

Reflections on the Tabling of the Senate Committee Report on *Former Forced Adoption Policies and Practices* in the Australian Senate on 29 February 2012.

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February 29, as we all know, signifies a leap year. This day is added to the year, once every four years, as a corrective measure to synchronise the calendar year with the seasonal year. Most apt, therefore, that on this day, this week, this year, Senator Siewert stood up in the Senate Chamber of the Australian Parliament to announce another long awaited corrective measure:

"It is undoubted that past [adoption] policies and practices have caused great harm and hurt to mothers, fathers, adoptees and their family members. You cannot come to any other conclusion when you are listening to the evidence. . .It is time for governments and institutions involved to accept that such actions were wrong not merely by today's values, but by the values and laws of the time. Formal apologies must acknowledge this and not equivocate."

On two occasions, during her 10 minute introduction (a time limit applied to all Senators involved in the debate) the public gallery burst into applause prompting the Deputy President to ask us all to 'maintain the decorum in the Senate' by not applauding. Not easy, when you've waited many decades to hear Senator Siewert conclude:

"The damage caused by these past practices and policies is overwhelming. It happened. We cannot deny it happened, and we need to apologise and put in place a framework that addresses it."

The public galleries, tiered in three blocks above the large Senate Chamber, were about two thirds full with adoptees and groups of mothers from the Apology Alliance and Origins, many who had appeared in the ABC 4 Corners program earlier in the week, eagerly awaiting the recommendations and commentary on the report.

When the Committee Chair, Senator Siewert, rose at seven minutes to four, about 15 Senators were present in the Chamber, including fellow Green Senators Bob Brown, Christine Milne, Sarah Hanson-Young; from Labor, Deputy Chair Claire Moore, Sue Boyce, Louise Pratt, Carol Browne and Mark Arbib; from the Liberals, George Brandis and Gary Humphries; from the Nationals; Bridget MacKenzie and Independent Nick Xenophon.

During the course of the next hour - as their colleagues addressed the report - Senators came and went, along with the Hansard scribes - who changed every seven and half minutes. There was a rotation in the President's Chair and a continual flow of red jacketed ushers bringing in glasses of water for the Senators. The internal TV cameras rolled to broadcast and record the speeches and the ten minute digital clock counted down each time a speaker rose to speak. All familiar scenes from the normal business of a Senate debate with one significant exception: this time there was no dissent or fighting, only unanimous support from all sides of the political spectrum (a rare occurrence).

It was also noteworthy that all those who spoke, Senators Siewert, Moore, Boyce, Browne, MacKenzie and Pratt, were women (mirroring the membership of the entire inquiry committee): illustrating gender solidarity, on the issue of motherhood, is far greater than partisanship to any one political party. And that spirit of unity was evident again when, at closure of the debate, firmly at 5.00pm, the Senators and members of the gallery moved to a meeting room for a press conference and informal discussions over tea and sandwiches (Senator Siewert conceding she had thought of everything except the champagne!).

Prior to that, the most touching moment of the proceedings - from the perspective of someone sitting in the gallery - came when, upon the Deputy President calling the session to an end, all the Senators in the Chamber rose, turned to the people seated in gallery and applauded them for a couple of minutes thus, giving added credence to the words Senator Moore echoed earlier:

"To the people in the gallery, to the people who are listening to this and to the people who have given us their lives, this is your report. Take it, read it and be proud, because none of this would have happened without each of you who have given us the incredible honour and the responsibility of putting on paper and putting into the community knowledge your histories."

The 323 page, well structured report, consisting of 13 chapters and 4 appendices, explains the attitudes, experiences and effects of forced adoptions and makes 20 recommendations. They focus on several key issues that need to be addressed for mothers, fathers and their children affected by past adoption policies and practices. These include the development of a national framework for a consistent approach to cover: formal apologies, specialised professional support and counselling services, redress for past practices and improved access to personal information.

The committee rightly believes that a national framework be developed to address the consequences of former forced adoption as the issues are national in scope, require a coordinated approach to reduce inequities, and because intergovernmental mechanisms are already in place for doing so. The report therefore recommends that the existing Community and Disability Services Ministerial Conference (CDSMC) and its Community and Disability Services Ministerial Advisory Council (CDSMAC) expand their work to address the issues around past adoption practice as they include appropriate terms of reference and representatives from all jurisdictions.

Several recommendations within the report are linked to the issuing of formal, unqualified apologies by the Commonwealth, State and Territory Governments and non-government institutions that administered adoptions with assurances that these statements, "take responsibility for the past policy choices made by institutions' leaders and staff, and not be qualified by reference to values or professional practices during the period in question". . . and . . ."be accompanied by undertakings to take concrete actions that offer appropriate redress for past mistakes" [Recommendations 5 and 6].

As Senator Boyce stated in the debate, "it is perhaps not uncommon now for general apologies to be made to people who have been harmed by behaviours of the past - but there are apologies and there are apologies. It is very important to acknowledge

that, whether you think people were doing what they thought was the right thing at the time, you know it was not the right thing - to acknowledge that people need reparation, they need redress, to get on and to move on from the issues."

Commonwealth, State and Territory Governments are also recommended "to urgently determine a process to establish affordable and regionally available specialised professional support and counselling services to address the specific needs of those affected by former forced adoption policies and practices." This is most welcome as many submissions give accounts of medical practitioners who are not trained in, or fully aware of the lifetime consequences of adoption trauma, and therefore tend to be dismissive or unable to prescribe appropriate treatment [Recommendation 8].

Some of the most significant recommendations focus on a range of measures to promote cheaper, unhindered and ease of access to personal adoption records. These include the introduction of integrated birth certificates 'as legal proof of identity' and 'of equal status to other birth certificates', with the report noting the legal and technical complexity of this issue; the provision of a single national access point for birth, death and marriage registers; adding the names of fathers to original birth certificates where these are known; providing funding to extend existing family tracing and support services and for non-government organisations who were involved in former adoption services to identify the records in their possession and make them freely available to those seeking their personal information [Recommendations 13, 14, 16, 17, 18 and 19].

In the words of Senator Moore, "every family deserves to know their own history" and "that people be able to seek and have true documents of identification" . . . "I am not negating the role of adoptive parents. I am not negating the role of adoptive families. However, every person in this country has the right to know exactly who their birth parents are."

This would include revoking information vetoes, an issue that causes distress for many as expressed by Senator Pratt, "the idea that, in this day and age, we continue to criminalise the desire to contact your kin seems quite extraordinary to me."

It is important to stress that the scope of the report is about former forced adoption policies and practices and the Commonwealth's role. Most of the submissions came from mothers now in their 50s - 70s, and their children, now in their 30s - 50s, covering the period from the late 1950s to the mid 1970s. The report, to paraphrase Senator Moore, is not about negating adoptive parents or families; its focus is on forced adoption policies and practices, defined as "adoption where a child's natural parent or parents were compelled to relinquish a child for adoption."

This is further clarified by Senator MacKenzie: "Most of the 400 or more submissions heard by the committee were harrowing tales of regret, abuse, neglect and loss. People out there may be thinking, 'not all children who were adopted had a harrowing experience, and they are right. Given the thousands of babies who were adopted, the committee was not looking for, and did not get submissions from happy families. We had a clear reference to look at, talk about and expose forced adoptions. Still, the practice was and remains misguided. Thousands of babies were

taken from their mothers, and while there were probably many who had very ordinary childhoods, when you take a child by force or coercion you change a life journey. In many cases you take a part of the mother's soul, and you take the child's heritage. There is loss."

What happens next? The report has been handed to the Attorney-General's Department who have been given three months to draft a response. It is then up to the Australian Government to provide a public response about what recommendations it accepts and how these should be implemented. Past governments have been known to ignore, or give lip service, to the recommendations of inquiries without taking committed action. Collectively we need to ensure this does not happen with this report. Essentially, we are at the beginning of the implementation process, not the end and therefore need to remain vigilant, particularly if the Government agrees to the first recommendation and tasks the Community and Disability Services Ministers Conference (and its Advisory Council) to implement the recommendations. Continuing to raise awareness, ongoing lobbying and holding the Government to account remains a priority.

The reports concluding view is that although "the Commonwealth had a limited role in the former forced adoption policies and practices" it recommends "that the Commonwealth should take the lead role in addressing their consequences". Furthermore, "the committee urges all those involved in current adoption practices to take the findings of the report into account to ensure that the mistakes of the past are never repeated."

In summary, Senator Siewert and her committee have, over the past 18 months, done an excellent job with their inquiry and produced a set of highly significant recommendations that mean a great deal to people affected by adoption, not only for those living in Australia, but across the world. They should be congratulated by writing them a letter of thanks (and it was gratifying to witness someone giving the Senator a bouquet of flowers at the media gathering on Wednesday - along with others for Christine Cole, representing the Apology Alliance and Lily Arthur representing Origins).

The report provides much food for thought and probably needs a future edition of the *Australian Journal of Adoption* to capture people's thoughts and responses, as well as updates on the Government's formal response and implementation plan.

It may seem odd to say after an 18 month inquiry we are only at the beginning - but we are. Until the recommendations are fully implemented and the lessons of the past made known, so they are not repeated, no one can rest peacefully.

List of 20 Recommendations in Report

Recommendation 1

The committee recommends that a national framework to address the consequences of former forced adoption be developed by the Commonwealth, states and territories through the Community and Disability Services Ministers Conference.

Recommendation 2

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

Recommendation 3

The committee recommends that state and territory governments and non-government institutions that administered adoptions should issue formal statements of apology that acknowledge practices that were illegal or unethical, as well as other practices that contributed to the harm suffered by many parents whose children were forcibly removed and by the children who were separated from their parents.

Recommendation 4

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

Recommendation 5

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

Recommendation 6

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

Recommendation 7

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

Recommendation 8

The committee recommends that the Commonwealth, states and territories urgently determine a process to establish affordable and regionally available specialised professional support and counselling services to address the specific needs of those affected by former forced adoption policies and practices.

Recommendation 9

The committee recommends that the Commonwealth fund peer-support groups that assist people affected by former forced adoption policies and practices to deliver services in the areas of:

- promoting public awareness of the issues;
- documenting evidence;
- assisting with information searches; and
- organising memorial events;

And that this funding be provided according to transparent application criteria.

Recommendation 10

The committee recommends that financial contributions be sought from state and territory governments, institutions, and organisations that were involved in the practice of placing children of single mothers for adoption to support the funding of services described in the previous two recommendations.

Recommendation 11

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

Recommendation 12

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

Recommendation 13

The committee recommends that:

- all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and
- jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers.

Recommendation 14

The committee recommends that:

- All jurisdictions adopt a process for allowing the names of fathers to be added to original birth certificates of children who were subsequently adopted and for whom fathers' identities were not originally recorded; and
- Provided that any prescribed conditions are met, the process be administrative and not require an order of a court.

Recommendation 15

The committee recommends that the Community and Disability Services Ministers Conference agree on, and implement in their jurisdictions, new principles to govern post-adoption information and contact for pre-reform era adoptions, and that these principles include that:

- All adult parties to an adoption be permitted identifying information;
- All parties have an ability to regulate contact, but that there be an upper limit on how long restrictions on contact can be in place without renewal; and
- All jurisdictions provide an information and mediation service to assist parties to adoption who are seeking information and contact.

Recommendation 16

The committee recommends that the Commonwealth provide funding to extend the existing program for family tracing and support services to include adoption records

and policies, with organisations such as Link-Up Queensland and Jigsaw used as a blueprint.

Recommendation 17

The committee recommends that the states and territories extend their Find and Connect information service to include adoption service providers.

Recommendation 18

The committee recommends that non-government organisations with responsibility for former adoption service providers (such as private hospitals or maternity homes) establish projects to identify all records still in their possession, make information about those institutions and records available to state and territory Find and Connect services, and provide free access to individuals seeking their own records.

Recommendation 19

The committee recommends that the Community and Disability Services Ministers Conference, in consultation with non-government organisations that had responsibility for adoption services and hospitals, agree on and commit to a statement of principles for access to personal information, that would include a commitment to cheaper and easier searches of, and access to, organisational records.

Recommendation 20

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