

## **CHAPTER 2**

### **ADEQUACY OF THE COMMONWEALTH GOVERNMENT'S RESPONSE**

2.1 **The Australian Democrats support** the view of the vast majority of organisations and individuals who made submissions and appeared before the Committee that the Commonwealth Government's response has been inadequate and ineffective in dealing with the enormity of the suffering which continues as a result of past child removal policies and practices.

2.2 **The Australian Democrats agree** with the observation of the HREOC that:<sup>1</sup>

.... The adequacy of the Commonwealth's response is best measured by assessing the redress provided against the harm done, rather than by highlighting the paucity of redress from other sources, or by attempting to transfer the responsibility to other (state and church) authorities.

2.3 The overall inadequacy of the Commonwealth's response stems from three inter-related factors:

- a) the inadequacy of the funding package and its subsequent failure to deliver real benefits to the members of the stolen generations first and foremost, as well as the broader Indigenous community which indirectly shares the burden of the legacy of the child removal policies and practices. A detailed critique of the limitations of the Government's package are contained in the Majority Report;<sup>2</sup>
- b) the selective manner in which the Government has chosen to implement the recommendations of the BTH Report, which includes its failure to provide national leadership; and
- c) the Government's decision that neither reparations nor compensation are a necessary or appropriate response on either moral or legal grounds.

#### **The Adequacy of the \$63 million Package**

2.4 The Government's \$63 million funding package provided over the four years 1997 – 2001 provides assistance in the areas of family reunions, health and other related services as follows:<sup>3</sup>

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1 *Submission 93*, paragraph 2.10, p. 6.

2 Refer particularly to Chapter 2.

3 *Submission 32*, ATSIIC, p. 19.

- a) \$2 million for the Australian Archives to index, copy and preserve thousands of files so that they are more readily accessible;
- b) \$5.9 million for further development of Indigenous family support and parenting programs;
- c) \$1.6 million to the National Library for an oral history project;
- d) \$9 million boost to culture and language maintenance programs (transferred from ATSIC's pre-existing budget);
- e) \$11.25 million to establish a national network of link-up services to assist individuals to trace and be reunited with their families;
- f) \$16 million for 50 new counsellors to assist those affected by past policies and for those going through the family tracing and reunion process; and
- g) \$17 million to expand the network of regional centres for emotional and social well-being, giving counsellors professional support and assistance.

2.5 The concerns of the Australian Democrats in relation to the inadequacy of the funding provided by the Commonwealth are summed up by the following comments from the National Aboriginal Community Controlled Health Organisation (NACCHO):<sup>4</sup>

We [NACHHO] acknowledge that the funding for the Stolen Generations counselling positions represents a significant shift towards direct service delivery from the Commonwealth level. This is a move long overdue and one that recognises the joint responsibility that the Commonwealth shares with State and Territories for the advancement of Aboriginal health.

However, while this move is to be applauded, the reality is that the level of funding still falls far short of the needs of our communities.

.... The effects of the stolen generations policies are not confined to those who were taken away. It is also those left behind, the sisters, brothers, grandchildren and friends who continue to suffer the impacts of these policies on their health and emotional and social well-being.

NACCHO therefore strongly supports an increase of funding to allow for a total of 200 counsellors (100 male and 100 female) in Aboriginal community controlled health services represented by NACCHO.

People are also rightly concerned about the short-term nature of the funding. Four years is obviously not enough to address the deep-seated problems our

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4 Correspondence from NACCHO to Senator Aden Ridgeway dated 30 August, 2000 and provided to the Legal and Constitutional Committee.

people face. NACCHO therefore strongly supports a move from the current four year ceiling to funding these positions on a recurrent basis as part of an ongoing Federal Government response to the Bringing Them Home Report.

### **Recommendations**

2.1 The Australian Democrats recommend that the federal government, in consultation with the stolen generations and their representative organisations, significantly increase the funding package to implement the government's response to the recommendations of the BTH Report to ensure that the needs of the stolen generations are fully addressed. These negotiations should be a key element of the National Summit on the Stolen Generations, as proposed in the Majority Report.

2.2 The Australian Democrats recommend that the federal government's funding package to implement the recommendations of the BTH Report should be ongoing and subject to review in terms of its adequacy by the independent auditing body referred to in Recommendation 2.6 below.

2.3 The Australian Democrats recommend the establishment of a mediation process and/or series of conferences by ATSIC to resolve a range of outstanding issues between the stolen generations communities, their representative organisations and Indigenous community organisations in the Northern Territory. This should occur in advance of the Indigenous consultations referred to in Recommendation 10 of the Majority Report.

### **Selective Implementation of the BTH Recommendations**

2.6 The Government has failed to appreciate that the recommendations contained in the BTH Report constitute a package of measures that are designed to complement and reinforce each other by facilitating healing at both the individual and community level. The recommendations are *not* a series of options that could be selected or ignored on political grounds.

2.7 Instead, the Government has determined that the "overriding priority identified in the [BTH] report" is the facilitation of family reunions, and on that basis, has weighted the allocation of funds accordingly.

2.8 Other important recommendations that constitute 'the other components' of the overall package have been dismissed as either unnecessary or unwarranted according to the Government. These include the healing potential of a formal apology by the Australian Parliament and the establishment of an independent body to deliver reparations to the stolen generations, their families and communities.

#### *National Leadership by the Commonwealth Government*

2.9 Whilst family reunion is a critical outcome which **the Australian Democrats support**, one of the main authors of the BTH Report, Sir Ronald Wilson, has

indicated that the HREOC Inquiry found that Commonwealth leadership is one of the most critical factors for the delivery of real outcomes to the stolen generations.

2.10 In his evidence before the Committee, Sir Ronald Wilson commented that:<sup>5</sup>

... the key process in my submission [to the Committee] is national leadership by way of bringing all parties into consultation with indigenous leaders. And by 'all parties' I have in mind particularly the Commonwealth, preferably across political parties. So opposition leaders should be party to this consultation and all state and territory governments, because all of them to a greater or lesser degree were party to this sad chapter in Australian history. ... And finally, the churches are very much part of that history and should also be incorporated in the initial consultation which will bind all the relevant parties into the process.

2.11 **The Australian Democrats support** the view expressed by a majority of witnesses who appeared before the Committee, that only the Commonwealth Government is in a position to bring all of these 'parties' together and develop an appropriate response through negotiation with the stolen generations and their representative organisations. As the HREOC submission observed:<sup>6</sup>

An effective response to the recommendations cannot be achieved without national coordination. Such a response will ensure that recommendations are not ignored because of claimed demarcation of responsibility among governments or agencies.

.... without inter-governmental cooperation, information exchange and coordination, the States and Territories, in particular, will be left uncertain as to how to coordinate their responses with those of the Commonwealth in order to maximise effect and efficiency. Consequently, the States and Territories are simply unwilling or unable to make commitments in respect of national legislation or in the big spending areas of health and Link-Up type services, where the Commonwealth has indicated its commitment.

Twenty-nine of the recommendations are directed to COAG, eight are directed jointly to the Commonwealth, state and territory governments and four are directed to the Commonwealth only. In other words, 41 of the 54 recommendations directly involve the Commonwealth.

2.12 **The Australian Democrats encourage** the Churches who have expressed their preparedness to contribute significant funds towards a national compensation fund, to forge ahead with this initiative regardless of the positions taken by governments at the Commonwealth, State and Territory level.<sup>7</sup>

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5 Committee Hansard, Monday 4 September, 2000, p. 736.

6 *Submission 93*, paragraph 2.5, 2.6 and 2.9, p. 4-6.

7 Correspondence to Committee members from the Legal and Constitutional Committee dated 14 August, 2000. This correspondence includes a letter from the Australian Catholic Social Welfare Commission to

## Recommendation

2.4 The Australian Democrats recommend that the Churches proceed with their plans to establish their own compensation fund to facilitate the delivery of reparations, including compensation, to the stolen generations, their families and communities, in accordance with the recommendations of the BTH Report.

### *Monitoring and Reporting on Implementation of the Recommendations*

2.13 The appropriate ‘procedure for implementation’ as set out in Recommendation 2 of the BTH Report, is a four-tiered procedure that is co-ordinated at the highest level of government, namely the Council of Australian Governments (COAG).

2.14 **The Australian Democrats believe** that the enormity of the problems faced by the stolen generations throughout Australia is such that the highest level of government must step in to ensure a co-ordinated, effective and whole-of-government response to the needs of the stolen generations and their families is delivered.

2.15 Yet the Government has approached Recommendation 2 in a half-hearted manner. Its decision to delegate responsibility for co-ordination of the national response to the very junior and relatively unimportant Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA) has brought into question the sincerity of the Government’s preparedness to provide a meaningful response to any of the BTH recommendations. As Sir Ronald Wilson commented:<sup>8</sup>

What does it [MCATSIA] do? It waits for a year and then assigns the task to the Victorian committee. The Victorian working party meets the best part of 12 months later. It has the understanding that it is to report on what the states choose to have done. There is no obligation to report in any way that would seek a coordinated response. That is simply no response.

2.16 A detailed critique of MCATSIA’s performance in relation to the implementations of the BTH Report is provided in the HREOC submission.<sup>9</sup> However it is relevant to reiterate the following observations:

The MCATSIA process:

- Amounts to information sharing among governments, and accordingly, lacks an evaluation component;
- Is not transparent in its operation;

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the Federal Attorney-General dated 19 June, 1997 in which the Churches seek to ascertain “how the Coalition Government intends to respond to the specific recommendations relating to the establishment .... of a National Compensation Fund.”

8 Committee Hansard, Monday 4 September, 2000, p. 747.

9 Refer to *Submission 93*, paragraph 2.29 – 2.43, p. 10 – 12.

- Does not provide an appropriate avenue for peak Indigenous organisations and members of the stolen generation to raise concerns regarding the implementation of the recommendations; and
- Does not compel governments to provide detailed information on their progress.

### Recommendations

2.5 The Australian Democrats recommend, in acknowledgment of the enormity of the problems faced by the stolen generations throughout Australia, that COAG take up the responsibility of ensuring the delivery of a co-ordinated, effective, whole-of-government response to the recommendations contained in the BTH Report.

2.6 The Australian Democrats support Recommendation 1 of the Majority Report, relating to the need for the federal government, in conjunction with state and territory governments, to commission an independent evaluation of the progress of initiatives implemented by governments in response to the BTH Report.

2.7 We further add that periodic *independent* audits of governments' initiatives are required no less than every three years to ensure that the needs and aspirations of the stolen generations are being satisfactorily addressed.

### Reparations and Compensation

2.17 **The Australian Democrats believe** that the Commonwealth Government's reliance on litigation to determine entitlements to compensation for people affected by forcible removal is inappropriate and causing additional suffering for the stolen generations and the wider Indigenous community. In this context, **the Australian Democrats believe** that the recommendations in the BTH Report relating to reparations provide the minimum response from Government that will facilitate a national process of healing and recovery.

2.18 The following comments from a letter to the Editor in one of the national newspapers, capture the level of emotion that has been generated by the Government's refusal to provide compensation or to consider the establishment of a reparations tribunal:<sup>10</sup>

"In indigenous Australia there exists an historical and persistent trauma which is unfathomable.

.... The basic principle in dealing with people with trauma is not to re-traumatise and to acknowledge what and how they have suffered. Denial compounds trauma – it can have the most damaging impact for an individual and community.

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10 Vadiveloo, Jane (2000) 'Compensation for Black Trauma', Letter to the Editor, *The Australian*, 14 August, 2000.

.... Rather than spending more than \$10 million on a court case to deny people their history, [the Government] needs to provide compensation recognising that it will provide some practical assistance in dealing with the permanence of the trauma and grief which persists across generations, and creates profound damage to people and communities. In doing this [the Government] will not only be in step with global responses to indigenous peoples in Western countries, but more importantly it will begin a critical process of healing.

2.19 The other key component of the recommendations contained in the BTH Report which the Government has chosen to selectively implement relates to the need for reparations to be delivered to the stolen generations, their families and communities.

2.20 However, **the Australian Democrats support** the findings of the BTH Report which lead to the recommendation that *full and just* reparations must be delivered to the stolen generations, their families and communities. In particular, we refer to the following findings:<sup>11</sup>

.... the removal of Indigenous children by compulsion, duress or undue influence was usually authorised by law, but that those laws violated fundamental common law rights which Indigenous Australian should have enjoyed equally with all other Australians. As subjects of the British Crown, Indigenous people should have been accorded these common law liberties and protections as fundamental constitutional rights.

.... from about 1950 the continuation of separate laws for Indigenous children breached the international prohibition of racial discrimination. Also racially discriminatory were practices that disadvantaged Indigenous families because the standards imposed were standards that they could not meet either because of their particular cultural values or because of imposed poverty and dependence.

### *The van Boven Principles*

2.21 In 1989, the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities entrusted Theo van Boven with the task of undertaking a study about the right of restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms. In preparing that report, van Boven examined existing international human rights norms, as well as relevant decisions and views of international human rights organs.<sup>12</sup> The conclusions drawn from this report have become known as the van Boven Principles.

2.22 **The Australian Democrats believe** that the appropriate response to the effects of the policies and practices of child separation which occurred in Australia

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11 Ibid, p. 277.

12 *Submission 68*, p.9.

between 1910 and 1970 is the provision of full and just reparations to the stolen generations, their families and communities.

2.23 Only a response of this nature would enable Australia to comply with our obligations under the international human rights treaties that we have ratified, as well as the obligations imposed on Australia by the norms of international customary law.

2.24 In particular, the provision of full and just reparations to the stolen generations would be consistent with the provisions of the van Boven principles.<sup>13</sup> These principles provide that States (governments) breach their legal obligations by:

- a) failing to prevent human rights violations by others, and
- b) when human rights are violated by State action.

2.25 In both cases, States are required to “ensure that *adequate legal or other remedies are available to any person* claiming that his or her rights have been violated.”<sup>14</sup>

2.26 Clause 7 of the van Boven principles provides that:

... States have the duty to adopt *special measures*, where necessary, to permit *expeditious and fully effective reparations*.

Reparations shall render justice by removing or redressing the consequences of the wrongful acts and by preventing and deterring violations. Reparations shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

2.27 It is important to note that Governments are given the flexibility to provide either legal or non-legal remedies to victims of human rights violations. Furthermore, they have a *duty* to put in place ‘special measures’ to ensure that violations are addressed by prompt and ‘fully effective’ reparations.

2.28 In the Australian situation, **the Australian Democrats believe** that litigation in our adversarial court system is not a culturally appropriate or effective remedy for the situation confronting the stolen generations, their families and communities.

2.29 The Public Interest Advocacy’s Submission to the Committee provides a cogent and comprehensive critique of the shortcomings of litigation as an option for Indigenous people who are seeking redress for damage suffered as a result of practices and policies relating to child removal.<sup>15</sup> In brief, the main shortcomings are:

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13 Van Boven, Theo (1993) *Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms: Final report submitted by Mr Theo van Boven, Special Rapporteur*, UN Doc: E/CN 4/Sub 2/ 1996/ 17, 24 May 1996.

14 Clause 4, van Boven Principles, emphasis added.

15 *Submission 68*, Public Interest Advocacy Centre, p. 16-18.



- a) The limitation period under legislation which applies to claims of negligence and breach of fiduciary duty;
- b) The difficulty in establishing duty of care, and breach of duty of care;
- c) The major evidentiary hurdles that arise for the stolen generations as a result of the passage of time and the lack of records kept by government about Indigenous people.
- d) The prohibitive cost of litigation as evidenced by the Gunner and Cubillo case which has cost the Commonwealth over \$10 million to date and may yet be appealed;
- e) The protracted and complicated nature of litigation which frustrates and confuses litigants. It is important to note that there are already some 1,000 to 1,500 stolen generations claims registered nationally which are awaiting hearing.<sup>16</sup>
- f) The need to recount the trauma of their experiences in an adversarial setting and subject to public scrutiny;
- g) Successful litigation will only deliver individual monetary rewards, as opposed to the broader concepts of reparations envisaged by van Boven and the BTH Report; and
- h) Access to compensation through individual claims based on the common law will have arbitrary and inequitable outcomes for individuals.

### *A Definition of Reparations*

2.30 **The Australian Democrats concur** with the application of the van Boven principles recommended in the BTH Report. Namely, that:<sup>17</sup>

Reparations should be material, in-kind and non-material and should include, but not be confined to, monetary compensation. ... Reparations should consist of:

- a) Acknowledgement and apology;
- b) Guarantees against repetition;
- c) Measures of restitution;
- d) Measures of rehabilitation; and

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16 This is the estimate provided by the Public Interest Advocacy Centre to Senator Aden Ridgeway.

17 The Human Rights and Equal Opportunity Commission (1997) *Bringing Them Home: The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, Commonwealth of Australia, p. 282

- e) Monetary compensation.

2.31 **The Australian Democrats concur** with the application of the van Boven principles as provided in Recommendation 4 of the BTH Report. This recommendation provides that reparation be made to all who suffered directly and indirectly as a result of forcible removal policies, including:

- a) individuals forcibly removed as children;
- b) family members who suffered as a consequence of their removal;
- c) communities, which as a result of the forcible removal of children, suffered cultural and community disintegration; and
- d) descendants of those forcibly removed who, as a result, have been deprived of community ties, culture, language, and links with entitlements to their traditional lands.

*An Evaluation of the Commonwealth's 'Package' for the Stolen Generations*

2.32 **The Australian Democrats acknowledge** that the response to date from the Commonwealth Government has partially addressed some of the components of the reparations package.

2.33 The Government's \$63 million funding package to implement selected recommendations of the BTH Report has arguably gone some way to addressing the following components of the suggested reparations package:

- a) Acknowledgement – the provision of \$63 million is an acknowledgement that the pain and suffering of the practices of removal are a legacy within contemporary Indigenous communities which needs to be addressed;
- b) Guarantees against repetition – arguably this aspect of reparations has not been addressed in accordance with the van Boven principles<sup>18</sup> as:
  - i) Many witnesses maintain that the removal of Indigenous children is still occurring, particularly through the welfare policies and the juvenile justice system. The disproportionate impact of mandatory sentencing legislation in the Northern Territory, and the fact that nearly one in two juveniles in detention centres is indigenous, are further examples of contemporary removals sighted by many witnesses to the Committee;
  - ii) The statements made in the Government's submission to the inquiry to the effect that there was no such thing as a stolen

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18 As set out in the BTH Report, p. 649-650.

generation because only about 10 percent of children were removed, is indicative of the fact that Australia is yet to make a ‘public disclosure of the truth’ of our nation’s history. The \$1.6 million oral history project conducted by the National Library may make some contribution to the honesty of our nation’s history, but this project has come under heavy criticism from the stolen generations;<sup>19</sup>

iii) Neither the Australian Parliament nor the Northern Territory Government have issued a public apology to the stolen generations;

iv) Australia has not created a national memorial to commemorate the stolen generations; and

v) The Government is not prepared to provide an alternative option to litigation so that the stolen generations can ‘bring those responsible to account’. Rather it has sought to justify its position by arguing that any other alternative would “open the floodgates to demands for compensation for other historical injustices or perceived injustices.”<sup>20</sup>

c) Measures of restitution – meaning re-establishment (to the extent possible) of the situation for the victim that existed prior to the violation of human rights. Arguably, the bulk of the Government’s \$63 million funding package is directed at restitution. The following elements of the Government’s response could be classified as ‘restitutional’ responses:

- i) the regional centres for emotional and social well-being;
- ii) the provision of counsellors for support and assistance;
- iii) the establishment of Link-Up services to assist with family re-union, along with the archiving project;
- iv) the family support and parenting program; and
- v) the culture and language maintenance programs.

d) Measures of rehabilitation – including the provision of legal, medical, psychological and other care and services to restore the dignity and reputation of victims. The comments made in c) above also apply here.

e) Compensation – the Government has consistently and flatly ruled out this response, on the grounds that:

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19 Refer to Chapter 3 of the Majority Report for a detailed appraisal of the oral history project.

20 *Submission 36*, Senator John Herron, p. 51.

- i) it would be too costly to compensate all of the direct and indirect victims of past policies of removal, and would lead to an ‘opening of the floodgates’;<sup>21</sup>
- ii) “it would not be possible to implement a workable scheme under which it is possible to identify persons who have suffered loss and to quantify that loss”;<sup>22</sup>
- iii) The payment of monetary compensation (even to individuals who were directly and wrongfully affected by past policies, *if* they could easily and reliably be identified), would not substantially contribute to the healing process which is required;<sup>23</sup>
- iv) the Commonwealth has no legal obligation to provide compensation until its liability is proven through litigation;<sup>24</sup>
- v) “the possibility that, on today’s standards, these practices could constitute breaches of human rights is not necessarily an indication that they would have been considered as such at the time they occurred”;<sup>25</sup>
- vi) although there are “limited, exceptional circumstances” in which compensation is payable to individuals where no legal liability has been proven, the Government concludes (without reasoning) that such circumstances do not arise in relation to the stolen generations;<sup>26</sup>
- vii) the Commonwealth rejects the notion that there could be any liability attributed to it for the mere existence of policies, and generally government policies are non-justiciable. The legislation on which policies were based would need to be proven to be in breach of the constitution for Commonwealth liability to arise;<sup>27</sup>
- viii) State and Territory Government were the “authorities responsible for indigenous child separation practices in their jurisdictions”<sup>28</sup> rather than the Commonwealth. Therefore the States and Territories are more directly responsible for any redress; and

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21 *Submission 36*, p. 51.

22 *Submission 36*, p.43.

23 *Submission 36*, p. 42.

24 *Submission 36*, p. 42.

25 *Submission 36*, p. 38.

26 *Submission 36*, p.40.

27 *Submission 36*, p. 42.

28 *Submission 36*, 18, 20 and 40.

ix) because “many people benefited from the practices [of removal] in terms of obtaining an education and a greater capacity to engage with the majority culture”, their experiences as a consequence of removal were not all negative.<sup>29</sup>

2.34 However, the Government acknowledges that:<sup>30</sup>

.... indigenous people have suffered a range of consequences as a result of past removal practices carried out by government and non-government agencies. .... there is no doubt that those practices also caused great suffering and dislocation for many indigenous individuals and communities and that the effects persist today.”

2.35 The Government also acknowledges that there are ‘exceptional circumstances’ in which it is appropriate to provide compensation to individuals even though there is no legal liability to do so.<sup>31</sup>

2.36 Although the Government’s submission does not elaborate on what these ‘exceptional circumstances’ might include, it is not possible to argue that the experiences of the stolen generations, their families and communities, do not constitute ‘exceptional circumstances’, and that they are therefore not entitled to compensation or reparations.

## Conclusions

2.37 The Commonwealth Government’s response to the recommendations of the BTH Report has been inadequate and ineffective in dealing with the enormity of the suffering which continues as a result of past child removal practices and policies.

2.38 The recommendations of the BTH Report need to be implemented as a package of measures that complement and reinforce each other; they should not be selectively implemented according to political viewpoints.

2.39 Funding needs to be significantly increased and members of the stolen generations and their representative organisations need to be consulted to ensure that funding is allocated where the needs are greatest, and to initiatives which the communities consider culturally appropriate and worthwhile.

2.40 The Commonwealth Government’s response to the recommendations contained in the BTH Report must be co-ordinated by COAG to ensure that a co-ordinated, effective and truly ‘national’ healing process can be fostered. That response must also be subject to regular review by an independent audit, to ensure that the

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29 *Submission 36*, p. 41.

30 *Submission 36*, p.41.

31 *Submission 36*, p. 40.

needs of the stolen generations are being met and continuing to drive the national response.

2.41 The appropriate response to the effects of the policies and practices of child separation, which occurred in Australia between 1910 and 1970, is the provision of full and just reparations to the stolen generations, their families and communities, as recommended in the BTH Report.

2.42 Only a response of this nature would enable Australia to comply with our obligations under the international human rights treaties that we have ratified, as well as the obligations imposed on Australia by the norms of international customary law as contained in the van Boven principles.

2.43 The Commonwealth Government must provide the leadership to bring together the State and Territory Governments, Churches and other bodies that were responsible for the administration and implementation of the child removal policies and practices, to ensure that full and just reparations are delivered to the stolen generations, their families and communities.

2.44 In the Australian situation, the Australian Democrats believe that litigation in our adversarial court system is not a culturally appropriate or effective remedy for the situation confronting the stolen generations, their families and communities. The Gunner and Cubillo case only showed how ill equipped our courts are to provide a human response to the legacy of the stolen generations.

2.45 The experiences of the stolen generations, their families and communities as a result of the policies and practices of child removal over successive generations from 1910 to 1970 do constitute “exceptional circumstances” that warrant at the very least, the provision of full and just reparations, including compensation.

### **Recommendations**

2.8 The Australian Democrats recommend that Recommendations 44 – 54 of the BTH Report be actioned as a matter of urgency to ensure that adequate national legislation is implemented which establishes minimum standards of treatment and protection for all Indigenous children and other children as appropriate (national standards legislation).

2.9 The Australian Democrats recommend that the Commonwealth provide full and just reparations to the stolen generations, their families and communities as soon as is practicable.

This recommendation should be carried out in conjunction with all other recommendations contained in this Minority Report. Collectively, these recommendations constitute the minimum acceptable response required to heal the legacy borne by the stolen generations, their families and communities.