



Australian Government

Australian Institute of Family Studies

AIFS Seminar Series

Professor the Honourable Nahum Mushin

Chair: Dr Daryl Higgins | Australian Institute of Family Studies

Forced Adoptions: Righting Wrongs of a Dark Past

Australian Institute of Family Studies

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Agenda

1. Introduction
2. Why apologise and what for?
3. Forced Adoptions Apology Reference Group
4. Consultations
5. Structure of a public apology
6. Language
7. Sensitive issues
8. The apology
9. Forced Adoptions Implementation Working Group
10. Concrete measures

1. Introduction

Senate Community Affairs References Committee –
Report *Former forced adoption policies and practices* tabled on 29 February, 2012

20 recommendations – 1 – 7 apology; 8 – 20
concrete measures

Apology recommendations:

- National framework (1)
- Commonwealth apology (2)
- State and Territory apologies (3)
- Apology to satisfy Canadian Law Commission criteria (4)

Introduction (cont.)

Apology recommendations (cont.)

- Apologies take responsibility for past wrongs (5)
- Undertakings of concrete measures (6)
- Apology in range of forms and widely published (7)

2. Why apologise and what for?

The Senate Report (particularly Chapter 3) is replete with accounts of experiences of forced adoptions which included mothers' -

- Lack of informed consent – consents post dated
- Not being informed of right to revoke consent
- Given no independent advice or representation (most mothers were underage, many aged 14, 15 or 16)
- Not being permitted to see their babies after birth – drugged, tied to the bed, sheets obscuring baby
- Being deprived of their dignity and individuality in institutions
- Being sent interstate or overseas to give birth

2 Why apologise and what for?

(cont.)

- Not allowed visitors
- Not being supported by their own families and particularly parents
- Profound ongoing problems of psychiatric ill health, troubles making and keeping relationships, employment, guilt, blame, suicide
- Even if parents were supportive, discouraged from being involved – one experience of parents being “escorted” from the hospital
- Vast effects on fathers, extended families

2 Why apologise and what for? (cont.)

Time period

- Since 1940 approximately 250,000 adoptions in Australia
- Peak period of adoptions was from early 1950s to early 1970s – approximately 150,000
- Some submissions in consultations that apology should be restricted to that period – however, while that validates the experiences of that period, it invalidates the experiences outside those dates
- The guiding principle needs to be the recognition of diversity and inclusiveness

2 Why apologise and what for? (cont.)

The Commonwealth's role (see *Senate Report*, Chapters 5 & 6) was limited

- Social security
- Development of model legislation
- Following the apologies of all States and the ACT, (NT has not participated) appropriate for national apology (*Senate Report*, Chapters 8 & 9)

3 Reference Group

- Established by the Honourable Nicola Roxon MP, Attorney-General, in June-July 2012
- Supported by Secretariat from within Attorney-General's Department
- Primary purpose was to draft apology – also invited to recommend concrete measures
- Reference Group met 4 times between August and December, 2012
- Draft apology delivered to Attorney-General December 2012

3 Reference Group (cont.)

Membership

- Professor Mushin, Chair
- Senators Siewert, Moore and Boyce
- The Hon Graham Perrett MP
- Mothers – Ms Lizzie Brew, Ms Christine Cole, Ms Kathryn Rendell
- Adoptees – Mr Leigh Hubbard, Mr Paul Howes
- Father – Mr Gary Coles

4 Consultations

- In addition to meetings of Reference Group, Chair held 48 consultations in all capitals except Darwin, supported by Secretariat
- Consultations conducted in small groups – all people who had indicated an interest in contributing to the formulation of the apology
- All who attended the consultations were given undertakings of confidentiality of identity and that views would be conveyed to Reference Group to assist in deliberations
- Ultimately, the views and decisions of the Reference Group precisely mirrored the views expressed in the consultations including differences of opinion on several fundamental issues

5 Structure of a public apology

Starting point –

1. Who are we apologising to?
2. What are we apologising for?
3. “Offer” an apology – acceptance is for the offeree to determine

Law Commission of Canada 1999 (cited at Senate Report para. 9.15) – 5 criteria:

1. Acknowledge wrong – identify the wrongdoing
2. Accept responsibility
3. Express sincere regret and profound remorse
4. Assurance that the wrong will not recur
5. Reparation through concrete measures

6 Language

- Probably the most important consideration in the apology – the first major decision for the Reference Group
- “Mother” –
 - other alternatives have been “relinquishing mother”, birth mother”, “biological mother”, “life mother”
- “Father”
- “Adopted person” – also “adoptee” and at the beginning of the apology, “babies”
- “Siblings”, “extended family”

6 Language (cont.)

- Refer to people's "experiences", not "stories"
- "forced" – relevant but not all encompassing
- "lack of informed consent" – see previous slides
- "illegal" – many of the actions already referred to were in that category – (*Senate Report*, paras. 9.48 and 9.49)
- Mothers, in particular, use words such as "lied to", "betrayed", "kidnapped", "stolen", "removed"

7 Three sensitive issues

1. Inter-country adoptions

- Government policy decision not to include people adopted from overseas
- Other countries could take offence – apology might be seen as a criticism of their practices

7 Three sensitive issues (cont.)

2. Conflict between various interest groups in the area of forced adoptions

- This has been very sad and quite shocking
- There are two facets:
 - Mother against mother
 - Mother against adoptee and *vice versa*
- Adoptees feel like the meat in the sandwich between their mothers and their adoptive families
 - Blogosphere has volumes of abusive, insulting, vituperative and sometimes racist material

7 Three sensitive issues (cont.)

3. Adoptive parents

- This issue is the most difficult of them all
- Not being referred to in the apology and not part of the consultations
- If being referred to in speeches, needs to be done with the greatest sensitivity
- Social media has considerable material by adoptive parents who feel -
 - insulted by an apology which did not include them; and
 - that they were lied to about their adoptions

7 Three sensitive issues (cont.)

3 Adoptive parents (cont.)

- Mothers feel that adoptive parents “stole” their children
- As already noted, adoptees feel like the meat in the sandwich
- Adoptive parents feel that their roles have not been sufficiently recognised
- No realistic prospect of any *rapprochement* between mothers and adoptive parents

8 The apology

- Offered by the Honourable Julia Gillard, Prime Minister, in the Great Hall of Parliament House on 21 March, 2013
- Shortly afterwards the formal motions of apology were moved in both Houses of the Parliament, supported by many moving speeches and ultimately passed unanimously
- On the same day the Government tabled its formal response to the Senate Report which included the concrete measures

8 The apology (cont.)

- The role of emotion arising out of people's experiences with forced adoption is a fundamental consideration in everything one does in this area
- The apology affected different people differently – there were reactions from disinterest to profound upset
- The event itself re-traumatised or re-victimised many people and their reactions are very moving, upsetting and usually profound
- Expect to be upset and moved in dealings with many people who have had these experiences

Forced Adoptions Implementation Working Group

- Set up by the Government shortly after the apology and administered within the Department of Social Services
- Structure similar to the Apology Reference Group
 - Professor Mushin as Chair
 - Three Senators
 - Mothers, adoptees and a father

10 Concrete measures

“Verbal apologies must be accompanied by concrete measures, such as financial compensation, counselling and other measures. These measures help translate the static message of an apology into an active process of reconciliation and healing. Official apologies, in particular, need to be accompanied by direct and immediate actions.”

(Senate Report, p.195, para. 9.15(5), quoting Law Commission of Canada – see footnote 25)

10 Concrete measures (cont.)

- During the consultations, many people only wanted to discuss the concrete measures. We were often told that without appropriate concrete measures, the apology would be “just words” and “worth nothing” – that is clearly right

10 Concrete measures (cont.)

The concrete measures which were funded by the Government's Response to the Senate Report are:

1. \$5m to Department of Social Services (DSS) to improve access to specialist support services, peer and professional counselling and support records tracing for those affected by forced adoptions
 - Tender process underway

10 Concrete measures (cont.)

2. \$5m over 4 years to provide mental health services and workforce training distributed as to –
 - \$3.5m to the program Access to Allied Psychological Services (ATAPS) until 30 June 2014 (funded immediately); and
 - \$1.5m for guidelines and training (tender process is underway)

10 Concrete measures (cont.)

3. \$1.5m to National Archives of Australia for the establishment of a website and exhibition
 - The [website](#) was launched on the first anniversary of the apology (March 2014)
 - The exhibition will be launched on the second anniversary of the apology (March 2015) and will tour around the country

10 Concrete measures (cont.)

Harmonisation of records

- This program was not funded either by the Government's Response or subsequently
- In particular, involves fathers' names on birth certificates and integrated birth certificates
- Outside the Commonwealth's jurisdiction – dependent on the States and Territories but requires leadership by the Commonwealth
- Discussions are continuing with relevant Ministers and their Departments to achieve the best outcomes

10 Concrete measures (cont.)

Other suggestions of concrete measures include:

- Forced Adoptions Commemoration Day each year;
- A memorial statue in Canberra; and
- Centralisation of health records.

These have not been part of Governments policy

10 Concrete measures (cont.) – some issues

- Funding of the concrete measures referred to earlier has been for a period of 4 years
- It would help people affected by forced adoptions to receive a commitment to ongoing funding beyond that time
- People affected by forced adoptions are also concerned by the direction of policies on inter-country adoption
- Many people argue for the abolition of adoption, both inter-country and domestic
- Questions of surrogacy are also relevant

DISCUSSION AND QUESTIONS
WELCOME

THANK YOU



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