

Chapter 13

Where to from here?

13.1 The committee has read the accounts of submitters, heard from witnesses, and conducted its own research in order to ascertain the role of the Commonwealth in former forced adoption policies and practices. In Chapter 1, the committee examined adoption in Australia, and summarised how adoptions generally took place in the 1950s and 1960s. In Chapter 2, the committee traced the history of attitudes towards adoption in Australia in the early part of the twentieth century, which led to adoption becoming widespread by the 1960s. Chapters 3 and 4 have given voice to the often heartbreaking accounts of people personally affected by former forced adoption policies and practices.

13.2 Chapters 5, 6 and 7 have addressed the role of the Commonwealth with respect to social security and adoption legislation. The committee has found that the Commonwealth did have a coordinating role in the development of uniform adoption legislation, but not a direct role in implementing such legislation. Further, the committee has found that the Commonwealth had little role in social security payments to unmarried mothers prior to 1973.

13.3 The committee identified a role for the Commonwealth in addressing the consequences of former forced adoption policies and practices in Chapter 8. While recognising that nothing can negate the pain and suffering of many of the submitters and witnesses, the committee has recommended that a national framework be developed by the Commonwealth, states and territories through the Community and Disability Services Ministers Conference (CDSMC).

13.4 Chapters 9 to 12 have recommended that a national framework should be established that includes the following elements to address the needs of those directly affected:

- That there should be public acknowledgement that past adoption practices forced some parents to give up their children for adoption against their will, including formal statements of apology from the Commonwealth, state governments and non-government institutions that administered adoptions.
- That all extant organisations involved in past adoptions establish grievance procedures and appropriate redress where wrongdoing has been established.
- That specialist support services should be available to people affected by past adoption practices, and that professionals delivering these services should be appropriately trained.
- That natural parents and their children should, as adults, have free access to all their personal records, regardless of the state or territory in which the adopted person was born, the adoption took place, or the parties subsequently resided, and that no-one's consent be required for such access to be granted.

13.5 The committee considers that a national framework that adequately addresses the above issues will in part address the consequences of former forced adoption policies and practices.

13.6 The committee also suggests that the findings of this report be utilised for the additional purposes explained below.

Public acknowledgement and awareness

13.7 The committee has recommended that public apologies be made by governments, religious organisations, hospitals and others involved in former forced adoption policies and practices. Such apologies will need to be well-publicised in order to have benefit.

13.8 During the course of this inquiry the committee visited the National Museum of Australia exhibition commemorating the experiences of the Forgotten Australians. The Museum's project was not just the exhibition—it includes a blog which acts as a repository for accounts, experiences and artefacts from people's lives in institutions. The committee recommends that a similar project be developed to catalogue people's experiences of forced adoption.

Recommendation 20

13.9 The committee recommends that the Commonwealth commission an exhibition documenting the experiences of those affected by former forced adoption policies and practices.

13.10 The committee notes that there are a significant number of untold accounts of people's experiences of forced adoption and considers that the Commonwealth government should explore ways that these accounts could be heard. In this respect the committee welcomes the funding for the Australian Institute of Family Studies (AIFS) *National Research Study on the Service Response to Past Adoption Experiences*. The committee is keen to see an ongoing commitment by the Commonwealth government to ensuring that information and data collection continues in this area.

13.11 The committee has recommended that funding for counselling be restricted to those with relevant professional qualifications. However, in recognition of the role of peer-support groups in supporting people affected by former forced adoption policies and practices, the government should consider engaging such groups to assist with public awareness strategies. Peer-support groups could play a role in information-sharing, the documenting of experiences or providing assistance to organise memorial events.

Intercountry adoption in Australia

13.12 Although it was beyond the terms of reference for this inquiry, the committee received some evidence on intercountry adoptions, and the scope for the issues raised during this inquiry to recur. VANISH stressed their concerns:

We see the same mistakes being made with intercountry adoptions that were made back in the sixties and seventies with local adoptions. That is an issue for us, and the Commonwealth has a real role to play there because it obviously has the primary responsibility for conventions and dealing with other countries in relation to adoptions, even if the adoptions are under a state's legislation. There are things like Australian aid and the way that is used to help countries deal with issues around separation from family and reconnection with family—or indeed helping intercountry adoptees reconnect with their families in the future, which is a role that the Commonwealth can look at.¹

13.13 Professor Cuthbert from Monash University commented 'that we are just setting up precisely the same circumstances for the future.'² Professor Cuthbert also discussed the central role for the Commonwealth government:

The Commonwealth is not in the situation that it is with respect to domestic adoption and being able to stand back and say, 'Well, this is a state and territory matter', because from day one the Commonwealth was involved in brokering arrangements because intercountry adoption is a mode of family formation but it is also a mode of migration.³

13.14 In 2009–2010, there were 222 intercountry adoptions in Australia, representing 54 per cent of all Australian adoptions. In Australia, intercountry adoption is conducted in accordance with the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption* (the Convention).⁴ Australia ratified the Convention on 25 August 1998 and it came into force on 1 December 1998. The Convention is implemented by the *Family Law Act 1975* and the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1988*.⁵

13.15 As explained in Chapter 8, the Attorney-General's Department chairs two working groups of the Community and Disability Services Advisory Council with

1 Mr Leigh Hubbard, Chair, VANISH, *Committee Hansard*, Wednesday 20 April 2011, p. 4.

2 Professor Denise Cuthbert, Professor of Sociology, Monash University, *Committee Hansard*, Wednesday 20 April 2011, p. 74.

3 Professor Denise Cuthbert, Professor of Sociology, Monash University, *Committee Hansard*, Wednesday 20 April 2011, p. 59.

4 Hague Conference on Private International Law, *Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*, 1 May 1995, <http://www.hcch.net/upload/conventions/txt33en.pdf> (accessed 24 March 2011).

5 The Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 1998 is also relevant.

respect to intercountry adoption in Australia, the *Harmonisation Working Group* and the *Alternative Models Working Group*. While it is outside of the scope of this inquiry, the committee recommends that the relevant Ministers bring the findings of this report to the attention of the Advisory Council, and ensure that such findings are taken into consideration during deliberations of the working groups.

13.16 In addition, the committee considers that the findings of this report should also contribute to discussions about local adoptions.

National Principles of Adoption

13.17 The committee sought information about current reforms being undertaken around adoption. FAHCSIA explained that the Community and Disability Services Ministers Conference (CDSMC) agreed to establish the Enhancing Adoption as a Service for Children Working Group with the following terms of reference:

- to examine research and best practice evidence to explore the future role of adoptions in meeting the needs of children and families;
- to review the National Principles in Adoption with a view to reaching agreement on a set of principles to guide adoption practice which achieves the best possible outcomes for children and families;
- within the context of a reviewed set of National Principles in Adoption and to achieve better outcomes for children, to achieve a more consistent approach to adoption matters across jurisdictions; and
- to report back to the Community and Disability Services Ministers Conference about the outcomes of the group.⁶

13.18 FaHCSIA also stated that the Working Group were planning to review the 'National Principles of Adoption' that have been in place since 1997. New Principles are expected to be considered by Ministers in the first half of 2012. According to FaHCSIA, the Principles are being reviewed because:

Significant changes have occurred in adoption regulation and practice in Australia since 1997 and a number of national forums have identified the need to review and redraft the Principles.⁷

13.19 All aspects of adoption policy are being discussed by appropriate ministers at both Commonwealth and state level. As has been done in the past, the committee maintains an ongoing interest in the subjects of its inquiries. The committee would expect to be updated on the development of the Principles.

6 FaHSCSIA, Reply to correspondence, *Information about the Enhancing Adoption as a Service for Children Working Group and the National Principles in Adoption*, January 2012, p. 1.

7 FaHSCSIA, Reply to correspondence, *Information about the Enhancing Adoption as a Service for Children Working Group and the National Principles in Adoption*, January 2012, p. 1.

Learning from the past

13.20 More than 400 submitters and witnesses wrote to or appeared before the committee, expressing a range of hopes about what the inquiry could achieve. Many implored the committee to ensure that the painful experiences they had endured would not happen again, and that circumstances leading to a need for a similar inquiry in the future would not eventuate.

13.21 The committee recommends a number of possible measures to ensure that the experiences of forced adoptions are not repeated. Firstly, a public awareness campaign would help to increase knowledge of this past injustice. Secondly, the committee suggests that relevant Ministers provide this inquiry's results to the Community and Disability Services Ministers' Advisory Council intercountry adoption *Harmonisation Working Group* and the *Alternative Models Working Group* for their consideration. As intercountry adoption is now the most common form of adoption in Australia, it would be appropriate that these working groups, as part of their current deliberations, take the results of this inquiry into account in their deliberations. Thirdly, the committee considers that its recommendations should be taken into consideration in the development of the new Principles of Adoption being undertaken under the auspices of the CDSMC.

Committee view

13.22 The committee has found that the Commonwealth had a limited role in the former forced adoption policies and practices. However, the committee considers that the Commonwealth should take a lead role in addressing their consequences. As part of its lead role, the Commonwealth should take the earliest opportunity to apologise publicly to those affected by former forced adoption policies and practices.

13.23 Finally, the committee urges all those involved in current adoption practices to take the findings of this report into account to ensure that the mistakes of the past are never repeated.