

## CHAPTER 5

### COORDINATION AND MONITORING -

#### THE IMPLEMENTATION AND EVALUATION OF RECOMMENDATIONS

##### Introduction

5.1 *Bringing Them Home* recommended a major role for the Council of Australian Governments (COAG) particularly with respect to ensuring that a structure was in place to co-ordinate cross-government recommendations and to monitor the overall implementation.

5.2 Although COAG was not the only appropriate body to undertake this role, the lack of effective co-ordination, limited provision of useful information by the Commonwealth government, and an apparent disinterest in professional monitoring has suggested indifference by governments. The Federal government had acknowledged the adverse effects of past policies and provided some \$63 million as a response. States and territories had also acknowledged the effects of past policies and agreed that some actions were necessary to overcome them. In this context, monitoring of the implementation of recommendations appears essential for all governments.

##### The need for monitoring and co-ordination

5.3 As was noted in Chapter 1, there is no obligation on government to accept reports and to implement their recommendations.<sup>1</sup> Nonetheless, if some recommendations are accepted and funded, provision of accessible information on their effectiveness usually assists in acceptance.

5.4 It is difficult to assess if the suggestions made by the *Bringing Them Home* recommendations with respect to monitoring and co-ordination resulted in a deliberate rejection by Government of the components of Recommendation 2. This recommendation proposed that COAG should establish a working party to develop a process for 'implementation of the Inquiry's recommendations'. It would also respond to annual audit reports of the progress of implementation.<sup>2</sup> HREOC suggested that it have a role as a special audit unit, to which indigenous bodies, provided with special funding, would provide information.<sup>3</sup> Further, all governments would provide

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1 See Chapter 1, Paragraphs 1.31-1.34

2 *Bringing Them Home*, Recommendation 2a. See also *Transcript of evidence*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 679: 'it was the determination of the states, in conjunction with the Commonwealth government, to hand this to the ministerial council.'

3 *Bringing Them Home*, Recommendations 2b, 2c

information ‘annually on request concerning progress on implementation of the Inquiry’s recommendations.’<sup>4</sup>

5.5 It is possible that HREOC’s nominating itself to this role was a mistake, for at least two reasons. The first was suggesting that it was the only body capable of undertaking this role, a fact which led to somewhat disparaging comment by government:

I think the governments, Commonwealth and state, decided that they were better positioned to decide the role of COAG and other governmental processes than was the Human Rights and Equal Opportunity Commission.<sup>5</sup>

5.6 Both governments and indigenous organisations were relegated to play a secondary function in the HREOC strategy, when a more modest but still effective and representative reporting and evaluation system may have had an increased chance of success.

5.7 The second reason for an organisation presenting a report to limit its own role in any follow-up is perception of bias. It would have been more appropriate for HREOC to have stood back from such substantive involvement,<sup>6</sup> a comment that could also be made of its follow-up report.<sup>7</sup> The argument by the government that HREOC would have been inappropriate anyway because it did not ‘engage the states’<sup>8</sup> is less convincing.

#### *Leadership on national issues*

5.8 A number of witnesses commented adversely on the failure of the Federal government to demonstrate leadership in respect of most matters to do with *Bringing Them Home*,<sup>9</sup> ranging from the nature of the ‘apology’ of Parliament to the content of the government submission to this inquiry. It was felt there was a general lack of enthusiasm marking the involvement of the Commonwealth, and that it was more inclined to stay locked in the power structures of the past than to recognise the Commonwealth’s greater role in the present in respect of international law and international conventions.

5.9 Thus, its response was seen as concentrating more on allocating responsibility than on suggesting a framework in which all parties – and not just governments – could work. It seems likely that had there been a more generous approach, in the

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4 *Bringing Them Home*, Recommendation 2d

5 *Transcript of evidence*, Prime Minister and Cabinet, p.677

6 See below, Paragraph 5.67

7 See below, Paragraphs 5.33-5.35

8 *Transcript of evidence*, Prime Minister and Cabinet, p. 675

9 See above, Chapter 2, Paragraphs 2.27-2.28; see also *Submission 57*, Defenders of Native Title, p. 1108

sense of demonstrating a willingness to deal more coherently with the result of past policies and practices, this would have presented a less negative impression.

5.10 A number of witnesses argued that COAG was the most appropriate vehicle for managing a national issue and providing an integrated approach to implementation:<sup>10</sup>

...it should not be simply seen as the responsibility of ministers who have the Aboriginal and Torres Strait portfolio within their individual governments. That does seem to be saying, 'That is the basket. It is not a national issue. It is not a broad governmental issue.' I think COAG is the place.<sup>11</sup>

5.11 Others believed that COAG was most appropriate because it dealt with every level of government, and the issue required this:

...why has the Council of Australian Governments been dropped from view to be replaced by a much narrower and fragmented perspective on the part of the minister? He has sought to fragment the recommendations into a number of small, relatively manageable modules ... the Commonwealth's efforts in many of these smaller areas should not be unduly criticised. Nevertheless, it is a fragmentation of what the commission had hoped would be a unified, strategic, whole of government approach to these very complex, multi-functional issues that were raised by the report.<sup>12</sup>

5.12 One further point to note in discussing COAG is that it includes local government representation.<sup>13</sup> Whilst there was much emphasis on the need for COAG in *Bringing Them Home* recommendations, there was virtually no discussion of possible roles for local government in the report itself.<sup>14</sup> It would have been easier to dispose of COAG in this context, although it is likely that the recommendation to use it as a monitoring body would have been dismissed in any case.

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10 See also below, Paragraphs 5.12, 5.14; see also *Submission 68*, Public Interest Advocacy Centre, p.1478 which suggested that a compensation/reparations tribunal could also play a monitoring role. However, this would not fit well with the responsibilities of any such Tribunal (see below, Chapter 8)

11 *Transcript of evidence*, Professor David Kinley, p. 268

12 *Transcript of evidence*, Hobson's Bay City Council, Hobson's Bay Reconciliation Group, p. 299. See also *Transcript of evidence*, Senator Ridgeway, pp.685-686, and *Transcript of evidence*, Australian Catholic Social Welfare Secretariat, p. 613

13 See the preference expressed for Council Of Australian Governments at *Transcript of evidence*, Australian Capital Territory Government, p. 51

14 See also the comments made by the Hobson's Bay City Council and Hobson's Bay Reconciliation Group, *Transcript of evidence*, p. 298, p. 305 on the need for all levels of government to be involved in implementation of the recommendations

### *Reasons for using MCATSIA*

5.13 It is suggested that the failure to use COAG indicates a refusal to give priority to indigenous issues.<sup>15</sup> The Committee does not accept that this is necessarily the case. The Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA) comprises Ministers who would be expected to be familiar with all aspects of indigenous issues, including existing programs, and services run by other departments. The Chairman of ATSIC is also a member of MCATSIA. The Council, as a member of the Committee put it, would be closer to the roll-out process.<sup>16</sup>

5.14 The Council's standing was seen by some as less important than other councils. Some witnesses believed that this might have impeded progress:

What can be expected of a council of relatively junior ministers...when the major implementation issues go to some of the major portfolios. Are there any circumstances under which you can expect a council of junior ministers to have clout against their senior ministerial colleagues?<sup>17</sup>

5.15 According to the Government, a major reason for using MCATSIA was the incomplete nature of *Bringing Them Home* recommendations which were described as 'in principle' concepts which 'need to be fleshed out, worked through and proved.'<sup>18</sup> In short, they were issues they needed to be considered in detail, rather than being finalised, and thus should be assessed by those who were familiar with current legislation and practices:

... many of them would give rise to an in-principle policy question and a practical question. For example, if you were doing a compensation scheme, where would you draw the line in eligibility in terms of time? Would you say 'Only people who were separated prior to 1970' – which was the period dealt with in the report – 'will be eligible to claim compensation,' or would you say, 'Well that is a bit artificial and unfair. It should apply to people who are separated under current child welfare juvenile justice policies'?'<sup>19</sup>.

... you cannot take the recommendation at face value as capable of being implemented in a particular form or in the form proposed.<sup>20</sup>

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15 See, for instance, *Submission 57*, Defenders of Native Title, p. 1110: 'Most notably, this somewhat remote forum does not provide an appropriate degree of independence from the Federal Government, nor is this likely to represent a suitable and accessible vehicle for consultation with Indigenous organisations and community groups who represent a direct source of knowledge with respect to the needs of the community and the effectiveness of Government's response to the recommendations contained within the report.' See also below, Paragraph 5.45

16 *Transcript of evidence*, Senator Payne, p. 680

17 *Transcript of evidence*, Hobson's Bay Reconciliation Group, p. 304

18 *Transcript of evidence*, Prime Minister and Cabinet, p. 689

19 *Transcript of evidence*, Prime Minister and Cabinet, p. 690

20 *Transcript of evidence*, Prime Minister and Cabinet, p. 690

5.16 It is the Committee's belief that it is the lack of organisation by the Federal government and a failure to give clear guidance to MCATSIA that has rendered it less than successful. Given that the decision to use MCATSIA had been made in June 1997, almost 6 months before the Government response was made publicly available,<sup>21</sup> it could be argued that it would have been appropriate to add this information to the formal Government response. Further, the response could have outlined ways in which co-ordination and monitoring could operate, in order to provide a guide to states for comment in their responses.

5.17 To some extent the sporadic nature of responses affected the capacity of the Council to begin co-ordinated work.<sup>22</sup> *Bringing Them Home* was tabled in the Parliament on 26 May 1997<sup>23</sup> and responses were made between August 1997 and June 1999.<sup>24</sup> However, it is unlikely that this was the major reason for delay. As noted, there was little indication from the Government response in December 1997 of the ways in which it might ensure that recommendations accepted would be met.<sup>25</sup>

5.18 The Committee also notes that the Council and its working groups do not appear to meet on a regular basis or often enough. Outcomes are not produced quickly enough to progress important issues. The information that has been provided so far is badly organised and presented,<sup>26</sup> and appears to have been poorly disseminated.

5.19 Further, there seems little interest by state and territory governments in the actual mechanics of monitoring and co-ordination. Part (b) of Recommendation 2, relating to the funding of a monitoring unit (in the Human Rights and Equal Opportunity Commission), was rejected by the federal government. States' and territories' reactions to this recommendation was that it was 'a matter for the

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21 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, Report to Ministerial Council for Aboriginal and Torres Strait Islander Affairs on Coordination Issues & Proposed Responses to Regular Reporting and Monitoring, in *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p.1819. The Ministerial Council for Aboriginal and Torres Strait Islander Affairs Status report is also in this submission, and another copy is in *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Appendix 4

22 See below, Paragraph 5.23

23 *Social Justice Report 1998*, p. 161

24 See below, Paragraph 5.36 Responses were supplied by the different jurisdictions as follows:

Tasmania: August 1997; Victoria: November 1997 and November 1998; Commonwealth: December 1997; Queensland: April 1998 and June 1999; Australian Capital Territory: July 1998 and February 2000; Western Australia: August 1998; Northern Territory: August 1998; South Australia: December 1998; New South Wales: June 1999

25 While a change in government may have contributed to this delay, it does not fully explain the failure to suggest different administrative and management options than those recommended in the report

26 The Committee notes the recent publication by Ministerial Council for Aboriginal and Torres Strait Islander Affairs of the collected responses to *Bringing Them Home*, and the Ministerial Council for Aboriginal and Torres Strait Islander Affairs 1998-99 Monitoring Report (Ministerial Council for Aboriginal and Torres Strait Islander Affairs, Darwin, November 2000). The publication is in an attractive format, and is useful as a resource document

Commonwealth'.<sup>27</sup> There was no specific response to Recommendation 2(b) from New South Wales. In New South Wales, Victoria, Queensland, South Australia and Western Australia separate arrangements were made to monitor within the State, with MCATSIA being considered the appropriate party to undertake any national level co-ordination required. The ACT Government advised that it worked with a local branch of an organisation to facilitate monitoring,<sup>28</sup> and quite an extensive report by this group (Journey Of Healing) was provided to the Committee.<sup>29</sup>

5.20 Little evidence was presented to the Committee which suggested that coherent organisation and monitoring was occurring at a lower level. However, this may result in part from the limited availability of information on internal monitoring and the fact that many issues which would appear to require co-ordination may not have been assessed by states and territories in this light. In some instances it appears that states are well aware of the links between various services (such as historical records) and the need to bring these together in some format.<sup>30</sup> They are also aware of the potential for overlap or duplication of services, or possible inappropriate service provision.<sup>31</sup>

5.21 More detailed information is available only on some of the Commonwealth programs, and this is of uneven quality. This may in part be due to the fact that many of the programs have been late in developing, but the Committee believes there are other problems. These include poor quality evaluation methods,<sup>32</sup> opposition to queries about the effectiveness of services,<sup>33</sup> and insufficient sharing of information.

#### *Co-ordination and Monitoring philosophy*

5.22 It is difficult to discern a clear philosophy in the Federal government's provision of information concerning MCATSIA and in the brief information updates it provides. The Committee was given copies of the annual update (the first of which was tabled in June 1999)<sup>34</sup> which is only a statement on action taken in respect of Commonwealth funded programs. The Commonwealth updates are useful in that they provide information on the actual expenditure of money allocated to the specific Commonwealth responses. However, they are most notable for containing no commentary or analysis and no information at all on the ways in which each project or

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27 *Submission 109*, Victorian Government, p. 2996; *Submission 61*, South Australian Government, p. 1145; Ministerial Council for Aboriginal and Torres Strait Islander Affairs, *Collected Responses*, p. 202

28 *Transcript of evidence*, Australian Capital Territory Government, p. 46

29 See *Submission 8*, Journey of Healing Canberra, pp. 46-165

30 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, *Collected Responses*, pp. 210-211

31 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, *Collected Responses*, p. 210

32 See below, Paragraphs 5. 69-5.72 and also Chapter 2, Paragraphs 2. 55-2.68, 2.76-2.79, 2.148-2.154

33 See above, Chapter 2, Paragraph 2.160

34 Progress of Commonwealth Initiatives in Response to the *Bringing Them Home* Report: No. 1, June 1999; *Submission 65*, Office of Aboriginal and Torres Strait Islander Health; Attachment J; Report No. 2, June 2000, *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Attachment 2, pp. 635-646

group of projects actually meets the main objectives – the provision of appropriate services to people at least ‘affected’<sup>35</sup> by removal and separation policies.<sup>36</sup>

5.23 The MCATSIA report on Coordination Issues<sup>37</sup> noted it had been resolved in June 1997 that:

- MCATSIA was the appropriate Commonwealth/State/Territory forum to consider any matters requiring inter-governmental action in relation to implementing the recommendations of the National Inquiry;<sup>38</sup>
- The MCATSIA Standing Committee of Officials would establish a Working Group to make recommendations to the Ministerial Council on regular monitoring/reporting processes; and
- Victoria would convene and coordinate the Working Group following the completion of all jurisdictional responses.<sup>39</sup>

5.24 The actual publications or papers of MCATSIA on *Bringing Them Home* include the Overview of Australian Governments’ Responses to the *Bringing Them Home* Report’ and ‘Report to MCATSIA on Coordination Issues & Proposed Processes for Regular Reporting and Monitoring’. The second is the report which was co-ordinated by Victoria on possible avenues for co-ordination, available in late 1999 (the Co-ordination report).

#### *The Co-ordination report*

5.25 The MCATSIA Working Group had several terms of reference:

i. Identification of:

(a) Issues requiring a co-ordinated cross-jurisdictional response; and

(b) appropriate agreed mechanisms for coordination and collaboration across jurisdictions.

35 The word ‘affected’ is used here in the sense that it is assumed a number of people and communities were affected by separations (as *Bringing Them Home* indicates). As the effect would have been different, the needs also may be different, and projects should indicate what needs have been met

36 See, for example, Report No. 2 (June 2000, although the material has a date of December 1999), on family tracing: ‘this service is provided to the people affected by past separation practices, who may or may not be clients of Link-Up services; on language projects: ‘The highest priority has been given to endangered language projects. This is in recognition of the impact of removal policies of previous governments on the use and transmission of indigenous languages and cultures.’ These descriptions do not provide information on how or why there is a specific benefit for separated people.

37 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, pp. 1819-1824

38 See also *Transcript of evidence*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 649

39 See *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1819, Paragraph 1.3, See above, Paragraph 5.17

ii. Development of a set of recommendations for consideration by the MCATSIA on regular reporting/monitoring processes;

iii. Development of a communication strategy about MCATSIA's role in coordination and monitoring of responses to *Bringing Them Home* and about the status of current and future implementation responses; and

iv. Preparation of a set of recommendations for considerations by SCOF<sup>40</sup> and MCATSIA with regard to the above.<sup>41</sup>

5.26 The Working Group report also noted that it had considered a number of issues when assessing the various responses from states and territories:

- Indigenous community involvement in the monitoring and reporting process;
- Cross-jurisdictional issues involving records;
- A communication strategy;
- A need to develop an alternative to national standards;
- Use of existing bi-lateral frameworks; and
- Coordination of programs and funding requiring inter-government action.<sup>42</sup>

5.27 It therefore worked from a basis of considering existing co-ordination/monitoring, and the additional services that might be required, and referred to a number of key issues, such as:

- The potential for overlap of services, and the usefulness of co-ordinating similar programs;<sup>43</sup>
- The need for a co-ordinated records policy;<sup>44</sup> and
- The use of best practice models with respect to child welfare and juvenile justice programs to demonstrate that national legislation is not required.<sup>45</sup>

5.28 The report also noted that a thematic approach to monitoring was required, that there should be performance indicators and that information on alternatives to *Bringing Them Home* recommendations should also be noted.<sup>46</sup> This is a sensible and

40 SCOF is Standing Committee of Officials – subgroup within officers group of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs

41 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1820, Paragraph 2.1

42 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1820, Paragraph 1.7

43 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p.1821, Paragraph 3.6

44 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1822, Paragraph 3.9

45 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1822, Paragraph 3.12

46 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1823, Paragraph 4.5



professional approach, and the Committee would have welcomed some input on the progress of these matters. Although the 1998 Social Justice Report did make some comments about the need for particular processes, there are more suggestions in the Victorian report for strategies to progress monitoring and co-ordination. Unfortunately, the report itself is badly structured and poorly presented. It appears to be a preliminary statement, seeking permission for additional work to be undertaken in 1999.<sup>47</sup>

5.29 According to the Northern Territory government representative, it has been agreed that ATSIC will take over the role of preparing an update on implementation.<sup>48</sup> ATSIC stated in its submission that it did take on this task, but not entirely happily:

Due to the importance of the role, and as no other state jurisdictions were prepared to take on the task, ATSIC has taken on the responsibility to collate and monitor governments' responses to the *Bringing them Home* Report and will report to MCATSIA at its last meeting for 2000.<sup>49</sup>

5.30 The Committee notes that very little information was provided by the Federal government's submission to this inquiry on the processes for implementation, co-ordination or monitoring, reference being made only to 'a regular update report relating to progress in implementing Commonwealth and State/Territory formal responses by the Council, the first of which was undertaken in September 1999 ...'.<sup>50</sup> This was the first MCATSIA status report which simply went through recommendations, adding some similar comments to those made in the Working Group's report on coordination.<sup>51</sup> A different, possibly 'final' version of this is also available, presented in a better format. However, the latest information dates from June 1999 (NSW report) and the earliest, August 1997 (the response by Tasmania).

5.31 Other comments made to the Committee suggest that most parties have very little idea of what is going on, and this in itself suggests at the least poor information strategies and disregard of those most involved in implementation:

I would have to say, without sounding flippant, that we are looking forward to this report to actually try to find out what the Commonwealth has done...

It may well be that a lot is going on in ATSIC, but we are not being made aware of it.<sup>52</sup>

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47 *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p. 1823, paragraph 4.6

48 *Transcript of evidence*, Northern Territory Government, Office of Aboriginal Development, pp. 448-449

49 *Submission 32*, Aboriginal and Torres Strait Islander Commission, p. 519

50 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 601

51 A copy of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs status report is at Appendix 4 of *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, pp. 653-673

52 *Transcript of evidence*, Australian Catholic Social Welfare Secretariat, p. 612

5.32 It is evident to the Committee that publication of readily comprehensible information must be timely in order for it to inform decisions, help organisations to plan effectively and keep the community up to date. It would be helpful to all parties, the indigenous community generally, and to ‘stolen generation’ organisations<sup>53</sup> in particular, for clear and detailed information on the progress of implementation to be provided on at least a 6-monthly basis. So far there is little evident appreciation of this essential fact.

### Other Reports

5.33 In 1997 Mr<sup>54</sup> David Kinley and Sir Ronald Wilson<sup>55</sup> undertook a follow-up consultancy on the extent to which government responses met various recommendations of the *Bringing Them Home* report.<sup>56</sup> A version of this was published in the 1998 Social Justice Report,<sup>57</sup> and references made in this report are to this version. The report is essentially a collation of those responses made by federal, state and territory governments as at July 1998.<sup>58</sup> The objective of this work was stated as being ‘to facilitate the implementation by governments, in their individual and collective capacities, of the recommendations made in [*Bringing Them Home*].’<sup>59</sup> It was also seen as meeting a need ‘for communication and coordination between departmental officers on more informal terms and on a more regular basis than is possible through MCATSIA’:

The project, therefore, was viewed clearly as a supplement to the MCATSIA process, not a substitute for it.<sup>60</sup>

5.34 It is somewhat unusual for a government agency to undertake further work on a project, to determine what is required by other government departments.<sup>61</sup> Given the comments made about the Human Rights and Equal Opportunity Commission’s earlier recommendations about roles for itself and COAG, such an approach may not have been appropriate.

5.35 Nonetheless, it is a valuable report, primarily in the information provided in respect of those governments that had responded on issues such as the level of consultation with indigenous groups in the formation of a response to *Bringing Them*

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53 In this context, the reference to such organisations is to groups whose members were a part of the ‘assimilation’ process

54 Now Professor Kinley, Castan Law Centre, Monash University

55 Both were employed as consultants on this project

56 Known as the Implementation Progress Report (IPR)

57 *Social Justice Report 1998*, Chapter 4

58 See *Social Justice Report 1998*, p. 96

59 *Social Justice Report 1998*, p. 96

60 *Social Justice Report 1998*, p. 97

61 See also *Social Justice Report 1998*, pp. 98-100

*Home.* It is also useful in commenting on the various approaches adopted and outlining the various state and territory processes for management of projects; and on noting various responses, particularly concerning a lack of information about what was happening. However, it is lacking in that it has no detailed comment on options for monitoring and implementation.

#### *Commonwealth and State and Territory governments*

5.36 In providing evidence to the Committee, Professor Kinley stated that even by mid 1998 – some six months after the Federal government’s response – little information had apparently been provided to states and territories on the implications of the \$63 million committed by the Commonwealth:

One thing that we did find ... was that even though nearly all the governments that we interviewed knew of the Commonwealth response, including the breakdown of the \$63 million, some of them had absolutely no idea as to how that was going to be divvied up and whether or not it was going to come through the states. They were asking us ... what we understood to be the position, when we had expected to be asking them what the position was from their perspective.<sup>62</sup>

5.37 As noted above, the Committee did not have the benefit of being able to discuss these issues with state governments, and therefore was not in a position to discuss in detail changes and developments in these areas.

#### Involvement in Co-ordination, Monitoring and Implementation

##### *MCATSIA*

5.38 The following parties are involved in MCATSIA meetings:

- Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs
- ATSIIC
- State Ministers for Aboriginal Affairs (or equivalent)
- Working Party of Officials
- Working group/s for the Working Party

5.39 ATSIIC, as well as being a member of MCATSIA itself, also has membership of the officers group. As noted, it has taken over the role of seeking to co-ordinate responses and in this sense it will monitor outcomes.

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62 *Transcript of evidence*, Professor David Kinley, p. 266

### Other Ministerial level groups

5.40 In the 1998 Social Justice Report it was stated that the Hon Dr Michael Wooldridge was willing to have the Aboriginal and Torres Strait Islander Health Commission (ATSIHC) be involved in the implementation of recommendations. However, the Department of Health and Aged Care reports on these matters to the department of Prime Minister and Cabinet,<sup>63</sup> and there has been no later reference to any specific role of ATSIHC in respect of *Bringing Them Home*. The Office for Aboriginal and Torres Strait Islander Health stated that issues were referred between the Aboriginal Health and Medical Research Council (AHMRC)<sup>64</sup> and MCATSIA 'quite consistently' and that the bodies meet every two years.<sup>65</sup>

### Cultural Ministers Council Archives Working Party<sup>66</sup>

5.41 These have a specific role relating to *Bringing Them Home* recommendations on records.

### Social Justice issues

5.42 *Bringing Them Home* referred to the importance of having a social justice package as part of reparations, in that a holistic approach was essential if major well being issues were to be resolved in respect of families and children.<sup>67</sup> As a more general 'package' had already been developed by government prior to the report, it was mentioned in the government response only as an issue which has been dealt with:

The government's major policy priority in indigenous affairs from our first day in office has been to deliver social justice to Aboriginal people and Torres Strait Islanders through significantly improving outcomes in the key areas of health, housing, education and employment.

The government currently provides ATSIHC with a budget of \$910 million and provides a further \$700 million for indigenous-specific programmes through other agencies including Health and Family Services, the Department of Social Security (housing) and DEETYA.<sup>68</sup>

5.43 Such a response has been seen as inadequate, especially as the proposed package relates specifically to social justice issues linked to current removals of children and young people.<sup>69</sup> Appropriate responses have been seen as including

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63 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 713

64 This was formerly the New South Wales Aboriginal Health Resources Co-operative

65 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 713

66 *Transcript of evidence*, Australian Catholic Social Welfare Commission, pp. 604-605, 612.

67 See *Bringing Them Home*, Recommendation 42

68 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Attachment 1, p.631 (the names of the departments listed have subsequently changed)

69 This is discussed in Chapter 6

additional funding for the Aboriginal and Islander Child Care agencies which provide a range of child welfare and placement services.<sup>70</sup>

*Interjurisdictional/ Interdepartmental*

5.44 The holistic approach had also been established in most other jurisdictions for some time before the *Bringing Them Home* report,<sup>71</sup> and is not a response to the report. It is replicated in many areas where joint Commonwealth and State/Territory programs in the key areas of health and housing operate.

5.45 However, one of the major philosophical problems that has re-emerged in the context of responding to the recommendations of *Bringing Them Home* is the concern about the use of mainstream versus specialist departments in the provision of services.

5.46 Government policy concerning the value of specialist<sup>72</sup> as opposed to mainstream departments over the past decade has contributed to current uncertainty about what might be called a core responsibility for monitoring and/or co-ordination within states. Some believe that it is necessary to bring services together rather than keep them separate:

I think it is too easy to shelve this into an area that happens to have the words 'Aboriginal and Torres Strait Islanders' attached to it. It has to be a more mainstreamed view. That will be the most successful conclusion. That does not mean to say that a tribunal under ATSIC and a DAA – a department of Aboriginal Affairs – should not be taking the lead, but to have it mainstreamed should be one of their main objectives. It goes to the heart of having Aboriginal people as part of Australia and not seen as a separate issue.<sup>73</sup>

5.47 However, there was also some concern about this approach:

It is extraordinary how the trauma and suffering of indigenous people is so easily forgotten in an agenda of housing, health, education and employment. I support the government in wanting to improve the outcomes of my people in these areas but ... it should recognise the pain and suffering of the stolen generation. It should also recognise that money alone will not overcome that pain and suffering.<sup>74</sup>

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70 *Submission 53*, Secretariat of National Aboriginal Islander Child Care, p. 1004

71 See for example the Australian Capital Territory submission (*Submission 42*, Australian Capital Territory Government, p. 808) which referred to pre- *Bringing Them Home* co-ordination: at the Ministerial Summit into Aboriginal Deaths in Custody in 1997 it had agreed to develop strategic plans in Indigenous employment, training, health, education, justice and housing, in the context of addressing issues of social disadvantage

72 Such as Aboriginal and Torres Strait Islander Commission and state departments of Aboriginal Affairs

73 *Transcript of evidence*, Professor David Kinley, p. 267

74 *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 3, and see also p. 12

5.48 Regardless of which approach is taken, monitoring and co-ordination is still required. In some instances, progress appears to have been made on some of the recommendations through states or organisations working out priorities, and being able to progress these. For example, although Recommendation 31c<sup>75</sup> does not mention a function for the states and territories, they do in fact have an important role. Further, coordination of the roles of the Commonwealth and of the states and territories in this area has proceeded better than might have been expected.

5.49 The submission by the Minister for Aboriginal and Torres Strait Islander Affairs stated that before the scheme could commence, all participating states/territories (ie, except the Northern Territory) must enact complementary legislation and enter into administrative arrangements with the Commonwealth.<sup>76</sup> The Northern Territory response of August 1998 to *Bringing Them Home* (which was annexed to its submission to this inquiry), said that it was firmly opposed to the transfer scheme and would not participate in any scheme that might eventuate. The submission went on to say that it was unlikely that this position would alter.<sup>77</sup> However, the Government has changed its view and, in the covering note to its submission to this inquiry, states that legislation was being drafted to allow the Territory to participate in the International Transfer of Prisoners Scheme.<sup>78</sup>

5.50 In other instances, organisations and governments have worked together to produce some outcomes, although these may disintegrate through lack of funding. The Social Justice Report<sup>79</sup> stated that the Council of Federal, State and Territory Archives<sup>80</sup> (comprising head archivists in each jurisdiction) had established a 'References and Access Working Group' which was to convene in Perth in August 1998. Its objective was to share ideas and consider the possibility of initiating a joint agreement on common retention and access standards for records relevant to people affected by separation policies.

5.51 This point was further developed by the Australian Society of Archivists which outlined the numerous steps it had taken in relation to increasing access and also to training, including involvement in a project funded by the Commonwealth Department of Employment, Workplace Relations and Small Business.<sup>81</sup> The Society

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75 That the Commonwealth take measures to ensure the prompt implementation of the *International Transfer of Prisoners Bill* 1996

76 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 607

77 *Submission 64*, Northern Territory Government, p. 1244

78 *Submission 64*, Northern Territory Government, p. 1223

79 *Social Justice Report 1998*, p. 30

80 See also *Submission 48*, National Archives of Australia, pp. 944-945

81 See *Submission 5*, Australian Society of Archivists Inc., pp. 36-38. See also *Submission 11*, Retta Dixon Home Aboriginal Corporation, Attachment 'Access to Records at the Australian Archives for the Stolen Generation', p. 258, which notes that a pre-*Bringing Them Home* Council of Federal and State Archives had begun work on issues 'with a view to adopting a co-ordinated national archival response'

went on to warn that such projects required ongoing support and, without that commitment, some projects would soon cease.

### Conclusion

5.52 Efforts to progress approved recommendations need to be linked to specific monitoring and evaluation so that, where successful, they are continued; and where they founder, expert advice is available in order to identify problems. It may be that the co-ordination and evaluation roles undertaken by state and territory governments are more effective.

5.53 Overall, it is difficult to determine how extensive the co-ordination of the *Bringing Them Home* recommendations is, because many of the programs that operate within and between states and the Commonwealth already existed prior to the tabling of the report. Many of them were set up in response to the *Black Deaths in Custody* inquiry, and some in effect duplicate certain of those recommendations.<sup>82</sup> For this reason, there have been many discussions on, and complaints about, the extent to which the new funding was redirected to existing services, as distinct from new funding providing new services.<sup>83</sup>

5.54 When more detailed thematic responses are available, it is expected that these will demonstrate more clearly the degree to which even previously existing services or projects either make recommendations redundant or supplement prior services. For example, some published guides to indigenous records had already been developed prior to the *Bringing Them Home* inquiry, although some of the recommendations of *Bringing Them Home* may have been of assistance in actually getting the records indexed to facilitate access.<sup>84</sup>

5.55 The 1998 Social Justice report<sup>85</sup> stated that it was difficult to clearly distinguish specific state/territory health initiatives responding to *Bringing Them Home* because states and territories were at the time unwilling or unable to significantly commit to health care reform until they were clearer about the Commonwealth's commitment. The report also stated that this point was repeatedly made to the project team throughout its meetings with governments.<sup>86</sup> This suggests

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82 Some of these pre *Bringing Them Home* arrangements were outlined in the 1998 Social Justice Report. See also *Submission 42*, Australian Capital Territory Government, p. 809; see also *Submission 48*, National Archives of Australia, p. 940

83 See above, Chapter 2, Paragraphs 2.125-2.147

84 *Submission 48*, National Archives of Australia, p. 940; *Transcript of evidence*, National Archives of Australia, pp. 57-58

85 *Social Justice Report 1998*, pp. 134

86 The *Social Justice Report 1998* says at p. 101 that in the meetings with those governments yet to respond (New South Wales, Western Australia and South Australia), the Project Team was told repeatedly that one of the reasons for delay was to await the delivery of the Commonwealth's formal response. See also pp. 35 (on health counsellors) and p. 36 (on Link-Up)

that there was limited coordination, if any, between the Commonwealth and the states and territories in preparing responses to *Bringing Them Home* at that time.

5.56 One of the difficulties that arose from the lack of information, and possibly from a sense of frustration, was the unofficial information seeking/monitoring that occurred, either by community organisations<sup>87</sup> or the more official strategy by a body such as ATSIC which undertook 'bi-lateral discussions with each State and Territory aimed at improving communication and linkages between family tracing and re-union related services':

Such services include the ATSIC-funded family tracing and reunion services (known as Link-Up), and State, Territory and Commonwealth services that maintain records and those that provide counselling and family support. As part of this process, ATSIC investigated the current situation and then wrote to relevant officials in each State and Territory suggesting specific improvements in service delivery and co-ordination in their respective jurisdictions.<sup>88</sup>

5.57 The extent to which this would have overlapped with other work being done on records coordination is unclear,<sup>89</sup> and while it may have assisted organisations to get some idea of what was occurring, it would have increased pressure on departments occupied with other work.

5.58 Nonetheless, although the issue of overlap and inappropriate servicing is a major one, it is not apparent if it is seen as a problem, or if it is recognised at all. The Commonwealth and state departments of Health were involved in consultations on both the regional centres and the counsellors positions arising from *Bringing Them Home* (along with NACCHO and ATSIC).<sup>90</sup> The department does not believe that giving the funding through existing organisations would result in simple continuation only of existing programs, although this is a complaint that has been made.

5.59 One organisation did suggest that there was at least the potential for overlap and duplication at the national level, and a lack of detailed planning in some health projects which meant that other initiatives were not taken into account.<sup>91</sup> However, it was not clear that this assessment also applied to the counsellor and regional centre projects.

5.60 The Commonwealth Department of Health and Aged Care has also undertaken work with organisations on the provision of family support and parenting services. From oral evidence and other material provided, OATSIH indicated that

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87 See *Submission 8*, Canberra Journey of Healing, pp. 48, 52

88 *Submission 32*, Aboriginal and Torres Strait Islander Commission, p.511

89 See, for example, *Submission 48*, National Archives of Australia, pp. 944-945

90 See above, Chapter 2, Paragraph 2.54

91 *Transcript of evidence*, National Aboriginal Community Controlled Health Organisation, pp.79-81



they were prepared to work with a wide range of *existing* organisations, including church groups to get new programs in place:

It would be far better for us to use the funding we had been provided with as leverage to promote better services within those existing programs and to ensure that the services were appropriate and accessible to Aboriginal and Torres Strait Islander people. So that was the vision we had.<sup>92</sup>

5.61 The Office stated that extensive consultation had occurred in states and territories.<sup>93</sup> Subsequent evidence<sup>94</sup> suggests that this was primarily with well-established indigenous organisations rather than with a broader range of community groups or with stolen generation organisations. The extent to which this approach or ‘vision’ leads to appropriate services for people who may be affected by the removal or separation policies has also been questioned.

5.62 In both instances, it does not appear that a lack of coordination would be the prime cause of any failure to provide required services to the relevant target group. The fairly broad parameters of the government response, or specific government directions,<sup>95</sup> are the factors cited.

#### The role of ATSIC

5.63 It was clear from evidence provided by ATSIC that there was strong opposition to particular programs having been transferred from ATSIC to other departments while ATSIC, it was thought, was left with the job of seeing that everything worked out. This concern may be linked to ATSIC’s belief that interjurisdictional approaches would obscure any individual requirements mentioned by stolen generation organisations and individuals. It also might suggest that the mainstream departments were happy to have the money but were unconcerned about any follow up.

5.64 The Committee has appreciated this point when it has been raised. It notes, however, that it is not impossible for appropriate services to be provided to specific groups, rather than to the whole of a particular community or series of communities, and that this fact does not always seem to have been understood by other government departments – or possibly, by government itself.<sup>96</sup>

One of the tensions we have to try and manage with the implementation of these programs is that it seems to be a requirement or an imperative to try

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92 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 706

93 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, pp. 707-708

94 *Submission 65D*, Office of Aboriginal and Torres Strait Islander Health, p. 2777 indicates that indigenous organisations only were consulted along with state and territory government ‘stakeholders’.

95 See above, Chapter 2, Paragraphs 2.49-2.50

96 See *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 708

and target specific stolen generation people. But the services that we are funding are Aboriginal committee controlled services ...<sup>97</sup>

5.65 The Committee also notes not only the hostility between indigenous communities, and between different groups of separated people, but also the apparent difference of opinion within ATSIC itself about the standing of some of the separated groups.<sup>98</sup> The uncertainty expressed above by OATSIH about being able to suggest substantial funding be shared with some of the separated groups<sup>99</sup> also warns that some people would be excluded and 'government' would not act to prevent this. If this is the case, then co-ordination and evaluation would have little impact on funding or allocation of packages to specific groups.

#### Some problems with monitoring/evaluation

5.66 Few witnesses spoke specifically about the need for monitoring and co-ordination to be undertaken in order for an evaluation of the effectiveness of implementation to be assessed, although this may have been implicit in many arguments. In fact, there seems very limited provision in the current process as established under MCATSIA for a general evaluation of outcomes to occur.<sup>100</sup>

5.67 Liberty Victoria emphasised that part of Recommendation 2<sup>101</sup> suggested the evaluation as well as the mere stating of reform or change. In the organisation's view, both tasks needed to be undertaken by external and independent bodies (as had been recommended in *Bringing Them Home*), on the grounds that there was an essential conflict of interest in having the same parties report and assess their report. It also argued that, with the evaluation component missing, commitment could not be measured:

... it is essential that the progress made in response to the recommendations be evaluated for two reasons; first of all, if need be, corrective action can be taken and that which is being done in response to the recommendations can be altered and, secondly, as a sign of good faith. If the government is prepared... to evaluate the progress of its response to the recommendations, Liberty Victoria's position is that this would provide a significant demonstration of good faith that the government was serious about responding to the recommendations.<sup>102</sup>

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97 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 709

98 See above, Chapter 1, Paragraph 1.78

99 *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 706

100 See *Submission 25*, National Sorry Day Committee, p. 426: 'this standing committee is not mandated to evaluate progress, only to report on implementation measures.'

101 *Bringing Them Home*, Recommendation 2c

102 *Transcript of evidence*, Liberty Victoria, pp. 279-280. See also *Transcript of evidence*, National Assembly of the Uniting Church, p. 292

5.68 Other witnesses also commented on the need for an evaluation of outcomes, as well as information about what had been achieved nationally: ‘it is a significant amount of money that they have put into these programs. We have no way of assessing their effectiveness.’<sup>103</sup>

#### Poor quality evaluation methods

5.69 As noted above in Chapter 2, there is limited information currently available on the effectiveness of the programs funded under the major grants of \$16 million for new counsellors. In part, this arises from OATSIH’s reluctance to press the issue of evaluation and its dependence on informal community evaluation of services.<sup>104</sup> The limited data required to be collected, or available, also limits the capacity for assessing how much the services are meeting specific needs of a target population.<sup>105</sup> This situation may be compounded by government acceptance<sup>106</sup> of the substantial and broad population base deemed eligible to receive counselling services.

5.70 Other opposition to the effectiveness of programs may be influenced by opposition to the process and/or the involvement of mainstream departments. NACCHO, for example, stated that it was opposed to the establishment of additional regional centres as well as to what was seen as the excessive amount of funding allocated to training as opposed to service delivery.<sup>107</sup> In one way, this seemed to be contradictory, in that the better trained a counsellor is, the less he or she may be vulnerable to the stresses resulting from the position itself and its location in remote areas with limited support. Nonetheless, the organisation did identify potential problems with respect to the successful operation of the counselling service:

[organisations] are also very worried about the long term capacity of that worker to cope with the increasing volume of extremely complex cases that are emerging as a result of these programs being funded ...

Single positions have been posted in remote and vast areas, leaving [counsellors] extremely vulnerable to the high risk of burnout and stress. It is highly inappropriate for a single worker to be employed in this area, as the nature of this work requires at the very least a male and a female counsellor. It is not always appropriate for women to talk to male counsellors or men to talk to female counsellors ...

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103 *Transcript of evidence*, Hobson’s Bay Reconciliation Group, pp.303-304

104 See above, Paragraph 5. 64

105 See above, Chapter 2, Paragraph 2. 154

106 The figures at Appendix were accepted by state and Commonwealth departments of health, along with other factors: see *Transcript of evidence*, Office of Aboriginal and Torres Strait Islander Health, p. 27

107 *Submission 86*, National Aboriginal Community Controlled Health Organisation, pp. 1701, 1706

In addition these positions are currently operating without any resources to meet requests from people and families to assist when situations arise ...<sup>108</sup>

5.71 The extent to which such factors can be identified in time to prevent problems is reduced through the limited detail required to be provided by the counsellors or organisations employing them. However, if these matters were not addressed prior to the development of services and some contingency arrangements made, then there has been insufficient evaluation of the service prior to commencement.

5.72 With respect to the effectiveness of Link-up, it is not known if any organisation providing these services had been evaluated prior to *Bringing Them Home*. The KPMG report, however, suggested that they were not operating at maximum capacity. This suggests either insufficient funding<sup>109</sup> or poor management. According to some sources, it is the service itself which is of limited quality,<sup>110</sup> although the perception of quality may be influenced by different factors. If the recent evaluation has been able to identify systemic problems and address these in ways which do not limit the capacity of the services to interact effectively with other organisations, then quality issues may be addressed.

#### Limited evaluation

5.73 Although some programs have not been established long, there is a case for both government and organisations to be more pro-active in structuring services and evaluating them.

5.74 The Committee has expressed some concerns about the limited control the funding departments have over outcomes, particularly with respect to the delivery of services to separated people. While programs and policies may have been changed, there was no evidence presented to the Committee suggesting that this was the case; on this basis, there seems to be a limited relationship between the original objectives of the recommendations and the eventual outcome.

5.75 There was some indication of concern from ATSIC, although regional councils may also have different perspectives from Central Office. In some respects both ATSIC and the stolen generation organisations had identified problems in consultation about, and design of, services. These concerns should be listened to, as it is important that the funding is allocated in accordance with stated objectives.

#### Conclusion

5.76 The Government should become more proactive with respect to evaluation in order to limit possible misdirection of funding. It needs to take steps to reassess if the

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108 *Submission 86*, National Aboriginal Community Controlled Health Organisation, pp. 1706-1707

109 According to National Aboriginal Community Controlled Health Organisation, it is the funding which is inadequate: *Submission 86*, National Aboriginal Community Controlled Health Organisation, p. 1707

110 See *Submission 66*, Yilli Rreung Regional Council, pp. 1440-1441

target population and outcomes of the major programs are likely to meet agreed needs. The quality of data collected should be checked and regular reporting mechanisms established. Government departments appear hesitant to challenge some processes and to be forthcoming about expected outcomes. This is a retrograde step, which can lead to further disadvantage to the broader indigenous community.

### Insufficient information sharing

5.77 With respect to information sharing a member of the Committee noted that much of the information on current programs would bypass states and territories unless they were involved as a party.<sup>111</sup> Thus, information on regional centres and counselling funding should be known to states and territories because they are one of the four parties involved in decision-making. However, information on Link Up and its connection with other services would be expected to be minimal at best,<sup>112</sup> except in the newly established Western Australian organisation which involves both the state and the Commonwealth. Similarly, if most of the negotiation concerning languages and culture is carried on through regional offices of ATSIC, states and territories may only hear about this at a later stage after the projects have been chosen.

### *Indigenous involvement in co-ordination and monitoring*

5.78 A key argument throughout submissions and oral evidence was that no aspect of *Bringing Them Home* could be effectively implemented without the involvement of indigenous people themselves.<sup>113</sup> This point was made especially in the context of the appropriateness of *Bringing Them Home* recommendations and of responses to these. However well-intentioned any recommendation or program was, it would not be considered suitable if it did not involve discussion with the relevant parties.

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111 *Transcript of evidence*, Senator Crossin, p. 691

112 Regional centres are supposed to comment on the relationship established with Link Up

113 The necessity for involvement of indigenous people in making/implementing policies directly affecting them had been recognised by all governments in the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*. This was endorsed by Council Of Australian Governments in 1992 and reaffirmed by the Ministerial Council for Aboriginal and Torres Strait Islander Affairs in July 1996. The precise terms of the National Commitment were that the Governments of Australia, in making the National Commitment, have as guiding principles: ... the need to negotiate with and maximise participation by Aboriginal peoples and Torres Strait Islanders ... in the formulation of policies and programs that affect them (See *Social Justice Report 1998*, p.106). The Social Justice report also noted from the available responses to the recommendations that Victoria had proposed: (a) regional reference groups under the Department of Human Services Koori Improvement Services Strategy to be established mid-98 and to provide feedback on the implementation of agreed community servicing plans; (b) an Inter-Departmental Committee to assist Aboriginal Affairs in monitoring; and (c) an undertaking for the projected annual report on initiatives and outcomes on Aboriginal affairs to State Parliament to include a report on issues raised by *Bringing Them Home*. Tasmania indicated that the Office of Aboriginal Affairs would report on progress in implementation of initiatives by September 1998. Queensland indicated that the Indigenous Advisory Council would have an ongoing role in advising and monitoring progress on *Bringing Them Home* issues. In addition, the Australian Capital Territory government indicated that it worked with and recognised the role of the Journey of Healing Network as a monitoring and coordinating role and that it had released two reports on the way the Government was implementing *Bringing Them Home* recommendations.

5.79 A further element of this approach was that many responses - again, perhaps, with good will - nonetheless treated indigenous people as one group with the same needs regardless of experience or geographic location of the group.<sup>114</sup> From evidence provided to the Committee it appeared that, although there was a level of consultation with indigenous groups and various representative bodies, this may have effectively excluded, or not accepted, specific 'stolen generation' organisations or individuals and their suggestions.<sup>115</sup>

5.80 Certainly one issue with relation to consultation has been the complaint of many stolen generation organisations that they have been excluded from consultation, and from the development of appropriate services or indeed any services at all.<sup>116</sup> In some instances, it appeared that this occurred because of hostility from some indigenous groups towards stolen generation people, or specific groups of them. In some other instances, it was less clear if the exclusion had occurred because of perhaps a too rigid interpretation of the National Principles (although such an interpretation could also be used deliberately to exclude):

The Kimberley Stolen Generation Committee does not have any knowledge of where the positions are or where it is up to, except that there was a government condition put on the funds to establish those positions that it has to be administered through the Aboriginal medical services.<sup>117</sup>

... we have protocols in place ... and we recognise the protocols and the responsibilities. What we are saying is that the stolen generations people across the Kimberley also have to be recognised in that protocol process and it has to start from up top.<sup>118</sup>

5.81 It was also suggested in other submissions that government departments (or approaches) did not always serve indigenous people well, and that discrimination occurred, leading to little or no appropriate services or access being provided.<sup>119</sup> Even ATSIC was seen as being interested only in process and not in outcomes:

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114 See *Submission 32*, Aboriginal and Torres Strait Islander Commission, p. 523; see also *Transcript of evidence*, National Assembly of the Uniting Church, p. 295; *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 629

115 However, it was also recognised that there was limited funding available: 'Resources are not going to fall out of the sky, so we have to be realistic about it and come up with something which accommodates the individual but, most importantly, accommodates the community.' *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 15

116 See above, Chapter 1; see also *Transcript of evidence*, Yirra Bandoo Aboriginal Corporation, p. 523

117 *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 625, and see also p. 626

118 *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 631

119 See for example, *Submission 22*, Yirra Bandoo Aboriginal Corporation, pp. 405-408; *Submission 24*, Yorganop Child Care Association, pp. 418-420: 'when the funding comes through a government department, the demands and expectations of that department, not necessarily the needs and wishes of the Aboriginal community will drive policy and decision-making.'

When we question the appropriateness of it, generally the response we get from them is, 'So long as they acquit; we do not have a problem with it.' They do not necessarily look at the outcomes, and they certainly do not look at the involvement.<sup>120</sup>

5.82 Further, there was the greater problem that much consultation occurred after the event, especially in the context of the broad allocation of funding. Although organisations had the opportunity to make submissions and become involved once priorities had been determined, it would have been better to discuss national and state/territory responses prior to any allocation of funding.

5.83 ATSIC expressed concern both in its submission and in oral evidence that while co-ordination and monitoring was essential, limited attention had been paid to it:

It is quite important that we support the idea ... of a national body that acts as a monitor for all the funding and all the services that are provided ...

I think you need to have a cross-section of people, with the indigenous representation, the service providers, the service users, government groups and even someone from the elective process.<sup>121</sup>

5.84 Until this approach was taken, it was thought that it would be difficult to determine if the proposed objectives of programs had actually been met. This is important, not only in the context of self-determination, but also as an unofficial form of monitoring which is of particular concern to the Committee at this point

#### *Consultation and Co-ordination with non-government bodies*

5.85 The Human Rights and Equal Opportunity Commission has suggested that the possibility of duplication and waste of resources may have limited action by state and territory governments.<sup>122</sup> These factors do not seem to have affected the capacity of, some churches and non-government organisations to take a range of steps in relation to reconciliation, apologies and acknowledgment,<sup>123</sup> development of services, improved access to records<sup>124</sup> and in some cases land transfers<sup>125</sup> without any

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120 *Transcript of evidence*, Yirra Bandoo Aboriginal Corporation, p. 523

121 *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 10

122 See *Submission 93*, Human Rights and Equal Opportunity Commission, p. 2185

123 See above, Chapter 4

124 See below Paragraphs 5.101-5.102

125 *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 246; *Transcript of evidence*, National Assembly of the Uniting Church, especially pp. 290-291; *Transcript of evidence*, Catholic Social Welfare Commission, pp. 610-611, *Submission 19A*, Australian Catholic Social Welfare Commission, p. 1781

guidance from governments and in response to specific recommendations of *Bringing Them Home*.<sup>126</sup>

5.86 Most churches have long-established social services, often assisted by the provision of government funding.<sup>127</sup> However, no information was available on the extent to which there was a potential for duplication of such services to be provided to indigenous people.<sup>128</sup> At the federal level, the specific allocation of *Bringing Them Home* funding for counsellors, regional centres, Link-Up, and access to records was made in such a way as to limit involvement by non-indigenous groups. The parenting and family support funding utilised so far appears to have been distributed to a much wider range of organisations although indigenous and departmental involvement is also high. There is some evidence of effective co-operation and referral between church and indigenous organisations.

5.87 In their responses to *Bringing Them Home*, state governments did refer to the links made or which might be made with churches or with church organisations. Some church groups had clearly been undertaking work which necessarily impacted on matters for which states have primary responsibility,<sup>129</sup> and states were also involved in projects, such as providing guides to records, which needed input from churches.<sup>130</sup>

5.88 Representatives of the Anglican diocese of Sydney also noted that the work they were doing with respect to the indigenous population of Sydney pre-dated *Bringing Them Home* and therefore was not a specific response to the issues raised.<sup>131</sup> However, some of the services which they did provide were to people from the Stolen Generation:

We still find these people homeless and restless in a lot of areas. The reason why several of them are coming to our church is because they have nowhere to live. We have looked after them over a period of years and now they have moved on into getting their own homes.<sup>132</sup>

#### Records - the need for co-ordination

5.89 Both the Commonwealth and the states/territories have noted that access to records has been a high priority.<sup>133</sup> Some church groups and organisations have also

126 See below, Chapter 8 which discusses the involvement of churches in the development of a fund. See also *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 239

127 These include the provision of aged care, disability services, refuges and supported accommodation, and food services, funded through state and Commonwealth governments as well as contributions and donations

128 See, for example, *Transcript of evidence*, Anglican Social Responsibilities Commission, p. 323

129 See *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 240

130 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, *Collected Responses*, pp. 210-211

131 See *Transcript of evidence*, Anglican Diocese of Sydney, p. 195

132 See *Transcript of evidence*, Anglican Diocese of Sydney, pp. 195-196

133 See *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Appendix 4, p.655



stated that they have made efforts to locate records and make them accessible to indigenous people. While there appears to be very limited interaction between governments (both state and Commonwealth) and non-government organisations in respect of any centralised index or reference point of relevant records,<sup>134</sup> some evidence suggested otherwise:

... there is a working group that involves organisations like the MacKillop Family Services and so on. They have worked out protocols to enable the Aboriginal community to access records....

I understand that those negotiations and discussions are also occurring with government record keeping. I think that is one area that does need a lot of work, and is not just within the Catholic church.

I think that one thing Victoria is trying to do is to set a template to encourage this process to occur across the country, and that is in train.<sup>135</sup>

There is a huge project, for instance, in the Melbourne archdiocese at the moment looking at the archives here in relation to Aboriginal issues.<sup>136</sup>

5.90 Similar comments were also made about a specific project undertaken by the New South Wales government<sup>137</sup> which sought to co-ordinate records state-wide:

They produced a document ... called 'Connecting Kin' which is the records of all institutions, government and non-government, in New South Wales, and I think that has been effective as a model. But in talking and working with the state authorities there, it is apparent that there is quite a need for integration amongst state responses.<sup>138</sup>

5.91 Of the main church groups which gave evidence to the Committee, the Catholic,<sup>139</sup> and Uniting<sup>140</sup> churches or persons aware of church activities, stated that

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134 *Transcript of evidence*, Centacare Adoption Services New South Wales, p. 186; see also *Submission 48*, National Archives of Australia, p. 939 which states that as well as the archiving project' the Archives was also asked to develop and progress records and archives issues through the forum of government archivists, the Council of Federal, State and Territory Archives.'

135 See *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 243. The reference is to the Ministerial Council for Aboriginal and Torres Strait Islander Affairs Co-ordination report identifying needs for integration and co-ordination with respect to records

136 *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 246; the Australian Catholic Social Welfare Commission also noted that it had received a small grant from the Cultural Ministers Council to aid in the production of *A piece of the story* (*Transcript of evidence*, Catholic Social Welfare Commission, pp. 604-605; see also *Submission 19*, Australian Catholic Social Welfare Commission, p. 386 which refers also to an further project to place records on a data base, a process which would be facilitated by government funding)

137 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, *Collected Responses*, p. 35

138 *Transcript of evidence*, Australian Catholic Social Welfare Commission, p. 611

139 See *Transcript of evidence*, Centacare Adoption Services New South Wales, p.185. The Committee notes that Centacare operates only in New South Wales and therefore its information concerns only material

they held records relating to the adoption, placement and/or institutional care<sup>141</sup> of children.

5.92 The Uniting Church noted that ‘all relevant church departments and agencies have been directed to preserve relevant records and none are to be destroyed.’<sup>142</sup> This suggested a much more centralised approach<sup>143</sup> than appears to be possible in some other churches, where requests may be made but the independence of the organisation may make direction impossible.<sup>144</sup> The Uniting Church also appeared to be heavily involved in research and in providing information,<sup>145</sup> in working with Link Up and other agencies in the provision of appropriate services,<sup>146</sup> in transferring records to indigenous groups,<sup>147</sup> all of which would contribute substantially to improved access to information.

5.93 In response to the *Bringing Them Home* report, the Catholic Social Justice Commission and other bodies undertook work which resulted in the compilation of a ‘national directory of records that lists all Catholic centres known to have provided residential care to children separated from their families.’<sup>148</sup> The information, which dates from 1836, is available in printed form, on the Commission’s website, and a national helpline is also available.<sup>149</sup> The Commission also noted that additional work would need external funding because of the size of the project.<sup>150</sup> There was no suggestion from Government that this would be forthcoming.

### Information issues

5.94 A major difficulty in being able to obtain definitive information about an individual from Centacare records was the fact that it was difficult to obtain information about the cultural background of the child:

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held in that state, although some children in its care may have come from interstate. In respect of Victoria, see *Transcript of evidence*, Catholic Commission for Justice, Development and Peace, p. 243

140 *Transcript of evidence*, National Assembly of the Uniting Church, p. 290

141 *Transcript of evidence*, Centacare Adoption Services New South Wales, p.186

142 *Transcript of evidence*, National Assembly of the Uniting Church, p. 290

143 See also *Transcript of evidence*, National Assembly of the Uniting Church, p. 291 which indicates that the assembly or standing committee of the Church would consider matters and this then appears to form national policy; however, on the same page, there is also reference to the fact that not all policies proceed uniformly

144 See above, Chapter 1, Paragraph 1.16; *Transcript of evidence*, Anglican Diocese of Sydney, p. 199

145 *Bringing Them Home*, Recommendation 32 ( although this does not ask for church involvement)

146 *Bringing Them Home*, Recommendation 40

147 *Bringing Them Home*, Recommendation 3a. See *Transcript of evidence*, National Assembly of the Uniting Church, pp. 290-291

148 *Transcript of evidence*, Catholic Social Welfare Commission, p. 604

149 *Transcript of evidence*, Catholic Social Welfare Commission, p. 605

150 *Transcript of evidence*, Catholic Social Welfare Commission, p. 605

Of the 3000-plus records we have, we have something like eight or 10 people that we know of who were indigenous, and yet we know that is just not true. The records are inadequate.<sup>151</sup>

5.95 Later evidence from the organisation suggested that it might be possible to find such information within records, but only by an individual search.<sup>152</sup> The records were not indexed or cross-referenced in such a way as to identify people by cultural background. A similar point was also made by the Catholic Social Welfare Commission, which noted that this had meant the original project had to be expanded to include all organisations that provided residential care for children.<sup>153</sup>

5.96 The Uniting church also mentioned that many documents had been lost, and in other instances the records were minimal.<sup>154</sup> It was not clear from this if there was little information on individuals in records, or that very few records were held. However, the Uniting Church clearly had taken extensive action and was also in the process of examining the records of those churches which joined with it in 1977, which should increase access substantially to available information.

### Centralisation

5.97 There appear to have been limited efforts to centralise information about records and this may be complicated further by the limited contact between Link-Up organisations, other bodies such as the Aboriginal and Torres Strait Islander Child Care Agencies and government and non-indigenous organisational holdings.

5.98 When asked about any link between Centacare records and the National Archives, the Committee was advised that National Archives had not asked for Centacare holdings.<sup>155</sup> Centacare NSW however did have a good working relationship with Link-Up but this appeared to be more in the way of referral and of assistance than with respect to records.<sup>156</sup> A similar point was also made by the Catholic Social Welfare Commission,<sup>157</sup> particularly with respect to counselling and support for those involved in searching for family. While not increasing centralisation of record holding, this indicates some service co-ordination between organisations similar to that maintained by the Uniting Church.<sup>158</sup>

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151 *Transcript of evidence*, Centacare Adoption Services New South Wales, p. 185

152 *Transcript of evidence*, Centacare Adoption Services New South Wales, p.188

153 *Transcript of evidence*, Catholic Social Welfare Commission, p. 605

154 *Transcript of evidence*, National Assembly of the Uniting Church, p. 290

155 *Transcript of evidence*, Centacare Adoption Services New South Wales, p. 185

156 *Transcript of evidence*, Centacare Adoption Services New South Wales, p. 189

157 *Transcript of evidence*, Catholic Social Welfare Commission, p. 609

158 See above, Paragraph 5.92

5.99 Evidence from Victoria suggested that there was a state-wide push to co-ordinate records. Within the Uniting church it also appeared that considerable efforts had been made to increase access:

... all the Uniting Church agencies have been requested to identify all relevant records and to preserve, index and store them safely. In the case of records of national agencies and agencies in NSW and the ACT, all records have been included in an integrated register which has been compiled by the New South Wales government in order to achieve ease of access by indigenous people to these records, to which they have a right to have access. We have now begun to prepare a national register of all records of agencies which became part of the Uniting Church when it was formed in 1977.<sup>159</sup>

5.100 As noted above,<sup>160</sup> the Uniting Church appears to have taken substantial steps towards working with state and other parties in order to enable greater access to information. The Catholic Social Welfare Secretariat noted, however, that all the records relating to Catholic institutions were held by individual organisations, 'and are unlikely at this stage to be physically provided to anyone else because they belong to the agencies.'<sup>161</sup> This does not necessarily mean that some of the information would not be provided in order to improve access.

#### Access issues

5.101 The main issue with respect to some records is they are held by organisations and this *may* limit access. The Uniting church evidence implied that access was broad and that indigenous people were assisted in obtaining information.<sup>162</sup> Centacare also suggested that access was not a substantial problem for people, although finding the required information might be difficult.<sup>163</sup> With respect to other records held by Catholic organisations, it was not stated what the policy on access was. However, as it seems that the records still need to be indexed, it is unlikely that access would be facilitated until this task is completed.<sup>164</sup>

5.102 In the matter of records, it seemed that there was some reluctance by states to move towards a national centralisation, mostly because of the cost.<sup>165</sup> In this matter, as in others, it was thought the Commonwealth needed to play the co-ordinating role:

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159 *Transcript of evidence*, National Assembly of the Uniting Church, p. 290

160 See Paragraph 5.92

161 *Transcript of evidence*, Australian Catholic Social Welfare Secretariat, pp. 607, 621

162 See above, Paragraphs 5.92-5.93

163 See above, Paragraphs 5.92, 5.95-5.96

164 *Transcript of evidence*, Australian Catholic Social Welfare Commission, pp. 607-608

165 Although it was suggested that in some instances centralisation of records could increase the problem for researchers because of the difficulty in identifying whether individuals were indigenous (*Transcript of evidence*, Australian Catholic Social Welfare Commission, p. 608)

I think it would be a valuable contribution from the Commonwealth to give some kind of framework where state governments and non-government organisations such as churches could feed their information about what they are already trying to attempt and to find ways to coordinate that, because the needs for Aboriginal people cross state boundaries, government agency boundaries and church organisations. I can speak only from the New South Wales perspective, although I do know that things have happened in other states as well to try to formulate centres so that people can approach them to find their records.<sup>166</sup>

### National Compensation Fund

5.103 It could be argued that the distinct lack of enthusiasm by all governments about a national fund for reparations<sup>167</sup> ensured this recommendation would collapse. In this case, the issue of co-ordination and monitoring seems redundant. Yet, although church groups and church organisations seemed uncertain about what had occurred in the matter of a national fund, much of this confusion seems to have been caused by limited government response to tentative queries.

5.104 In 1997 certain church organisations – not necessarily representative of the central or governing body of the churches – had drafted a letter to the Commonwealth Attorney-General in respect of Recommendation 15. Their query related to whether the Government was thinking about implementing this recommendation. To the organisations, such a query was a preliminary step to the next question: who would contribute?<sup>168</sup> Although limited response was obtained three years later they still appeared interested in making a contribution.<sup>169</sup>

5.105 This matter attracted serious interest during the course of the inquiry, in part because it is seen as demonstrating a lack of genuine interest by the churches in compensation and the establishment of a National Compensation Fund. However, it can also be seen as evidence that leadership and co-ordination is important in dealing with controversial matters, and that, even if the Commonwealth declined direct involvement, it could have taken on an advisory or management role in this matter.

### *Conclusion*

#### Co-ordination and Monitoring Needs

5.106 The Committee received little detailed information on the factors that ensure effective co-ordination and monitoring process. The following outline is therefore based on the issues identified by witnesses, directly or indirectly. The Committee believes that this information should be provided regularly, with a running total of up-

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166 *Transcript of evidence*, Australian Catholic Social Welfare Commission, p. 611

167 See *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Appendix 4, p. 655

168 Some confusion subsequently arose about the contents of the letter which was thought to have been sent to the Prime Minister and to have actually offered to contribute; see below, Chapter 8

169 See below, Chapter 8

to-date expenditure to date, with a separation of funding into actual service provision as opposed to salaries, capital and other costs.

- All reports must be based on a thematic approach, with like issues being linked regardless of whether they are state/territory, local government, church, non-government organisation or Commonwealth
- All reports should then list programs which are a response to specific recommendations, or to some version of these
- In respect of recommendations on which action has been taken and new programs established, the following information must be collected:
  - The extent to which action is the same as recommended in *Bringing Them Home*, or has been changed to meet particular needs (explain the change);
  - Nature of service provided, if operated as a single or joint venture; and type of organisation, such as Commonwealth, state/territory, ATSIC, indigenous or non indigenous organisation, specific stolen generation organisation, church; university, or a combination of the above;
  - Consultation process: who was involved in consultation to determine the need for the service ; what was the extent of consultation and agreement;
  - Funding: source of funding, conditions, date, allocation to other groups;
  - Management and Reporting structure of the organisation;
  - Expected or actual outcome of service; specify groups and numbers within groups;
  - Appropriate performance indicators and why these will provide accurate information on outcome; and
  - Age and Background of expected recipients (would be in application).
- For previously existing programs - all the above
- Alternative approaches - all the above, including a detailed statement on why the project will meet expected outcomes

5.107 The Committee notes that such information could contribute to the development of standard information which would identify problems in program operation. If used properly, such information could assist state, territory and the Federal government to determine if resources are being used efficiently and if outcomes are meeting expectations.

## Recommendation

### **Recommendation 6**

The Committee **recommends** that the Government take steps to implement an effective and independent coordination and monitoring process for all programs which address the needs of members of the Stolen Generation. This process should take into account the recommendations of *Bringing Them Home* and the recommendations and conclusions of this report.

