The National Council
of Single Mothers
& their Children

Commonwealth Contribution to Former Forced Adoption Policies and Practices.

Submission to the Senate Community Affairs References Committee on the

August 2011

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Who We Are

The National Council of Single Mothers and their Children Incorporated (NCSMC) has led the way in obtaining a range of beneficial outcomes for single-mother families; has actively sought to reduce systemic prejudice; continually challenging existing norms, and over many years has achieved improved opportunities and outcomes for single mothers and their children.

One of our greatest strengths is our expertise and commitment in working with and for the advancement of women and children due to poverty, violence, exclusion and gender inequality. NCSMC has advocated for equality of opportunity, financial security and access to justice, legal and human rights.

Our Proud History

It was the commitment, passion and determination by a group of Victorian single mothers which led to the formation of the National Council of Single Mothers Incorporated (NCSMC). The founding women themselves had experienced the prejudice and discrimination due to their status of being either single mothers or relinquishing mothers.

The women started meeting at each others homes to explore what groups existed that supported women in this situation. They reviewed *The Supporting Mothers Association* as a possible lobby group. This group had been formed in Adelaide in the early 1960s and a Victorian branch was set up in 1966. The focus was to support divorced and separated women; however their main focus was on the support of monogamous marriage and the belief that the nuclear family was the only sound basis for raising children.

The determined women then looked at the Melbourne based *Parents without Partners*, this group was open to all sole parents, however it did not meet the specific needs of single mothers as its main focus was to provide the chance for single parent to socialise and not to effect political change.

In late 1969, one of the members placed an advertisement in the *Melbourne Herald* inviting women to a meeting with the intention of forming a new organisation for single

mothers. A large group attended, it was reported that many who attended remained silent, but it didn't take long to conclude what their role would be: working within a self-help model with the aim of supporting single mothers as well as advocating for social and legal reform. Thus, the Council for Single Mothers and their Children was born.

At that time there was little income support for single mothers, either through the Commonwealth Social Security System or through services provided by the states. Under the Commonwealth Social Services Consolidation Act (1947-1970), the mother of an illegitimate child [was defined] as a person who does not qualify for any other pension, benefit or allowance, who is unable to provide for himself and his dependents without assistance. These women would sometimes be entitled to special benefits at the discretion of the Director General; however the rate was not to exceed that of sickness benefits and was usually varied according to age. In effect, women could receive special benefits for a period of 12 weeks before the birth of a child and six weeks after. This may be exceeded if a woman was prevented from working due to breast feeding.

The only Commonwealth benefits for which single mothers were automatically eligible were the Maternity Allowance, on the birth of a child, and child endowment, a non-means tested payment to all mothers with dependent children, irrespective of their marital status. The income support in itself was narrow, short-term and without any other income it was often a pathway into financial insecurity and hardship.

Although there was limited income support, the process of how to obtain it and the judgment that accompanied such requests all served as further barriers for women in making an informed choice. Furthermore, and as echoed by women; most commonly they never knew of its existence.

Our Early Focus

Melbourne journalist Rosemary West (then Keily) was elected as it's first (unpaid) Coordinator. The work was quickly decided on: *The need for a supporting parents pension and the removal of discriminatory legislation*. In 1973 the Aims and Objectives of the Council were formulated:

1. To ensure that any child born out of wedlock has a fair start in life.

2. To promote the understanding and acceptance of single mothers and their children in the community so that they will be free from economic, social and legal discrimination and prejudices.

3. To offer practical assistance and emotional support to single mothers during and after pregnancy, whether the child is kept by the mother or adopted, by:

(a) providing an accommodation service;
(b) distributing information services available to, and the legal rights of, single mothers;
(c) providing emergency child-minding and transport services;
(d) providing emergency financial help where there is no other source.

4. To provide the opportunity for single mothers to meet and assist each other.

5. To press for better services, both for single mothers who keep their babies and for those whose babies are adopted.

6. To encourage the further education, practical competence and self reliance of single mothers.

7. To encourage the interests of fathers in the welfare of their child/ren.

8. To conduct and participate in surveys and research projects on the position of the single mother and her child in Australia.

9. To co operate with existing organisations and agencies who assist single mothers.

10. To encourage and support the formation of associate Councils in all states and the establishment of country groups both interstate and intra-state.

The election of the Whitlam Labour Government in 1972 and the commitment of the responsible Minister, Bill Hayden led to single mothers being included under the new Commonwealth Widow's Pension Scheme (1973) on the same basis as all other unsupported mothers. CSMC were clearly instrumental in bringing about this change. Members spent several days lobbying politicians in Canberra and gaining huge support from individuals and Welfare Organisations across Australia. At this point, CSMC had around 1,700 members in Victoria alone, which evidently demonstrated that the issue of income support was drawing momentum. Less than a year of campaigning had brought the most dramatic change to the Australian social security system since the 1947 constitutional referendum.

These changes also marked a new stage in social acceptance. The council was also pushing for legislative reform at the state level in regard to discrimination against illegitimate children. The issue was as important to CSMC as was the issue of income support. In Australia, illegitimate children did not have the same rights as legitimate children to inherit from their parents because of an 1873 English common-law ruling which restricted the meaning of the word 'children' in a deed or will to legitimate children. Only South Australia gave ex-nuptial children the right to inherit from their fathers. In other states, unless they were named in the will, ex-nuptial children had no claim. Three states also gave them no rights to inherit from their mothers.

CSMC continued their work in the area of Law Reform. Their campaign to abolish the concept of illegitimacy and to remove both the term and related discriminatory laws from the statute books had been met with some success. By the late 1970s, all Australian States had introduced laws which removed discrimination against children in varying degrees.

The organisation continued to evolve and in 1973 The National Council for the Single Mother and her Child was formed. At the time it was determined that:

> *The aims of NCSMC are best achieved through the operation of a nationally organised body; therefore we move that this organisation continue to function. In coming to this conclusion, it is simultaneously recognised that it is both valid and advantageous to have a national arena of operations.*

Past to Present

The foundations forged in the early 1970`s had served the organisation well and with some minor adjustments along the journey the organisation has carried out the purpose of its origins. More recently, NCSMC modernised our constitution, mostly as an acknowledgment that the organisation had evolved into an entity in its own right; and it required a governance structure that reflected the current reality; NCSMC no longer was reliant upon a sister organisation for its operation and survival. Importantly, the constitution reaffirms our genesis:

> *NCSMC will be considerate of its origins, its spirit and intent of our founding women and will uphold their vision and courage*

In upholding the spirit and intent of our beginnings there is a thread that links and bounds our past to the present giving NCSMC legitimacy and authenticity, all of which underpins our submission. It therefore our sincere pleasure to present a submission to the *Commonwealth Contribution to Former Forced Adoption Policies and Practices*

Terms of Reference

(a) the role, if any, of the commonwealth Government, its policies and practices in contributing to forced adoptions

(b) The role of the commonwealth in developing a national framework to assist the states and Territories to address the consequences of the mothers, families and the children subjected to these adoptions policies.

Response to the Terms of Reference

NCSMC endorses the initiative taken in the referral of this matter to the Community Affairs Committee for inquiry and report.

1. NCSMC urges the committee to give support to a process that enables women to present oral evidence as their pain and anguish, often endured over a life time, was legally sanctioned and that these women have a right to be personally heard through a formal government process.

2. It is without hesitation that NCSMC states that the Commonwealth has contributed to former forced adoption policies and practices. An unambiguous connection was the Federal Governments action of the drafting and promotion of the then Australian Capitol Territory model: *Adoption of Children Ordinance 1965*. This process ensured that Australia had uniform and government endorsed legislation (NCSMC provides a full explanation on page 9).

3. NCSMC welcomes the opportunity afforded by the scope of the Inquiry to investigate the potential role of the Commonwealth in developing a national framework to assist the States and Territories to address the consequences for the mothers and the children who were subjected to these adoption policies.

4. NCSMC views that a terms of reference should have included a focus upon the 'lessons leant' with the explicit aim not to subject women, who have ex-nuptial birth/s, to a reduction of human and legal rights, social justice and access to income and opportunities. Furthermore, the government must recognize that sanctioned prejudice and discrimination through policies and practices, which condones a family structure to increased vulnerability and risk is damaging to the family and the community. Additionally, government and service intervention should not be premised by a 'I know best' approach and the voice of the women, and the services that represent these women, should not be marginalized and silent in the policy formation.

(a) The role, if any, of the Commonwealth Government, its policies and practices in contributing to forced adoptions

It is without hesitation and based in evidence that NCSMC clearly states that the commonwealth government, its policies and practices contributed to forced adoptions.

In 1984 the Human Rights Commission undertook a study of the Adoption of Children Ordinance 1965 of the Australian Capital Territory. It did this because the 1965 Ordinance was drafted as a Model Uniform Act for State legislation - a common practice in the period before ACT self-government when the Commonwealth wished to influence legislation outside its Constitutional jurisdiction.

NCSMC refers to a 1984 paper that focused upon *The Rights of Relinquishing Mothers to Access to Information concerning their Adopted Children*. In this paper the Commission found that in the case of the ACT Adoption of Children Ordinance the Commonwealth's influence had been substantial, and that during the 1960s legislation based on the ACT model had been passed in each State and Territory achieving partisan status. The Commission also found that despite some variation in adoption procedures, the assumption governing the 1965 ACT model legislation remained in place across all States and Territories at late as 1984 (the time of the study).

It was this uniform legislation which was enacted in the 1960s in the ACT that influenced and shaped Australian legal, policy, cultural and service system response to adoption. Its explicit function is to enact the principle that the adopted child shall be regarded as having been born into a de jure marriage to that of the adoptive parents; legally severing links between the birth mother and her baby.

Flowing from the legislation was a range of implicit functions, such as the legislative effect to the assumption that the birth mother, in giving up her child for adoption, wishes to efface herself completely from the child's life. This inference is derived from the belief that the birth of the ex-nupital child, or then described as illegitimate,

was a matter of shame and secrecy for the mother and that such shame unchecked, could also be extended to her family. These notions fed into the belief that the birth of the baby was an unwanted mistake and that it was in everyone's best interest to move on. Such sentiments reduced the documentation of the adoption process and the mother was denied her legal and moral rights.

In the 1960`s the ex-nuptial birth was in itself evidence of the birth mother's moral incompetence and therefore impeding her capacity to mother. It was the judgment of morality that confirmed her practical incompetence as many women during, and post the Second World War, raised children by themselves. The disparity between a *moral widow* and that of an unwed mother was confirmed through the social security system. The unwed mother encountered reduced or an absence of social security benefits and legal rights for self and child when compared to the widow. The pregnant-unwed woman encountered emotive accusations of 'selfishness' if considering the option of keeping her child and certainly accused of not operating within the child and or her extended family's best interest. The law emotively punished and 'saved' the mother through strict anonymity and ridding her of the title 'mother'.[1]

Sanctioning a Cruel and Inadequate Service System

NCSMC contends that the government cannot exonerate its influence, control and the condoning of the adoption system. The relationship between the government, non-government sector and the large faith-based institutions received tacit approval by various governments of the 1960`s and 1970`s. Therefore, the current government must take responsibility for the allowance of the inhumane treatment of women, and their babies, irrespective if the service was directly or indirectly provided by the government.

A sad recurring theme is of young and vulnerable women who were removed and isolated from their families, friends, and at times their partners, to face the pending birth. There was an absence of medical information, limited and or no pre-natal care,

[1] *The Rights of Relinquishing Mothers to Access to Information concerning their Adopted Children', Discussion Paper No 5, July 1984, Human Rights Commission*

and certainly no assistance to be emotionally prepared. NCSMC has historic documents that cite the following occurrence for women giving birth, and notes the similarities to the narratives of women who have contributed to this Inquiry. They were:

- Shackled, restrained or tied down
- Not provided with pain relief (or very limited)
- Provided with inferior medical attention which was accompanied with prejudice statements such as: 'must suffer for the sin' – 'you made your bed now lie in it'
- Forced to endure birth with sheets placed over their heads to further isolate, frighten and prevent any visual connection
- Denied a glimpse of the their newborn aided by screens and pillows
- Denied any information about their baby including their gender and health
- Forced to have their breast tightly bound to suppress lactation with no thought given to the physical pain or the need for the baby to breastfed
- Drugged post birth to reduce their capacity to make any informed decision but mostly to avoid making trouble or a scene.
- Not informed of their right to reconsider their decision to adopt (within five days)
- Wrongfully informed that their baby had died
- Denied treatment at some hospitals

Women were discharged carrying the physical and emotional scares of child birth. Post natal care, counseling and any acknowledgment of the enormity that they had just given birth were all denied. The difficulties to reconcile their spiritual belief has also proven to be problematic and compounded when the inhumane treatment may have occurred within a faith-based institution. The received treatment condemned women to notions and thoughts of unworthiness, shame and a life time of suffering - often endured in silence.

(b) The role of the commonwealth in developing a national framework to assist the states and Territories to address the consequences of the mothers, families and the children subjected to these adoptions policies.

The Inquiry, its recommendations and responses can not overcome the loss of a mother and child relationship, it can not wipe away the years of grief and depression, but it can take on a level of acknowledgement, responsibility and provide solace to the ones that it has hurt. Solace can be achieved through stating that the process was wrong and that Australia has recognized past mistakes and share in their sorrow and grief.

NCSMC supports a Government led public apology as it serves many purposes. Firstly, it admits that it was pivotal in the causing of lifelong pain, injustice and human damage. However, it also gives voice to a matter that was often forged in silence and shame. The more that Australia is honest about our past mistakes the better adept we become in managing current mistakes, with the aim to prevent future mistakes. But most of all we owe public recognition to the lives that it impacted upon, marginalised, and took away.

A further outcome of the national inquiry should include greater public awareness and an opportunity for women to finally have their voice heard by the government and their experience publically validated.

NCSMCS strongly urges the Government to engage with the women, along side of agencies whose primary role is to support women post-adoption, in order to arrive at an apology and process that would be the most meaningful for them. The process should also include the then babies (now adults) who were also victims of the policies and practices of forced adoption.

It is plausible to anticipate that this inquiry along with subsequent processes may provoke responses from women who may not have sought assistance or support.

Therefore, the government must be cognisant that more supports services may be required to respond to an overdue need for counseling and assistance.

Finally, NCSMC calls upon the government to request that its own institutions, the non-government sector and faith-based institutions, which were all part of the forced adoption system demonstrate acknowledgment and remorse. Once such outcome would be documenting the realities of what actually occurred for women within the various services and that those services fully support women who may wish to revisit or extract crucial and personal information. The service system must publically acknowledge their role and form part of a national apology. The Government's willingness to review and take responsibility for its own actions needs to be accompanied with the decision to ensure that others do the same.

Recommendations

1. A government led national apology which includes the forced adoption service system. The apology needs the engagement with women and post-adoption support services in order for the design and process to be the most meaningful to the women who endured the pain and suffering of the forced adoption policies and practices.

2. The apology should be accompanied by adequate and effective support services noting that the process may provoke women for the first time to seek out support.

3. The established Inquiry provides support and assistance for women who wish to tell their story and have their experiences validated through a formal government process.

4. The government ensures that all services that were part of the forced adoption system take responsibility for their actions and acknowledges and documents their role in the process and provide women with assistance and support to seek and find factual information.

5. The government gives voice to the forced adoption practices of the 1960`s and 1970`s to raise community awareness and publically acknowledge the human cost and pain which was often born in silence and shame.

Lessons Learnt

NCSMC purports that when an Inquiry is visiting human suffering and pain that the process is enriched when the scope includes *lessons learnt* with an aim to impede a repetition of past failings. To some degree this is often implicit within the received responses, as is the case for several submissions that contributed to this Inquiry. There are statements couched in terms such as 'if only we knew then what we know now', or 'with the knowledge of hindsight'. However, such statements can either be a genuine declaration of regret or it can serve the purpose of self-exoneration. It is the later that NCSMC is concerned about, and is not convinced that without adequate government reflection and understanding that the context of the 1960`s and the 1970`s which enabled forced adoptions to be legally and publically sanctioned is present today; albeit more covert. This in itself is a danger and should signal that there is still much to be done.

NCSMC is concerned that the current cultural context has many measurable parallels to the context of the 1960`s and 1970`s such as gender inequality, disproportional financial hardship for mother led families, social exclusion for these families and policies that 'target' single mother families signifying once again that the government *knows best* and that *intervention* is *required*. These concerns are illustrated in the following:

- The available income support for single mothers is less than what is available for other claimants of social security support and the current gap will continue to grow due to less favorable indexation arrangements. Currently, single parent households, who are in receipt of Parenting Payment Single (PPS) or Newstart Allowance, survive on amounts which can be up to $128 per week less than other social security claimants.

- The 2011 federal budget announced that more single mother households will be transferred to the lower and inadequate allowance known as Newstart, an allowance which is $56 per week less than the Parenting Payment Single. The number of household that this will impact upon will increase effective 1st January 2013 for families whose youngest child turns 12 or 13 on or after the 1st January 2013. Furthermore, claimants who were on Parenting Payment Single before the

1st July 2006, and have a new child (as of 1st July 2011) will lose their grand parenting protection and will also transfer to Newstart Allowance.

- Other forms of financial assistance such as the Utilities Allowance are not available for claimants of Parenting Payment Single and or Newstart Allowance. The Utility Allowance provides cost relief for gas, power and water and is much required providing an additional $544 per year.

- The Child Support Scheme which commenced in the late 1980`s is still to ensure that child support is paid on time and on full. Post-separation poverty for mother led families is compounded by sporadic, late or non payment of child support.

- The interface of the Child Support Scheme and Family Tax Benefit (FTB) has harsh and unfair financial outcomes for single mother families when compared to the FTB entitlements and treatment for a comparable two-parent household. The Ministerial Task Group report, 'Every Pictures Tells a Story' made a key recommendation to address this concern but it is still to be implemented: Recommendation 9.3.

- Paternalism has again influenced and shaped policies with an increase in government control and intervention. Although only 2.5% of recipients of the Parenting Payment Single are aged 19 years there is a new trial for teenage mothers in five nominated geographical areas. The obligations for these mothers will commence once their baby is twelve-months old. The policy invests power in the government agency. A Centrelink Social Worker will have the capacity to reduce or cease the only source of income support for this young family dependent upon their judgment of the mother's compliance.

- Policy formation has not included the wisdom and lived experience of single mothers or the agencies that represent them, leading to poor policy formation and opening the door to unintended consequences.

- Domestic Violence, homelessness, the lack of a social network and low levels of income all remain invisible within the current *Participation Agenda* and *Income*

Management policy. This is despite the high rates of violence experienced by young Australian women and the increased risk of violence during pregnancy.

In closing it is NCSMC`s hope that the government will accept the recommendations as presented on page 14 and be inclusive of the insights from the women who have been subjected to the policies and practices of forced adoption.

It is also our desire that Government sincerely and robustly takes steps to eliminate policy formation that is not considerate or inclusive of the voices of those who will be impacted upon and heeds the lessons learnt from this Inquiry. The absence of the lived experience and their voice, albeit dissenting at times, will result in continued mistakes. However, this time the Government does have the privileged position of hindsight and therefore we not only expect but insist upon a more consultative and respectful engagement for single mothers, and the organisations that speak with and for them.