

# **Submission**

on the

## **Commonwealth Contribution to Former Forced Adoption Policies and Practices**

to the

### **Senate Community Affairs References Committee**

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**1 January 2011**

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# 1. Introduction

On 15 November 2010 the Senate referred the following matters to the Senate Community Affairs Committee for inquiry and report by 30 April 2011:

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

*(b) the potential role of the Commonwealth in developing a national framework to assist states and territories to address the consequences for the mothers, their families and children who were subject to forced adoption policies.*

Submissions have been invited and should be received by 28 February 2011.

## 2. “Forced adoption”

The term “forced adoption” is used to refer to adoptions where there was a failure to obtain a fully informed and free consent from the birth mother (and in some cases the birth father) before the adoption went ahead.

In most cases there appears to have been formal consent given, that is, the relevant legal paperwork was signed. However, many women whose children were placed for adoption between the 1940s and 1980s recount personal stories which suggest that they were subject to a degree of emotional pressure and coercion, or not fully informed of their right to keep their baby if they chose to do so.

On 19 October 2010 the Premier of Western Australia, the Hon Colin Barnett, moved the following motion in the Legislative Assembly:

*That this house notes —*

*(1) that with regard to past adoption practices, it is now recognised that from the 1940s to the 1980s the legal, health, and welfare system then operating in Western Australia, in many instances, did not strike the correct balance between the goal of minimising the emotional and mental impact of the adoption process on unmarried mothers, with the goal of achieving what was considered at the time to be in the best interests of the child;*

*(2) that processes such as the immediate removal of the baby following birth, preventing bonding with the mother, were thought at the time to be in the mother’s and the child’s best interest;*

*(3) that this house recognises that in some cases such practices have caused long-term anguish and suffering for the people affected; and*

*(4) that the Parliament acknowledges that previous Parliaments and governments were directly responsible for the application of some of the processes that impacted upon unmarried mothers of adopted children, and now apologises to the mothers, their children and the families who were adversely affected by these past adoption practices, and I express my sympathy to those individuals whose interests were not best served by the policy of those times.<sup>1</sup>*

It is certainly a matter of agreement today that the consent of the birth parents to adoption should be freely given on the basis of full information, a lack of coercion and an appropriate cooling off period.

It is important, though, to distinguish the issue of failure to obtain fully informed and free consent from the social context in which the consensus was that, in principle, a child born out of wedlock was better off being raised by a married couple than brought up by a single mother on her own.

As the House of Representatives Standing Committee on Family and Human Services found, in its 2005 report *Overseas Adoption in Australia*, it seems that in reacting to shortcomings in adoption practice in Australia in earlier decades there is a new prejudice against adoption that is not in the best interests of children or, indeed, of women who may be considering placing a child for adoption.

*Unfortunately for children, state and territory welfare departments have a history of swinging between extremes. Departmental preferences tend to:*

*... change often and swing between extreme positions (e.g. a policy of removing children at risk to one of family preservation).*

*As well as being politically (and media) sensitive, these swings often follow the latest research leads or interests in an attempt to improve the theoretical basis for practice. This problem is associated with the recency of the field of protective services and thus the poor knowledge base, the size of the problems that protective services need to address, the external pressure placed on many departments through the media and public scrutiny and the deficiency in government resources.*

*The history of adoption is an example of these swings. Between the 1950s and 1970s, adoption was used in many cases automatically. Nowadays, it is either not supported or actively discouraged.<sup>2</sup>*

An Australia-wide survey of 213 relinquishing mothers by Winkler and Van Keppel in the early 1980s found that approximately half experienced increasing psychological pain. However the suffering was not universal, and seems to have been strongly associated with coerced relinquishment.<sup>3</sup>

A recent literature review of the impact of past adoption practices by the Australian Institute of Family Studies found that:

*mothers' responses fall into three groups:*

- *mothers who feel they were coerced;*
- *mothers who continue to feel sad and regretful but still believe it was the right thing to do; and*
- *mothers who feel they made the decision on their own and are content with that decision.<sup>4</sup>*

The review noted that “empirical evidence for the existence of the groupings, or relative size of each, is lacking”.<sup>5</sup>

In Queensland, as at 30 June 2007 there were 1,169 current information objections in place from birth mothers.<sup>6</sup> This would seem to indicate that at least some women are happy with the relinquishment of their child for adoption.

## **2.1 Positive experiences with adoption – birth mothers**

It is understandable that those birth mothers who had a negative experience of the adoption process have been prominent in telling their stories.

It is helpful to listen also to the stories of those birth mothers who had a positive experience of the adoption process.

In 2008 FamilyVoice Australia (then Festival of Light Australia) circulated a call for stories of adoption.

The following stories are offered as examples of positive outcomes from the adoption process.<sup>7</sup> Names and some details have been changed to preserve confidentiality.

### **2.1.1 Christine's story**

*I was 18 and naive. I went with this guy for just three weeks.*

*He had been engaged to someone else, but had broken it off – then he dumped me and made up with his fiancée. She got really nasty when I told him I was pregnant, saying her partner wasn't the father.*

*In 1968 I could have had an illegal abortion, but for me that wasn't an option. Instead, I saw going through with the pregnancy as a way of making a childless couple very happy.*

*After Sally was born I was interviewed by the welfare people and they asked if I wanted her to be brought up Catholic or Protestant.*

*That was the only choice they gave me, but it didn't bother me. I went back to work, and later married and had two children.*

*I would think about Sally from time to time - especially on her birthday - and wonder what she was doing, but I didn't suffer the deep ongoing grief that some relinquishing mums talk about.*

*After her 18th birthday, I contacted Jigsaw - the group that links up adopted children with their birth families - and gave them a letter for Sally with my details and medical history. I thought if Sally needed to know more she could always contact me, and two years later she did. I discovered that she had been brought up in the country and was very happy.*

*Her adoptive parents are lovely - everything I could have wished for - and we have a great relationship too. Sally's children get on well with my other grandchildren. They are very alike in some ways.*

*These days everyone is pushing open adoption, but I don't know that I would have wanted that if it had been available when Sally was born. I think it would have made life harder for me - she would have weighed on my mind.*

*I know two other relinquishing mums - a relative and a friend - and they have both placed vetoes on any contact with their adopted children. They look on the adoptions as something which happened in the past, and they want to keep it there. They have since married and had other children who don't know their half-siblings exist.*

*I have talked to someone from the Association of Relinquishing Mothers (ARMS) who said I was very fortunate not to have suffered grief after giving up Sally. I think they mostly see the unhappy ones.*

### **2.1.2 Sarah's story**

*In 1980 I was a naive young Christian girl travelling overseas when I met a nice but non-Christian guy - and ended up pregnant.*

*He said he would support me if I had an abortion. That was the end of our relationship.*

*I knew I would not be able to cope raising the child, but I found a Christian adoption agency. From profiles of married couples on their waiting list I chose a doctor and nurse who I believed would best love and care for my son. I then moved back to Australia, but my son was constantly in my thoughts and prayers.*

*A few years ago the adoption laws changed in the country of his birth and I was able to seek information - but to my great distress, learned that my son had died of a rare form of cancer the year before.*

*However his adoptive parents sent me a CD of the presentation given at his funeral, including photos and details of his considerable achievements despite his long illness which had begun in his teens. I realised how well his adoptive parents had looked after him and how difficult it would have been for me to do so. God indeed knew best.*

*But the real healing came at the end of the presentation. My son said: "I have fought the good fight, I have finished the race, I have kept the faith (2 Timothy 4:7)." I knew that my son is with the Lord. One day I will see him again. God is good.*

## **2.2 Positive outcomes from adoption – adopted children**

Valid research on adoption and abortion does exist. Longitudinal studies, while expensive, are "gold standard" research, and Dr David Fergusson and his colleagues are world leaders in this field. They have followed up 1265 babies born in Christchurch NZ in mid 1977 from infancy into childhood, adolescence and adulthood. This large, random, unbiased sample provides ideal controls for any investigation. The Christchurch study's 1998 investigation of adoption found it had positive outcomes for the child. Dr Fergusson concluded that adoption is "a generally socially advantageous process in which children from relatively disadvantaged biological backgrounds entered relatively socially advantaged homes and families. In comparison to their peers who remained in single parent families, adoptees were an advantaged group in many areas of childhood and family functioning".<sup>8</sup>

Adopted children did somewhat better than peers brought up by their natural mothers, although not as well as children brought up by both natural married parents. Adoptees appeared to have higher ability and achievement scores than would be expected on the basis of their social background and parentage, but lower scores than would be expected on the basis of the social background and parentage of their adoptive parents.

Dr Fergusson said: "While it would be unwise to return to a situation in which all single mothers are advised that it would be in their child's best interests if the child was placed for adoption, there is still a place for adoption as a child welfare provision which protects the interests of children ... children placed for adoption are likely to enter generally good and caring family environments and ... such placements may mitigate, although perhaps not eliminate, the elevated risks of social and psychological problems in adolescence associated with children from high risk biological family backgrounds."<sup>9</sup>

Other research indicates that adoptees score better than their non-adopted peers in areas such as self-esteem. A 1994 study by Dr Peter L Benson et al of the US Search Institute investigated 715 families who adopted babies between 1974 and 1980 and who reached the ages of 12-18 by 1993. A random selection of 881 adopted adolescents, 1262 parents and 78 non-adopted siblings was obtained from the

records of 42 public and private adoption agencies in four US states. Participants completed extensive confidential survey instruments containing a wide variety of psychological and family measures.<sup>10</sup>

The Benson study found that adopted teens were as deeply attached to their adoptive parents as their non-adopted siblings. Only 16% were not strongly attached to either parent. Only 11% of adopted children reported divorce or separation of their adoptive parents - compared with 28% of a national sample of adolescents. Adoptive families typically achieved high levels of warmth, communication, discipline and cohesion - reflecting greatly improved pre-adoption screening processes typically employed by adoption agencies post 1970. The adopted teens in the Benson study scored slightly higher on several measures of psychological health than a comparison sample of public school adolescents.<sup>11</sup>

It is apparent from the Fergusson, Benson and other studies that adoption into supportive stable families is a very positive option for most children whose natural mothers would find it hard to raise them.

### **2.3 Avoiding marginalising other participants**

It is very important then that, in any recommendations made on this issue, and in seeking to respond to the real sense of injury experienced by women who were subjected to coercion or a failure to ensure fully informed and free consent, nothing is done to demonise, offend or marginalise other participants in the adoption process in the relevant decades including:

- those women who had a positive experience of adoption and remain satisfied that their decision was in their own best interests as well that of the child;
- adoptive parents, who were in no case directly involved in the process of obtaining children for adoption;
- adoptive children, especially those – probably the majority – for whom adoption proved to have positive outcomes.

#### ***Recommendation 1:***

***In making recommendations, the Committee should keep in mind the interests of all participants in the adoption process including: birth parents who remain satisfied with their decision to relinquish a child for adoption, adoptive parents, and adopted children for whom adoption proved to have positive outcomes.***

## **3. Commonwealth responsibility for past practices?**

It is unclear, as the terms of reference suggest, if the Commonwealth had any role in contributing to forced adoptions.

Adoption of local children has always been a matter for the States.

Of course the Commonwealth was responsible for adoption practice in the Australian Capital Territory and the Northern Territory prior to self-government. However, specific inquiry into past adoption practice in these territories seems more properly a matter for their respective legislatures.

Since the mid 1970s the Commonwealth has played a role in overseas adoptions. However, there does not appear to be any suggestion that it has engaged in any practices in relation to overseas adoptions that would contribute to forced adoptions.

## 4. Commonwealth role in a national framework

The Commonwealth, through its participation in the Community and Disability Services Ministers' Conference, has supported the request for a joint national research study into past adoption practices to be conducted by the Australian Institute of Family Studies.<sup>12</sup>

The terms of reference as agreed by the Ministers are as follows:

*The study will:*

- *engage with affected individuals, representative bodies, service providers and relevant professionals including psychologists, counsellors and social workers, to gather information from affected individuals through large scale quantitative surveys and in-depth qualitative interviews;*
- *analyse information on the long-term impacts of past adoption practices, as they relate to current support and service needs of affected individuals, including the need for information, counselling and reunion services;*
- *examine the extent to which affected individuals have previously sought support and services and the types of services and support which were sought;*
- *analyse the findings and present information from the study that could be used in the development of best-practice models or practice guidelines for the delivery of supports and services for individuals affected by past adoption practice; and*
- *prepare a report for the Community and Disability Services Ministers Conference detailing the evidence collected.*

*The key focus of the proposed study would be on current needs. It is designed to produce evidence that can assist with improving service responses to those affected by past practices – including information, counselling, reunion services and other supports.*

*In particular, the study will identify the long-term impacts of past-adoption practices, targeting a wide group of those affected by past practices, including:*

- *mothers;*
- *fathers;*
- *adoptees;*
- *adoptive parents (and wider family members); and*
- *professionals involved in past practices (e.g., mid-wives, doctors, social workers)*

*As well as collecting information from those personally affected by past adoption practices, the study will draw on information from psychologists, counsellors and other professionals who work with people affected by such practices.*

*The study will also examine:*

- *difficulties these groups may experience as a result of the adoption;*

- *the extent to which those affected have sought help (e.g. from a counsellor), whether they could benefit from professional assistance and the nature of assistance required; and*
- *the value of reunions and "what works" to assist with the reunion process.*<sup>13</sup>

The study will commence early in 2011, to be completed by mid-2012.

It seems premature to be attempting to determine “*the potential role of the Commonwealth in developing a national framework to assist states and territories to address the consequences for the mothers, their families and children who were subject to forced adoption policies.*”

***Recommendation 2:***

***The Committee should recommend deferring any proposals for a Commonwealth role in developing a national framework to assist states and territories to address the consequences for the mothers, their families and children who were subject to forced adoption policies until after the completion of the national research study into past adoption practices.***

## 5. Endnotes

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1. *Hansard*, Western Australia Legislative Assembly, Tuesday, 19 October 2010, p7881a-7889a.
2. House of Representatives Standing Committee on Family and Human Services, *Overseas Adoption in Australia*, 2005, paras. 1.17-1.18, p 7.
3. Winkler, R., and Van Keppel, M., “Relinquishing Mothers in Adoption: Their Long-Term Adjustment”, *Monograph 3*, Institute of Family Studies, 1984.
4. Higgins, D. “Impact of past adoption practices : Summary of key issues from Australian research : Final report”, Australian Institute of Family Studies, 2010, p 15, citing Marshall, A., & McDonald, M, *The many-sided triangle: Adoption in Australia*, Melbourne University Press, 2001, p 62-63;  
[http://fahcsia.gov.au/sa/families/pubs/past\\_adoption/Documents/PastAdoptionReport.pdf](http://fahcsia.gov.au/sa/families/pubs/past_adoption/Documents/PastAdoptionReport.pdf)
5. *Ibid.*
6. *Balancing privacy and access*, Department of Child Safety, 2007, p 13.
7. Phillips, Roslyn, “The adoption option”, *Light*, May 2008, pp 10,11.
8. Fergusson, David M and Horwood, L John, “Adoption and Adjustment in Adolescence”, *Adoption and Fostering*, 22:24-30, 1998.
9. *Ibid.*
10. Benson, P L, Sharma, A R and Roehlkepartain, E C, *Strengths of Adoptive Families*, 1994;  
<http://www.search-institute.org/strengths-adoptive-families>
11. *Ibid.*
12. Community and Disability Services Ministers’ Conference, *Communiqué*, 4 June 2010, p 4;  
<http://www.csmac.gov.au/admin/documents/2010%20-%20June%204%20CDSMC%20Communique.DOC>
13. <http://www.aifs.gov.au/pastadoptionpractices/index.php>