

# Chapter 11

## Redress for former forced adoption policies and practices

11.1 Evidence submitted to the committee by those affected by former forced adoption policies and practices suggests that redress is required as an important step towards official recognition of the injustices suffered, and towards individual and community healing.

11.2 The committee considers that governments and institutions should take concrete steps toward mitigating the harm done by former forced adoption practices. These include an apology, formal grievance procedures, reforms to ensure removal of unnecessary barriers to litigation, and the provision of specialised trauma counselling for the different parties to past adoptions. Chapters 9 and 10 considered the prospect of an apology and the provision of counselling services respectively. This chapter considers the issue of compensation, the options for legal redress and the establishment of a grievance process.

11.3 Previous Senate Community Affairs Committees carried out inquiries into child migration and those who experienced institutional care, collectively known as Forgotten Australians. There were similarities in the issues that arose from these inquiries, particularly around reparation and redress schemes, and the difficulties in pursuing legal action as a form of redress. The committee considered the reports of these previous inquiries, and government responses to them, in order to inform its approach to the current issue.<sup>1</sup>

### Compensation

11.4 During its inquiries into Forgotten Australians and child migrants the committee considered the difficult issues involved in providing redress for past wrongs. The issue of monetary compensation was as contentious in those inquiries as it has been in this one. In this inquiry the issue of compensation was often linked to an apology, with the apology being seen as the acknowledgement of wrongs committed, and compensation as the tangible acceptance of responsibility by authorities. As discussed in Chapter 9, the committee has recommended that the Commonwealth Government issue a formal statement of apology that acknowledges, on behalf of the nation, the hurt and distress suffered by many mothers whose children were forcibly removed and by the children who were separated from their natural parents.

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1 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004; Senate Community Affairs References Committee, *Implementation of the Recommendations of the Lost Innocents and Forgotten Australians Reports*, 25 June 2009; Senate Community Affairs References Committee, *Lost Innocents and Forgotten Australians Revisited*, 25 June 2009.

11.5 Most submissions did not raise compensation as an issue, and some thought that it would not be an effective form of assistance. During the hearing in Adelaide, Mrs Roslyn Phillips was asked about compensation, and expressed doubt about whether it would be an effective response:

Senator ADAMS: Some witnesses have been asking for compensation from the government. What do you feel about that?

Mrs Phillips: I am not sure about that. I think the same was said about Aboriginal children who had been separated from their parents. Again, some of them mentioned it in your inquiry because they were forced to put their babies up for adoption. It is very hard. Once you talk about compensation, there is a matter of proving things and when it is a long time ago, there can be court cases. I am not sure that is the best way to go. I think it would be better to provide the best kind of counselling and other assistance to help them get on with their lives.<sup>2</sup>

11.6 Many submitters told the committee of how awful the experience of forced adoption was. This led some to argue that compensation could not be effective, because it not compare with the severity of the harm experienced:

I would like to see that this sort of thing never happens to anybody else anywhere—all over the world, not just Australia. This is so wrong; this is so, so wrong. There is no way there can be in any recourse or compensation or anything else for the things that were done to us, the way we were treated. It is just so bad. We were made to feel shame. I was never allowed to talk about it. Even now with my family I am in trouble all over the place. There are adopted children in my family and, because of what I have done now in putting this submission forward, it is like I should not be around. They are treating me like something you would scrape off the bottom of your shoe and I cannot do anything about it. I do not know what to do about it, so who is going to help?<sup>3</sup>

11.7 Asked about compensation, one witness saw actions, not money, as the important form of compensation:

Also, my idea of compensation is to get it out there in the media and to let our kids know—we do not have to know because we know what went on—that we were not the bitch, the slut or the whore that met a sailor when the ship came in. In fact, I only ever met one person that that happened to. We have to let them know that they were loved and there was no choice. We do not know what the adoptive parents have told these kids or what has been rammed down their throats for how many years. They need the second story out there in the media. I do not mean talking about it on the computer or on Facebook because these people are my age. I could not even send in a

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2 Mrs Roslyn Phillips, *Committee Hansard*, 26 October 2011, p. 3.

3 Ms Carol Helmrich, *Committee Hansard*, 29 April 2011, p. 65.

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submission over the internet. So that will not work. It has to be when they switch on the television and bang it is there.<sup>4</sup>

11.8 One of the commonest responses of submitters to the question of compensation was to link it to an apology, and to other concrete measures.

*The link between an apology and compensation*

11.9 Ms Marigold Hayler's submission was typical of those that expressed the connection between an apology and compensation.

In my view there should be some compensation also, as well as an apology. Apologies are excellent (think of the Truth and Reconciliation Commission in South Africa). But, also, compensation is a tangible thing.<sup>5</sup>

11.10 The significance of compensation in validating the trauma and grief associated with forced adoptions was also highlighted in another submission:

Apology—brings validation and healing

Redress—financial compensation and acknowledgement for the separation...<sup>6</sup>

11.11 In another submission, a mother argued that financial compensation and acknowledgement of her forceful separation from her child was imperative for the healing process.<sup>7</sup> Thus for some submitters, acknowledgement and financial compensation appear to be two sides of the same coin: both allow mothers to feel that they have been heard and have had their feelings of grief and anger validated.

11.12 Compensation can also reflect both the economic and intangible costs of their past experience:

I also ask for legislation for compensation for the life-long effects and costs of post-traumatic stress and unresolved grief.<sup>8</sup>

11.13 Another submitter identified compensation as key to her recovery and to the recovery of her children. Again, the act of acknowledgement and compensation appear to be intertwined:

1. Payment for grief and loss counselling.
2. Compensation for personal injury.
3. Acknowledgement of my loss.

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4 Ms Christine Burke, *Committee Hansard*, 16 December 2011, p. 44.

5 Ms Marigold Hayler, *Submission 32*, p. 2.

6 Name Withheld, *Submission 120*, p. 6. See also Name Withheld, *Submission 284*, p. 1 and Name Withheld, *Submission 341*, p. 4.

7 Ms Susan Bryce, *Submission 134*, p. 2.

8 Ms Joy Goode, *Submission 241*, p. 4.

4. As my children are not old enough to fully understand what has happened I would like them to be told about the adoption practices, and for them to gain an understanding of what has happened to me so that when I meet them they will benefit from information on adoption.
5. Compensation for my children who have had to live without each other.
6. Recognition of past adoption practises.
7. Those people responsible for unethical and illegal activities dealt with through the legal system.<sup>9</sup>

11.14 Acknowledgement, vindication and compensation for suffering was also highlighted in another submission, in which the following requests were made:

The results I would like to see come out of this Inquiry are

- That adoptees are made aware of the truth
- That mothers involved in forced adoptions be vindicated publicly
- That appropriate Psychological Treatment be made available to mothers and adoptees, ASAP
- That financial redress be made to these mothers and their children, who should be considered comparable to victims of crime...<sup>10</sup>

11.15 Of the need for natural justice, and the role compensation would play in achieving this, one submitter wrote:

These women are owed compensation as any other person who has faced injustice under criminal acts. These women are owed compensation for the illegal abduction/kidnapping of their babies and the abuse and trauma they suffered at the hands of those who were supposed to care for them.

A precedent needs to be set so that this heinous episode bordering on genocide (the taking of one group of people and giving them to another group), will never again happen in this country's history.<sup>11</sup>

11.16 Echoing the need for natural justice, another submitter argued that:

I am not a materialistic woman but I state powerfully and strongly, us mums who were treated in such a barbaric and draconian manner...ask for substantial compensation to be given for the pain and suffering and rejection by family and society at the stigma that has followed us for a lifetime since.<sup>12</sup>

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9 Ms Sharon Thornton, *Submission 76*, p. 10.

10 Name Withheld, *Submission 258*, p. 10.

11 June Smith, *Submission 83*, p. 9. Judy M, *Submission 205*, p. 4 also appealed to natural justice and asked for the involvement of the Human Rights Commission to prosecute individuals/institutions involved in forced adoptions.

12 Ms Beverley Redlich, *Submission 112*, p. 5.

11.17 One mother reasoned that compensation is essential for repairing the damage caused and the grief she has suffered:

The others who got it wrong still owe all mothers and their stolen babies an apology. What amount can repair a lifetime of grief? What amount can cushion the theft of a child by a government eugenically oriented?

I believe there are a couple of things left to do.

1. Apologise.
2. Repair and compensate for the damage...<sup>13</sup>

11.18 Other submitters sought redress, without necessarily framing it as financial compensation. The element of mental anguish was highlighted by an adopted person who felt that their separation from their natural mother dictated an isolated and lonely life, consistently feeling that they do not 'belong' with their adopted family:

I also think that government needs to look at redress as so many [lives] have been destroyed due to Forced Adoption leaving those with little ability to earn an income or have what would be considered a normal life. We all have been severely disadvantaged with Past Governmental Policies.<sup>14</sup>

11.19 Another adopted person highlighted the consistent daily pain that he battles with and the debilitating effects adoption has had on his life. When asked how the Commonwealth could best assist in trying to repair the damage inflicted he said:

I think that they should continue along the line that they are with supporting CLAN with funding and supporting Open Place. Open Place has things like they will pay for your medical provisions, and I do need medication that I have had for quite some time...

The main thing now is that anyone who has been in an orphanage warrants financial compensation. It is like they destroyed us...So I think some sort of compensation is necessary because we lost our income, our ability to earn an income. Most of us are on medications, and have been from a very early age. It is just not fair that we never had the right to earn a proper living.<sup>15</sup>

11.20 Compensation for this witness was linked to having been in institutional care. He thought other forms of assistance than compensation should be available, such as support for medical care.

11.21 Witnesses often linked the need for financial assistance to costs incurred later in life (rather than as compensation for the action of forced adoption itself). For example, one submitter informed the committee that:

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13 Ms Jan Kashin, *Submission 93*, p. 17.

14 Name Withheld, *Submission 201*, p. 2.

15 Mr Michael Bamfield, Member, Care Leavers Australia Network, *Committee Hansard*, 20 April 2011, p. 55.

Recompense would need to be addressed on a case-by-case basis. Many mothers were rendered incapable of working or holding down a job of any kind and as a consequence have not had the financial means of proper health care or professional psychiatric help to try to unpack the experience they had resulting in the damage sustained when their babies were forcibly taken from them. Financial assistance would contribute to her attaining and maintaining the semblance of a 'normal' life. Financial assistance is in some cases needed to reunite mothers with their lost children and grandchildren.<sup>16</sup>

11.22 As the examples outlined above have shown, the type of compensation sought, and the reasons for it, varied. The most common request was not for direct compensation, but for concrete actions that reflected their experience, and support in addressing the ongoing costs that they experienced as a result of past harm. This range of submitter requests, underpinned by a common call to have their voices heard, was also a feature of the inquiries into child migrants and children in institutional care.

***Redress and reparations for child migrants and children who experienced institutional care***

11.23 The policies that led to the child migrants and children in institutional care inquiries collectively involved placing upwards of 500 000 children into care for a substantial period, sometimes all of their early lives. The damage done to these children, now adults, is documented extensively in those reports. The inquiries into those episodes of Australian history showed that the placement of these children in institutions was the result of a coherent and conscientious policy at state and federal level, and a collective responsibility for the neglect and abuse that occurred in the environments into which the children were placed. In the case of *Child Migrants* the findings of the inquiry included:

State Governments were unable or unwilling to ensure the protection of the children and the Committee received evidence of shocking physical and sexual abuse and assault perpetrated by those charged with their day-to-day care.

[and]

Australian authorities ignored changes in childcare arrangements developing in the United Kingdom and many child migrants were placed in barrack-style institutions, isolated from the general community. Connection with family was severed or actively discouraged by carers. Without those connections, children lost their personal identity, culture and country.<sup>17</sup>

11.24 The committee at that time recommended the establishment of the Child Migrants Trust fund in conjunction with the United Kingdom. The purpose of the Trust was to allow affected people re-engage with their country of origin and attempt to rebuild familial links through the funding of travel between Australia and the UK.

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16 Ms Linda Graham, *Submission 258*, p. 27.

17 Senate Community Affairs Committee, *Lost Innocents: Righting the Record*, Prologue, p. xiii.

Other functions of the Trust included funding specific counselling services for child migrants and to:

develop strategies to improve former child migrants' access to mainstream services as well as to improve the capacity of mainstream service providers to respond appropriately to the needs of former child migrants.<sup>18</sup>

11.25 In the case of the *Forgotten Australians* the committee also recommended a number of diverse redress options. These included issuing an apology, the establishment of a national reparation fund, addressing the barriers to legal actions, ensuring a standardisation of church and institutional grievance procedures, and the establishment of an external complaints review mechanism.

11.26 On the issue of the establishment of a national reparation fund for *Forgotten Australians* there were issues with its implementation, particularly in relation to the role of the states and the churches who had the primary responsibility for the institutions where much of the abuse took place.

11.27 As highlighted in previous committee reports,<sup>19</sup> state redress schemes, where implemented, have fallen short of meeting the requirements and/or expectations of abuse victims and there are issues surrounding inequitable outcomes. This is attributed to the complicated bureaucratic steps involved in processing claims, which are further complicated by the fact that many victims of abuse reside in different states to where the abuses occurred.

11.28 Moreover, the state schemes have very different criteria and payout figures.<sup>20</sup> This creates inequity in the reparation schemes and often leaves victims feeling resentful and at times re-traumatised by the bureaucratic process. Moreover, some states assess payout figures in relation to the perceived seriousness of abuse suffered. This multi-tiered system is highly subjective and can further exacerbate the emotional stress applicants are already under.<sup>21</sup> Additionally, state-run redress schemes are undermined by the reluctance of victims to come forward and lodge a claim because they experienced abuse in state institutions in the first place. Consequently, many abuse victims have a mistrust of bureaucracy.

11.29 Church administered redress schemes for *Forgotten Australians* have also been problematic. During the inquiry the committee received many complaints as to

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18 Senate Community Affairs Committee, *Lost Innocents: Righting the Record*, pp 203–204.

19 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004; Senate Community Affairs References Committee, *Implementation of the Recommendations of the Lost Innocents and Forgotten Australians Reports*, 25 June 2009.

20 Senate Community Affairs References Committee, *Implementation of the Recommendations of the Lost Innocents and Forgotten Australians Reports*, 25 June 2009, pp 212–213.

21 Senate Community Affairs References Committee, *Implementation of the Recommendations of the Lost Innocents and Forgotten Australians Reports*, 25 June 2009, pp 212–213.

the deficiencies of such schemes.<sup>22</sup> For example, submissions to that inquiry expressed concern that after victims took the painful steps to submit details of abuse or neglect to the church authorities, the assessors found that the alleged abusing priest or nun was too old, senile or dead, and therefore could not respond to the allegations.<sup>23</sup> Moreover, submitters alleged that the assessors often claimed a lack of evidence for a particular form of abuse or neglect or that there was no corroborating evidence for the allegations.<sup>24</sup> It was then further alleged by submitters that the plaintiffs received pro forma letters from the relevant church authorities claiming that the matters raised had not been substantiated and no further actions would be taken.<sup>25</sup>

11.30 Additionally, many people will not use church redress schemes because of their past experiences in these institutions. Effectively, victims are required to go back to their abusers, undergo a potentially traumatic inquiry process and then ask for money. As highlighted by the *Forgotten Australians* report, this prospect is too humiliating and traumatizing for many victims.<sup>26</sup>

11.31 The Commonwealth has not funded compensation schemes in either case. In the case of children in institutional care, it argued that most recommendations were matters for the states. The Community Affairs committee then suggested that redress schemes should be set up by, and be consistent across, all states. In the case of child migrants, the Commonwealth provided funding for redress through measures focussing on support for travel, personal support schemes, and for memorial activities.<sup>27</sup>

### **Committee view**

11.32 As outlined in Chapters 5 to 7, this inquiry concluded that the Commonwealth's role in adoption policy was (and remains) indirect, as adoption

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22 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, pp 228–229.

23 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 230.

24 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 230.

25 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 231.

26 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, pp 228–239.

27 Dr Coral Dow and Janet Phillips, 'Forgotten Australians' and 'Lost Innocents': child migrants and children in institutional care in Australia', *Background Note*, Parliamentary Library, Canberra, 11 November 2009, pp 5–7.

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legislation was a state and territory matter and the institutions where adoptions were organised were not Commonwealth controlled or operated.

11.33 The committee is also acutely aware that the Commonwealth government rejected the recommendation in the *Forgotten Australians* report for the establishment of a national reparation scheme on the grounds that it did not have direct involvement:

[The government] is of the view that all reparations for victims rests with those who managed or funded the institutions, namely state and territory governments, charitable organisations and churches. It is for them to consider whether compensation is appropriate and how it should be administered...<sup>28</sup>

11.34 In the absence of direct Commonwealth responsibility for past adoption policies and practices the committee does not agree on any recommendation to establish a monetary compensation scheme funded by the Commonwealth. That said, the committee recommends that the Commonwealth government should provide leadership in the development of a national framework to address forced adoption practices, just as it provided leadership in the 1960s in the development of model adoption laws. The national framework is referred to further in the final chapter.

11.35 The committee agreed that the primary responsibility for financial reparation should be at state and territory level and that the Commonwealth should have a coordinating role to ensure national consistency in the establishment of reparation schemes.

## **Recommendation 11**

**11.36 The committee recommends that the Commonwealth should lead discussions with states and territories to consider the issues surrounding the establishment and funding of financial reparation schemes.**

### **Formal grievance and complaint mechanisms**

11.37 While the committee has not recommended the establishment of a national compensation scheme, there are cases where individuals have been harmed by former forced adoption practices, and where those practices may have involved illegal or unprofessional conduct by state or privately-run institutions in which adoptions were arranged.

11.38 People affected by these practices should not have to rely solely on costly, difficult and sometimes inaccessible legal proceedings to seek redress. People need a mechanism to address this concern. An institution or government that had responsibility for adoption arrangements in the period from the 1950s to the 1970s should have grievance mechanisms in place. These would create a process for

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28 Senate Community Affairs References Committee, *Implementation of the Recommendations of the Lost Innocents and Forgotten Australians Reports*, 25 June 2009, p. 34.

individual cases to be aired and, where appropriate, for responsibility to be established that may result in redress for affected parties. The committee heard a limited amount of evidence on this issue. Catholic Health Australia gave evidence at one of the committee's hearings in Canberra:

[S]ome mothers today continue to have grievances about the specifics of their birth experience and particularly the consent procedure that did or did not occur at the time of their child being adopted. Adoption was and is a legal responsibility of the states. The processes that exist to hear grievances about medical care and consent differ across states and they are complex and challenging to access. Again, the Community and Disability Services Ministers' Conference should develop a strategy for those who seek to have their grievances dealt with and better system navigation could be offered to help support those with grievances in dealing with this very fragmented complaints process. We in Catholic hospitals have in place a protocol to respond to those seeking these types of supports where a birth occurred within one of our hospitals. Our protocols are by no means perfect and, indeed, they work slowly, but we are least able to do our best to respond to those who come forward to us.<sup>29</sup>

11.39 The committee appreciates that many of the institutions and organisations involved in past adoptions have protocols that allow parties to access records and information about their adoption experience. This is without doubt extremely helpful to those searching. The committee would like to see every organisation establish similar protocols to deal with grievances and complaints. These protocols should involve a set of measures for redress where wrongdoing has been established.

11.40 While the committee is not endorsing any particular model for a grievance process, it notes the principles set out by the Catholic Church in Australia in its program 'Towards Healing'. The Church states that it will 'make a firm commitment to strive for seven things' when dealing with complaints:

- Truth
- Humility
- Healing for the victims
- Assistance to other persons affected
- An effective response to those who are accused
- An effective response to those who are guilty of abuse
- Prevention of the abuse<sup>30</sup>

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29 Mr Martin Laverty, Chief Executive Officer, Catholic Health Australia, *Committee Hansard*, Wednesday 28 September 2011, p. 45.

30 Catholic Archdiocese of Adelaide, Professional Standards Office, *Principles of Towards Healing*, available at: <http://www.adelaide.catholic.org.au/sites/ProfessionalStandards/dealing-with-complaints-of-abuse/towards-healing/principles-of-towards-healing> (accessed on 27 February 2012).

11.41 The Benevolent Society, describing the lessons it is seeking to learn from the past, described some similar values. It wrote about the importance of determining truth, of 'ensuring that we learn and change', and of 'not repeating the mistakes of the past'. It also emphasised the need for good policies and procedures.<sup>31</sup> The committee suggests that these would extend to effective procedures for redress.

11.42 The committee does not envisage a grievance procedure to be a replacement for legal proceedings. The committee does envisage a system whereby a complainant receives access to all of the information pertinent to their experience, and is made aware of how the relevant institution undertakes to respond in cases where the process has found evidence that wrongdoing occurred.

### Recommendation 12

**11.43 The committee recommends that institutions and governments that had responsibility for adoption activities in the period from the 1950s to the 1970s establish grievance mechanisms that will allow the hearing of complaints and, where evidence is established of wrongdoing, ensure redress is available. Accessing grievance mechanisms should not be conditional on waiving any right to legal action.**

### Legal avenues for redress

11.44 The committee has previously expressed its view about the difficulties people face in attaining redress for their pain and suffering. In the 2004 *Forgotten Australians* report, the committee expressed concern over the 'difficulties applicants have in taking civil action against the unincorporated religious or charitable organisations, and that this may be a device for deliberately avoiding legal liability and accountability.'<sup>32</sup>

11.45 The committee also argued that seeking compensation through civil action is further complicated by the various statutes of limitation legislation.<sup>33</sup> The *Forgotten Australians* report had noted that this was a continuing theme prevalent in many previous inquiries of that nature:

Just as *Bringing them home* noted legal impediments for indigenous people seeking compensation for past actions, the child migrants' inquiry found that while some former child migrants had suffered criminal assaults, various legal impediments imposed by the statute of limitations prevented them from taking legal action. Regarding physical assaults, the Forde Inquiry said that the abuses went far beyond the prevailing acceptable

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31 The Benevolent Society, *Submission 191*, p. 10.

32 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 213.

33 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, pp 207–208.

limits, while the child migrant inquiry found that some children had clearly suffered physical and sexual abuse, similarly beyond anything that could conceivably be argued as normal for the time.<sup>34</sup>

11.46 Moreover, to apply for an extension of time to the statutes of limitation, proceedings may cost between \$10 000 to \$15 000 for each side, and there is no guarantee that leave to issue proceedings will be granted.<sup>35</sup> Should the applicant lose, they will be liable for not only for their own legal costs, but also the legal costs of the other side.<sup>36</sup>

11.47 However, it may be useful to note that the statutes may only operate from when an applicant first made the connection between their injuries and past abuses.<sup>37</sup> This means that people suffering from post-traumatic stress disorder may still have an opportunity to pursue legal action. However each appeal is subject to the discretion of the Courts and leave is, more often than not, refused.<sup>38</sup>

11.48 The adversarial nature of civil litigation was also cited as a barrier:

Victims often find the process of testifying and facing cross-examination painful, as it brings back memories and opens old wounds. Victims often complain that they feel as if they are the ones on trial because they are forced to 'prove' what happened to them.<sup>39</sup>

11.49 Civil action appears a less than desirable outcome for those affected by forced adoptions. Litigation is a very costly process and the chances of a successful prosecution are slim. Moreover, the adversarial nature of litigation may be very distressing for the plaintiff.

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34 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 15.

35 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 205.

36 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 205.

37 *Stingel v Clark*, <http://www.austlii.edu.au/au/journals/MULR/2008/18.html> (accessed 2 December 2011).

38 'Mixed Messages on Sexual Assault and the Statute of Limitations: *Stingel v Clark*, The IPP "Reforms" and an argument for change,' in *The Melbourne University Law Review* 18 (2008), pp 15–16, <http://www.austlii.edu.au/au/journals/MULR/2008/18.html> (accessed 2 December 2011).

39 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 30 August 2004, p. 208.

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*Committee view*

11.50 In cases where illegality is alleged in the adoption process the prosecution of those responsible should not be hindered by statutes of limitation. The committee urges all states and territories to examine the limitations for infringements of adoption legislation to ensure that they do not act as a barrier to litigation by individuals who were not made aware of their legal rights at the time that offences may have been committed. The committee does not want people who have been damaged by their experience of forced adoption to be damaged further by having to endure a long and bruising legal journey that may ultimately be unsuccessful due to a legal technicality.