in arriving at a decision. The many submissions received from natural mothers who relinquished children

37 Ms Christen Coralive, *Committee Hansard*, 26 October 2011, p. 9.

38 Ms Annie Florence, *Submission 36*, p. 1.

for adoption, describing their unresolved grief and sense of loss, bear testimony to the failure of bureaucratic procedures to protect their rights.³⁹

9.47 As noted in Chapter 1, the New South Wales Parliamentary inquiry in 2000 also concluded that practices that were unethical or unlawful may have occurred in some institutions.

Committee view

9.48 The committee received evidence from hundreds of women who gave birth in hospitals and other institutions between the late 1950s and the 1970s. Overwhelmingly, these women alleged that laws were broken or that there was unethical behaviour on the part of staff in those institutions. The common failings included applying pressure to women to sign consents, seeking consent earlier than permitted by the legislation, failing to get a consent signature or obtaining it by fraudulent means, and denial of reasonable requests, particularly for a mother to have access to her child. As explained in Chapter 7, certainly after new laws were enacted in the mid-1960s, actions of these types would in some cases have been illegal. Other experiences that reflected unethical practices included failure to provide information, and failure to take a professional approach to a woman's care. It is time for governments and institutions involved to accept that such actions were wrong not merely by today's values, but by the values and laws of the time. Formal apologies must acknowledge this and not equivocate.

9.49 The committee believes that governments and institutions need to take a more credible approach to former forced adoption practices. The committee does not express a view about any particular cases, or about the prevalence of illegal or unethical actions, but apologies that deny them altogether lack credibility in the face of the weight of evidence.

9.50 The committee agrees that official apologies should also identify the other key wrongs: that 'vulnerable mothers were not given the care and respect that they needed during this difficult period of their lives',⁴⁰ that mothers were poorly advised, that they were stigmatised by professionals and institutions, and that organisations and their staff in positions of authority stood in judgement of these women instead of respecting them.

9.51 The committee has considered the question of what the Commonwealth should apologise for. It was not directly responsible for any of the institutions at which birth and adoption took place. Does this mean it should not make an apology, since neither it nor its employees actually committed the wrongs outlined above?

39 Human Rights Commission, *Review of the ACT Adoption of Children Ordinance 1965*, Canberra, 1986, pp 3–4.

40 *Submission 191*, pp 6–7.

9.52 For two principal reasons, the committee argues the Commonwealth should offer an apology.

9.53 Firstly, it cannot absolve itself of all responsibility for the system under which adoption took place. In Chapter 7, an exchange involving the Commonwealth Attorney General was quoted. This exchange encapsulated his own view but implicitly also the choice, made by the Commonwealth, not to make readily available to unmarried women those Commonwealth social security benefits extended to other mothers:

HON C. ROWE [New South Wales]: I think all this is tied up with not getting the mother's consent too soon and allowing her time to really make up her mind about what she wants to do.

SIR GARFIELD BARWICK [Commonwealth]: If you leave the child with the young mother too long, it builds itself into the affections of a person who has no chance of looking after it.

HON. C. ROWE: That mother has prior right morally and legally, and I think we should leave it that way.

SIR GARFIELD BARWICK: Everything but the economic ability to look after it.⁴¹

9.54 The Commonwealth was aware that unmarried women in the 1960s would experience economic pressure to have their children adopted. However, it did not choose to extend Commonwealth benefits to women to enable them to support their children themselves.

9.55 Secondly, the Commonwealth should offer an apology because it is the only institution capable of extending the apology to everyone affected. The Commonwealth's apology to Forgotten Australians was widely accepted, despite the fact that the abuse occurred in institutions that were run by state governments or private organisations. Their experience was nationwide, as was that of those affected by forced adoption. It was a national phenomenon and calls for a national response.

Recommendation 2

9.56 The committee recommends that the Commonwealth Government issue a formal statement of apology that identifies the actions and policies that resulted in forced adoption and acknowledges, on behalf of the nation, the harm suffered by many parents whose children were forcibly removed and by the children who were separated from their parents.

Recommendation 3

9.57 The committee recommends that state and territory governments and non-government institutions that administered adoptions should issue formal statements of apology that acknowledge practices that were illegal or unethical,

41 Transcript of SCAG meeting, 16 June 1961, pp 26–27.

as well as other practices that contributed to the harm suffered by many parents whose children were forcibly removed and by the children who were separated from their parents.

Recommendation 4

9.58 The committee recommends that apologies by the Commonwealth or by other governments and institutions should satisfy the five criteria for formal apologies set out by the Canadian Law Commission and previously noted by the Senate Community Affairs Committee.

Taking responsibility

9.59 An effective apology involves taking responsibility for past actions. An example was shown by the individual submission from Ms Annie Florence, who sought an opportunity for 'staff such as myself, who was involved in the adoption processes, to offer their own personal apology'.⁴² However, it requires a government or organisation to 'demonstrate to the recipient that [it] accepts responsibility for what happened'.

9.60 A common thread that runs through the apologies is that governments and organisations were operating according to the beliefs and best practice of the time. Thus the Western Australian apology included:

[T]hat processes such as the immediate removal of the baby following birth, preventing bonding with the mother, were thought at the time to be in the mother's and the child's best interest.⁴³

9.61 The Benevolent Society's statement conceded somewhat more, but still stated that professionals at the time had no understanding that practices might harm the people involved:

The Benevolent Society deeply regrets past practices based on policies which, while influenced by societal attitudes of the time, we now know to be deeply flawed and damaging to many unmarried women.⁴⁴

9.62 The committee is concerned about such arguments that practices 'were in keeping with social attitudes, available financial support, and medical and social work knowledge and beliefs of the time'.⁴⁵ Institutions may be perceived as avoiding taking responsibility for their policies and the actions of the staff for whom they were

42 Ms Annie Florence, *Submission 36*, p. 2.

43 Legislative Assembly of Western Australia, *Hansard*, 19 October 2010, p. 7881a.

44 Benevolent Society, Statement of apology—Adoption at the Royal Hospital for Women and Scarba House, 30 October 2011, http://www.bensoc.org.au/director/newsandevents/news.cfm?item_id=47ABF826BCFCD9B81247C329F89E6577 (accessed 12 February 2012).

45 *Submission 399*, pp 1–2.

responsible. Accordingly, the committee considered the question of whether the policies of the period reflected uniformly-held values and best practice.

9.63 There is no question that adoption had widespread institutional support during the period. The issue, however, is what practices were endorsed within this context.

9.64 The committee found historical evidence that suggested that protection of the rights of mothers was a significant concern amongst those involved in adoption law throughout the period in question. This was most evident in some of the material produced during the development of model laws in the 1960s, and documented in Chapters 6 and 7. It is clear from that material that attitudes amongst professionals and staff varied, and that some senior administrators worked to ensure there was no coercion of or pressure applied to mothers. This resulted in laws that explicitly made such actions an offence.

9.65 The social work profession from the late 1950s was supportive of mothers' rights to access their children prior to adoption, to be free of pressure to adopt, and to be informed about alternatives to adoption. Professional social work and child welfare manuals from New South Wales published in the late 1950s were emphatic about the seriousness of adoption as an irrevocable act, and the steps to be taken in explaining the options to a woman considering adoption for her child. These manuals refer to options to assist the mother to support the child, and say 'only when the mother has considered these [options], and still wishes to proceed with the surrender for adoption, should the consent be accepted'.⁴⁶

9.66 In 1965 the Australian Association of Social Work's annual conference included a paper setting out the professional's approach to 'objective service':

There must be no moral pressure brought to bear, no condition laid down when Agency help is offered.

She must be free to see, nurse and/or nurture her baby, whether or not her final plan is adoption.

Many Agencies in this country have punitive, illegal and harmful rules regarding the unmarried mother's inalienable right to physical contact with her child, when she has decided on adoption.

Some Agencies refuse to allow the unmarried mother to see her child, nor do they tell her the child's sex. While this may be done from the best motives, these misguided people should look more carefully into the situation.⁴⁷

46 Donald McLean, *Children in Need*, Government Printer, Sydney, 1956, p. 53. See also Department of Child Welfare and Social Welfare, *Child Welfare in New South Wales*, undated (estimated 1958); 'Adoption in New South Wales', *Journal of the Department of Child Welfare*, vol. 3, no. 2 (1964), pp 15–16.

47 Mary Lewis, 'Unmarried mothers', *Australian Association of Social Workers Ninth National Conference Proceedings*, Adelaide, August 1965, p. 112.

9.67 Other professional literature from the 1960s indicates that social workers, while possibly accepting the clean break theory, also supported women being given access to their children if they requested it. In 1967 the *Australian Journal of Social Work* included articles by professionals working in the field of adoption that stated 'The natural mother's right to see, handle and nurture her child, if she so desires, often requires protecting'⁴⁸ and 'None of us, I think, would deny the natural mother the right to keep her child'.⁴⁹ A paper published in the journal of the Australian Institute of Hospital Administrators in 1968 is similarly emphatic, saying the mother 'must be aware of her legal rights and obligations and the whole matter of adoption must be most carefully discussed with her'.⁵⁰

9.68 Society in general may have stigmatised pregnancy out of wedlock, and may have supported adoption. However, these broad prejudices and values are not relevant here. The committee is concerned with the decisions of professionals who led the institutions, or set policies for them. In this regard, the policies and practices espoused by the social work profession were regularly disregarded in the hospitals and maternity homes. The practices complained of by witnesses to this committee, and defended as accepted in that era, were simply not accepted by the social work profession at that time.

9.69 However, at least one professional had a different view. In 1959, Dr D. F. Lawson of the Royal Women's Hospital gave the R.D. Fetherston Memorial Lecture. In that address, he made some startling remarks that carry particular significance when viewed through the lens of the experience of the women who gave evidence to this inquiry:

The prospect of the unmarried girl or of her family adequately caring for a child and giving it a normal environment and upbringing is so small that I believe for practical purposes it can be ignored. I believe that in all such cases the obstetrician should urge that the child be adopted...The last thing that the obstetrician might concern himself with is the law in regard to adoption.⁵¹

9.70 Dr Lawson's comments are notable because they imply there was an opposing view. Dr Lawson was clearly conscious of these different views, some of them enshrined in law. His call to other professionals not only to disregard the natural mothers, but to disregard the law and pursue adoption for their babies, is an indictment of his professional conduct. But perhaps more importantly, the contrast between the

48 Sister Mary Borromeo RSM, 'The Natural Parents', *Australian Journal of Social Work*, vol. 20, no. 1 (1967), p.11.

49 N. Mills, 'Who is the Unadoptable Child?' *Australian Journal of Social Work*, vol. 20, no. 1 (1967), p. 20.

50 Ms Pamela Roberts, 'The hospital's responsibility to the unmarried mother and her child', *Hospital Administration*, vol. 16, no. 12, p. 12.

51 *Medical Journal of Australia*, vol. II, no. 5 (1960), pp 165–166.

views of Lawson and his social worker contemporaries (not to mention the law itself) shows that there was not a single settled approach to professional practice at the time.

9.71 Dr Lawson may have been in conflict with medical colleagues in his own hospital. Janet McCalman, in her history of Royal Women's Hospital in Melbourne, documents internal divisions around the treatment of unmarried mothers in labour. These women were treated differently by the obstetricians:

This remains one of the most painful issues in the hospital's history. Those who defend the obstetricians and midwives argue that they were doing what they thought best; those who criticise see cruelty and wilful ignorance...As Australia's largest specialist women's hospital, the Women's should have been a national leader in practising and teaching the new techniques [of obstetrics] by the early 1950s. Instead [anaesthetist Kevin] McCaul found himself fighting an obstetric hierarchy that was deeply conservative and obsessed with the mechanics of labour...One progressive obstetrician later observed that 'there was an attitude that you made her sweat it out a bit more if she was unmarried, and that she could not be respectable if she got married and had a caesarean scar'.⁵²

Committee view

9.72 The committee concludes that governments and institutions in the 1960s and 1970s were presented with a range of professional advice about adoption. Little of it challenged adoption as a practice. However, a great deal of it cautioned against placing pressure on mothers to encourage the surrender of babies for adoption, and some of it explicitly drew attention to the requirements of the law, and the risks of it being violated. These protections of mothers' rights contained in laws and professional guidance were often not respected in institutions where those births took place.

9.73 It should be remembered that, while reliable statistics are hard to come by, throughout the period in question about half of unmarried mothers did not surrender their babies for adoption. Adoption was not inevitable, and this must have been well known to the professionals who each year dealt with dozens, or hundreds, of young pregnant women. Actions taken to present adoption as necessary or inevitable not only defied good practice, it defied the everyday experience of these professionals.

9.74 Accordingly, the committee believes state governments and institutions should take responsibility for past actions taken in their hospitals, maternity homes and adoption agencies. The conduct of the period was not the product of some uncontested acceptance about separating unmarried mothers from their babies. It was the product of decisions made, almost certainly at the institutional level, that decided to accept certain professional opinions, and to disregard (to varying degrees) the

52 Janet McCalman, *Sex and Suffering: Women's Health and a Women's Hospital, The Royal Women's Hospital, Melbourne 1856–1996*, Melbourne University Press, Melbourne, 1998, p. 276.

professional guidance of social workers of the time, and sometimes the manuals of the period. Taking responsibility means taking responsibility for those choices.

9.75 The committee does not dispute that societal values and professional practice were different during the period in question. However, justifying past actions in terms of values or prevailing practice can be seen as avoiding taking responsibility for the policy choices made by institutions' leaders. It also undermines the sincerity of any apology.

Recommendation 5

9.76 The committee recommends that official apologies should include statements that take responsibility for the past policy choices made by institutions' leaders and staff, and not be qualified by reference to values or professional practice during the period in question.

Reparation through concrete measures

9.77 The Benevolent Society's statement of apology contained important positive features. In particular, it made clear statements that such events should not be repeated, and offered concrete assistance to those affected. The undertaking to take practical steps to assist those affected by past mistakes is an important one.

9.78 Different people want different measures taken. It is inevitable that an apology for past forced adoption practices will not satisfy every request for reparation. Some have called for the Commonwealth to ban adoption generally or at least intercountry adoption.⁵³

9.79 The committee agrees that definite steps should be taken in conjunction with formal apologies. These steps could include, as in the case of the Benevolent Society's apology, offering affected people the opportunity to:

[A]ccess assistance and support from the Post Adoption Resource Centre in NSW or Post Adoption Support Queensland. Both services provide telephone support, specialist face-to-face counselling, intermediary services to assist individuals approaching birth relatives, and assistance in accessing adoption records.⁵⁴

9.80 Catholic Health Australia likewise offered to assist with accessing records. Also significant, however, is for institutions to offer (as did Catholic Health) to

53 For example, VANISH Inc., *Submission 160*, p. 5, calls for intercountry adoption to be phased out.

54 Benevolent Society, Statement of apology—Adoption at the Royal Hospital for Women and Scarba House, 30 October 2011, http://www.bensoc.org.au/director/newsandevents/news.cfm?item_id=47ABF826BCFCD9B81247C329F89E6577 (accessed 12 February 2012).

cooperate with policy processes intended to formulate government responses to assist people affected by former adoption policies and practices.

Recommendation 6

9.81 The committee recommends that formal apologies should always be accompanied by undertakings to take concrete actions that offer appropriate redress for past mistakes.

9.82 The next chapters examine various concrete proposals to address the harm caused by forced adoption. The committee believes that every government and institution has a responsibility to match the words of apologies with appropriate actions.

Conclusion

9.83 Several witnesses pointed out that the content of any apology is only part of the story in an area, such as forced adoption, where the circumstances of what happened were shrouded in secrecy and shame. There should not only be an apology; it must also be widely heard and understood. The National Council of Single Mothers and their Children said:

A further outcome of the national inquiry should include greater public awareness and an opportunity for women to finally have their voice heard by the government and their experience publically validated.⁵⁵

9.84 As noted earlier, some submitters specifically insisted that the apology be published, through for example national newspapers, and be made widely known.⁵⁶ The committee agrees that wide dissemination of an apology is desirable to help sweep away both the secrecy and the stigma of past adoption practices. It is also desirable that everyone directly involved in past adoptions is helped to understand the circumstances in which they took place.

Recommendation 7

9.85 The committee recommends that a Commonwealth formal apology be presented in a range of forms, and be widely published.

55 National Council of Single Mothers and their Children, *Submission 333*, p. 13.

56 For example, Mrs Julie Noble, *Submission 362*, p. 2.