

Social Justice Report 1998

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Foreword

This report presents various responses to *Bringing Them Home*, the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families. This is not done to re-open the substance of the Inquiry, its findings or the basis of its recommendations.

The objective is to record the diverse range of responses and the perspectives they illustrate. The publication of *Bringing Them Home* had a marked impact on the Australian community. The ensuing public debate was sustained and intense. It stimulated the expression of views reflecting contemporary attitudes and values which directly and indirectly affect the circumstances of Aboriginal and Torres Strait Islander peoples today.

These attitudes and values will critically affect our potential for reconciliation. We must attempt to understand the full range of opinion: if we cannot allow the sincerity of competing views, no matter how much we disagree with them, then we have very little prospect of constructive engagement.

Our challenge is to bring a more balanced appreciation of our past and, importantly, a more cohesive view of our future. Considering the responses to *Bringing Them Home* provides us with an opportunity to understand how a genuine and just reconciliation between Indigenous and non-Indigenous Australians may be advanced.

Introduction: A Handful of Soil

The removal of the children from Wave Hill by MacRobertson Miller aircraft was accompanied by distressing scenes the like of which I wish never to experience again. The engines of the 'plane are not stopped at Wave Hill and the noise combined with the strangeness of an aircraft only accentuated the grief and fear of the children, resulting in near-hysteria in two of them. I am convinced that the news of my action at Wave Hill preceded me to other stations, resulting in the children being taken away prior to my arrival.

I endeavoured to assuage the grief of the mothers by taking photographs of each of the children prior to their departure and these have been distributed among them. Also a dress length was given (to) the five mothers. Gifts of sweets to the children helped to break down a lot of their fear and I feel that removal by vehicle would have been effected without any fuss.

Report from Northern Territory Patrol Officer, 23 December 1949.¹

Wave Hill Station was built on a pastoral lease granted over the land of the Gurindji people. On 23 August 1966, about 17 years after the children were removed from Wave Hill, the Gurindji and others walked off the property in support of the payment of wages to Aboriginal stockmen: \$25.00 a week. They established a settlement at Wattie Creek, known as Daguragu, and the strike grew to a claim for their traditional land within the Wave Hill Station lease.

In 1966 Aboriginal people in Australia were deprived of many of the most basic rights. The doctrine of 'terra nullius' had clear-felled Aboriginal entitlement to their traditional estates throughout the country and the social Darwinian beliefs which underpinned that doctrine continued to shape official policy and the treatment of Aboriginal people. The policy was one of assimilation. The exercise and enjoyment of human rights by Indigenous Australians was effectively conditional on the removal or abandonment of their distinct culture and identity.

At the beginning of 1966 the *Cattle Station Industry (Northern Territory) Award* of 1951 prescribed minimum conditions and terms of employment for employees on cattle stations in the Northern Territory. Aboriginal people were excluded from its operation. Aboriginal stockmen were treated as wards of the state under the 'protection' of the Crown. The terms and conditions of their employment were prescribed under the 1953 *Wards' Employment Ordinance*. In 1966 the lowest ward's wage was about one-fifth of the Award minimum for whites: it was less than half the unemployment benefit then payable to other Australians.²

In March 1966 the Conciliation and Arbitration Commission upheld an application to extend the protection of the Award to Aboriginal workers. The application was made by the Northern Australian Workers Union. No Aboriginal witnesses were called to give evidence. The Commission accepted the unchallenged evidence of pastoralists that 'at least a significant proportion of the Aboriginals employed on cattle stations on the Northern Territory is retarded by tribal and cultural reasons from appreciating in full the concept of work'.³ The Commission further accepted that, if equal wages were granted to Aboriginal workers, many would lose their jobs, displaced by white workers.

However, this consequential unemployment was not regarded as blatant racial discrimination. Rather it was seen as an advantage. It would further government policy by encouraging Aboriginal people to leave their traditional lands on cattle stations to enter government 'settlements' or church 'missions'.

¹ MacDonald, R., *Between Two Worlds: The Commonwealth Government and the removal of children of part descent in the Northern Territory*, IAD Press, 1995, p. 55.

² Report of the Aboriginal Land Commissioner (Toohey J.) on the Land Claim to Daguragu Station, November 1981, par 31.

³ (1966) 113 C.A.R. 651, p. 663.

If, therefore, as a result of our decision substantial numbers of Aborigines moved to settlements or missions it is our view that the policy of assimilation and integration will be assisted rather than hindered. Those Aborigines who move will be those who are now having the greatest difficulty in understanding the concept of work and fitting into our economic community whilst those who remain will be the most advanced and therefore the easier to assimilate on the station properties.⁴

In the view of the Conciliation and Arbitration Commission the exclusion of Aboriginal people from equal protection under the Award was contrary to 'overwhelming industrial justice'. There can be little doubt that the Commission's judgement was well intentioned and based on a determination to advance the interests of Aboriginal people. It was cast however within a framework of values that excluded the views of Aboriginal people themselves. The real impact of 'dislocation ... to the Aborigines' was simply not perceived, save in terms of their assimilation and what others thought was good for them.

The Commission's appreciation of the impact of its decision on pastoralists was not so remote. The extension of protection under the Award and the payment of equal wages was delayed by three years to 'give the pastoralists an opportunity to consider the future of their Aboriginal employees and to make arrangements for their replacement by white labour if necessary'⁵.

This episode in the story of the Gurindji people draws out many perennial issues concerning the values and the complex dynamics that shape the inter-relationship of Indigenous and non-Indigenous Australians. The events at Daguragu are located in a precise time, in a precise location, with particular actors: but these events also hold an emblematic quality. They embody general themes and forces which have permeated Australian history and which remain active today.

The process, reasoning and application of the decision in the Equal Wage Case also reveals the potential distance between the perspectives of Indigenous and non-Indigenous Australians. The values and assumptions which shape laws, policies and practices directed at Aboriginal people bear no necessary relationship with the interests of Aboriginal people as they understand and experience them. No Aboriginal voice was heard in the Conciliation and Arbitration Commission's proceedings. Indigenous interests were interpreted by others.

Even the positive recognition of the right to equal wages was undercut by its practical application. The right to equal pay was not protected by a corresponding right to equality of employment. The collateral damage caused by the decision and the impact of consequential unemployment was viewed only from the vantagepoint of furthering government policy. While relieved from the specific paternalism of payment under the *Wards' Ordinance* the wider effect of the decision was considered within a broader paternalism of what others thought to be in the best interests of Aboriginal people. The actual implementation of the decision was assessed primarily from the perspective of its impact on the interests of pastoralists. The exercise and enjoyment of the human rights of Indigenous Australians remained a sub-set of government policy and the vested interests of others.

The story of Daguragu illustrates another factor which continues to exert a powerful influence over the relationship between Indigenous and non-Indigenous Australians. There is a direct connection between past events and the present. Justice today requires specific redress for the continuing effects of past discriminatory treatment.

This is not merely a point about divergent historical perspectives: what has been the experience of Indigenous people and what has been the experience of other Australians. An account of Australian history to include fully the reality of Indigenous experience is essential to a common understanding of the Australian story. Yet the further point we need to absorb about the past and the present is much sharper and more tangible. Past events directly affect rights today.

If, therefore, as a result of our decision substantial numbers of Aborigines moved to settlements or missions ... the policy of assimilation and integration will be assisted.

⁴ (1966) 113 C.A.R. 651, p. 668.

⁵ *ibid.*, p. 669.

As anticipated, throughout the Northern Territory substantial numbers of unemployed Aboriginal workers, their families and entire communities were moved or turned off their traditional lands. This dislocation was only one episode in the historical dispossession of Indigenous Australians throughout the country. It was effected in a range of ways: sheer force; the removal of children from their families; the withdrawal of 'permissive occupancy' because titles to traditional lands had been granted to others and Aboriginal people no longer provided a useful pool of cheap labour; in many cases people were induced to move 'voluntarily' to settlements and missions simply to gain access to food and basic services as competing land use destroyed the resource base of traditional life.

All these factors combined to dislocate, erode, and in many cases destroy, traditional connection to country. In consequence today, where native title has survived formal extinguishment, many Indigenous people will be unable to establish their rights through an inability to demonstrate their maintenance of connection with their land in accordance with traditional laws and customs. The assimilation policy was specifically intended to eradicate the observance of traditional laws and customs. Proof of these traditions is now required to establish native title. The amended *Native Title Act 1993* expressly requires the demonstration of a current 'traditional physical connection' for the registration of a claim. Past laws, policies and practices have precise ramifications today.

The historical denial of rights has continuing effects and past denial is compounded by the further, consequential deprivation of rights today. This compounding effect is more than bitter irony: it demands a just response, specific reparation and the maximum protection of Australia's residual native title estate.

If we are to achieve a just and stable basis for the reconciliation of Indigenous and non-Indigenous Australians we must become conscious of how these patterns of the past influence and recur in contemporary circumstances. We must realign the values and dynamics which have so consistently distorted and damaged our relations.

Some of the most severe abuses of the human rights of Aboriginal and Torres Strait Islander peoples are beyond any form of reparation other than the most sincere expression of sorrow and apology based on a frank acknowledgment of history. Equally there are concrete measures required by way of direct compensation and remedial action to relieve the contemporary effects of past discrimination.

If the events surrounding Daguragu reveal issues which require resolution, then the circumstances in which a portion of Gurindji land was finally returned to the traditional owners provides us with an image of our potential for such resolution.

On 16 August 1975 Vincent Lingiari accepted the return of title to land belonging to the Gurindji people. Standing on their country in the Northern Territory, the then Prime Minister addressed the Gurindji:

On this great day, I, Prime Minister of Australia, speak to you on behalf of the Australian people - all those who honour and love this land we live in.

For them I want to say to you ...

I want to acknowledge that we Australians still have much to do to redress the injustice and the oppression that has for so long been the lot of Black Australians ...

Vincent Lingiari I solemnly hand to you these deeds as proof, in Australian law, that these lands belong to the Gurindji people and I put into your hands part of the earth itself as a sign that this land will be in the possession of you and your children forever.⁶

With this the Prime Minister poured a handful of soil into Vincent Lingiari's hands.

⁶ Whitlam, G., *The Whitlam Government 1972-1975*, Viking Press, 1985, p. 471.

Vincent replied: 'We are all mates now'.

He then spoke to his people, recognising how 'important White men' had come to return their land and how in the future the Gurindji could live together with white fellas as friends and equals.

They took our country away from us, now they have brought it back ceremonially.

This was a time before the passage of the *Racial Discrimination Act 1975*, before the *Aboriginal Land Rights (Northern Territory) Act 1976*, and almost twenty years before the Mabo decision. Aboriginal people had no recognised right to land. The Gurindji had petitioned the Governor-General. The petition was refused. The return of their title was ultimately achieved by negotiation and agreement with direct Aboriginal participation. The Wave Hill pastoral lease was surrendered and the Commonwealth Government issued two fresh leases, one to the pastoral enterprise and the other to the traditional owners.

Negotiation and agreement remains the most positive, direct and flexible approach to the re-alignment of competing interests.

The words spoken by the Prime Minister acknowledged the past, recognised that there was:

still much to do to redress the injustice and oppression that has for so long been the lot of Black Australians.

These words were accompanied by immediate action. The return of title was a tangible act of justice. It stood in earnest of a wider commitment to the future.

In response to this commitment Vincent Lingiari spoke on behalf of the Gurindji. Considering the history of that country, the physical violence of the frontier period, the taking of Gurindji children from their community and the conditions of exploitation that sparked the walk off, there is a considerable grace and generosity in the acceptance of a future relationship founded on equality and friendship.

The manner in which the land was returned held importance.

They took our country away from us, now they have brought it back ceremonially.⁷

The gesture of pouring the soil of the country into Vincent Lingiari's hands has a depth of symbolism which satisfies the common human need for ceremony to mark out significant events. The richness of Indigenous cultures in ceremonial activity is clear. The ceremonial components of Anglo-Australian culture are frequently overlooked, undervalued or regarded sceptically. In the specific circumstances of Australia it should be recalled that the claim of possession and the assertion of sovereign power over this land was done with the ceremonial raising of the British flag: a symbolic assertion of sovereign power. The subsequent dispossession of Indigenous people was effected through the exercise of that power.

It is fitting that some ceremonial acknowledgment accompanied the return of title. Interestingly the pouring of the actual soil of the land has a resonance with an ancient common law ritual performed when title to land was received. The owner would be 'seized of possession' and would immediately exercise the right of ownership by breaking the branch of a tree growing on the land or by turning the soil.

Within the cultures of Indigenous and non-Indigenous Australians common ceremonial gestures may be found or fresh symbols created. Without substance behind them, such things are sterile. But the burial of grievance and the birth of a new relationship require expression in a form which can lift us beyond immediate circumstances, to express our resolve and to give vision to our common future.

⁷ Vincent Lingiari, quoted by Deane, Sir William, 'Some Sign Posts from Daguragu', The Inaugural Vincent Lingiari Lecture, in *Public Law Review*, Vol 8 No 1, March 1997, p. 20.

Bringing Them Home

The stories presented in *Bringing Them Home*, the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, introduced many Australians to the reality of assimilation policy. The underlying purpose of assimilation retains an appeal to some Australians. The reality of its practice, translated into human terms, is less attractive.

The issues and general patterns which I have sought to draw from the events surrounding the Wave Hill Station walk-off and the eventual return of a portion of Gurindji land, have direct relevance to the removal of Indigenous children for their assimilation into the white Australian community. They are also relevant to our contemporary responses to this practice.

The primary purpose of this Report is to present various responses to *Bringing Them Home*. This is not done to re-open the substance of the Inquiry, its findings or the basis of its recommendations.

The objective is to record the diverse range of responses and the perspectives they illustrate. The publication of *Bringing Them Home* (the Report) had a marked impact on the Australian community. The ensuing public debate was sustained and intense. It stimulated the expression of views reflecting contemporary attitudes and values which directly and indirectly affect the circumstances of Aboriginal and Torres Strait Islander peoples today.

These views range over the past, the present and look to the future. Because of the deeply emotional and intimate nature of the subject matter of the Report, many people who may not often express their opinions publicly were moved to write to newspapers or find some other way of making their views known, frequently with a great deal of passion and candour. Politicians at all levels of government and commentators in all forms of the media made statements, published editorials and opinion pieces.

These responses warrant some more permanent publication. *Bringing Them Home* was not limited to an examination of history, but it did examine a disturbing aspect of our past, and the responses to its findings have, in their own right, become part of the historical record of Australia.

This report is divided into various chapters presenting the broad reactions of Indigenous people, non-Indigenous people and the Churches. These chapters do not pretend to be exhaustive or definitive, they sample and attempt to illustrate the wide variety of responses generated by *Bringing Them Home*.

The essence of *Bringing Them Home* rests in the stories of Aboriginal and Torres Strait Islander people. It is their personal experience, dependent on a willingness to open the most intimate details of their childhood, which informed the Report in a way that historical records and abstract research could never do. Courage was required to participate in the Inquiry and the vulnerability entailed in the process certainly did not end there. The publication of *Bringing Them Home* brought their stories within the public arena. The range of reactions to the Report obviously had immediate implications for individual Indigenous people and their communities.

As a non-Indigenous person temporarily acting in the role of Aboriginal and Torres Strait Islander Social Justice Commissioner, I considered it particularly important to ensure that the views of Indigenous people entered directly into this Report. Consultations conducted in different parts of the country provided some opportunity for this to occur. Chapter 1, *The Aftermath for Indigenous People*, is based on our consultations. I regret that resources severely limited the extent of our coverage and, as with other chapters, the perspectives presented are indicative than comprehensive. Naturally, various views were expressed. A substantial degree of comment was directed to the responses and comprehension of the wider community to experiences that are unique to Indigenous Australians.

Chapter 2 *Non-Indigenous Community Responses* canvasses the diverse opinions expressed publicly in reaction to the Report's findings and the subsequent debate concerning the stolen generations. The Australian community's contemporary responsibility and the significance of apology are thematic in these responses.

Christian Churches played a particular institutional role in the practice of removing Indigenous children. Chapter 3 *Church Responses*, records the apologies and statements made by different denominations, together with their further commitments to reconciliation with Aboriginal and Torres Strait Islander peoples.

The final chapter presents the responses of Australian governments to the recommendations of *Bringing Them Home*. It reports on action taken to implement those recommendations. Chapter 4 is the product of a specific Follow Up Project to the Inquiry. Its provenance and methodology are described in the chapter itself. This work was sponsored by the Stegley Foundation and the Australian Youth Foundation.

The responses to the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families deserve consideration, not merely as reflections on the past, but as indicators of the future.

Reconciliation

The wider objective of this introductory chapter is to consider the implications of the various responses for the reconciliation process. Genuine reconciliation between the Indigenous and non-Indigenous communities of Australia has deep potential to enhance the exercise and enjoyment of human rights by Aboriginal and Torres Strait Islander peoples. It has the further potential to give new outlook and energy to the entire nation.

As we have seen, the story of the Wave Hill walk-off, the Equal Wage Case and the eventual return of Gurindji land illustrate issues and dynamics which perennially shape the relationship between Indigenous and non-Indigenous Australians. These factors shaped the laws, policies and practices of assimilation; they are present in the diverse responses to *Bringing Them Home*. They influence our potential for reconciliation. A consideration of reactions to the issues raised by the National Inquiry may assist us to understand what is necessary to achieve reconciliation, what impedes the process, and how these impediments may be overcome.

It is useful to recall the perennial issues and dynamics.

First, the experience of dispossession, exploitation and denial of rights has instilled a deep sense of grievance and injustice in Aboriginal and Torres Strait Islander peoples. There is an adamant determination to recover those rights.

Second, when Indigenous rights are in fact recognised, the overarching framework of non-Indigenous values and interests constantly affects the understanding, application and enjoyment of those rights. There is a crucial interaction between these factors. The interpretation of Indigenous rights not only reflects, but reinforces, very different experiences, interests and expectations. The reaction to the Wik decision is a recent example of this tendency. Underlying the surface debate about rights, there is a collision of perspectives and values.

Third, and instrumental to this lack of a shared perspective, historically the voices of Indigenous peoples have not been heard. They have not been called to give evidence in their own cause. Others continue to speak for them and decide what is in their best interests.

The sharing of experiences and the convergence of perspectives is essential to renovate our relationship and to find a way to reconciliation. An essential part of achieving a common perspective is to simply listen to the experiences of Indigenous Australians expressed in their own words. A more substantial exchange is also required. Just as Gurindji land was ultimately returned through direct negotiation, equally the participation of Indigenous Australians must be central to a process of reconciliation based on negotiation.

Reconciliation must be grounded on agreement if it is to have any credibility or stability. The convergence of Indigenous and non-Indigenous perspectives is essential to the process of reconciling our understanding of history and our aspirations for the future. Yet that is insufficient by itself. There must also be a negotiation process to reconcile and realign our interests and rights. If reconciliation is to be achieved it must ultimately rest on a tangible foundation of justice.

The responses to *Bringing Them Home* raise all these issues. They illustrate the collision of different perspectives. They also provide a functional model as to how Indigenous and non-Indigenous interests may be brought into closer relationship.

The experience of the removal of Aboriginal and Torres Strait Islander children from their families has fuelled a powerful drive to make the suffering which separations caused known to the community in whose name it was done. Awareness of the depth of anguish and harm, particularly the present repercussions of that damage, has not previously penetrated the non-Indigenous community. The telling of the stories of separation broke a silence. Perhaps the most powerful and consistent strain of Indigenous response to *Bringing Them Home* relates to the need for a thorough absorption of the stories, leading to acknowledgment and apology for the wrongs which were done. This is not the pursuit of guilt. It is the pursuit of understanding and recognition.

The absence of a formal apology by the Prime Minister on behalf of the Australian Government was a critical matter consistently identified by Indigenous people in the course of our consultations. The denial of such an apology is regarded as compounding the hurt and it deepens the divide between our communities. The human quality of being able to extend yourself imaginatively into the suffering of another people and the moral quality of accepting institutional responsibility were matters which drew an intense Indigenous reaction. The human, moral and symbolic qualities of a national apology were seen to be essential to any adequate response to *Bringing Them Home* and to any prospect of reconciliation.

While such an apology seems increasingly to be considered necessary by the broader Australian community, this gesture by itself would be insufficient: tangible responses are required. These are not confined to the provision of services to assist in the tracing of relatives, the reunion of families, oral history programs, health and counselling services, the amendment of welfare and juvenile justice law, policy and practice: the issue of compensation remains a live issue. Compensation is not confined to personal loss and harm caused by removal. It includes the further flow-on effects of dispossession and the loss of rights to land.

The Indigenous perception of the inadequacy of government responses to recommendations on these matters is met, not merely with disappointment and a sense of exclusion from government processes, it confirms an expectation that this would be so. There is a strain of Indigenous response which reveals the cumulative effect of paternalistic policies and the lack of participation in government processes: of constantly being the subject of other people's decisions about what is best for you, what you deserve, what you are entitled to. There is a widespread sense of powerlessness and distrust of governments and the interests they serve. Whether it is equal pay for stockmen, native title or the rights of those removed, the interests of Aboriginal and Torres Strait Islander people seem to remain a subordinate consideration, apparently accommodated as a matter of political calculation, rather than on the basis of principle and respect for human rights.

There is also a deep scepticism expressed by Indigenous people concerning the ability of the Commonwealth Government to comprehend the past and present experience of Aboriginal people and Torres Strait Islanders. There is a consequential reluctance to yield genuine responsibility and control to Indigenous communities. While Government policy advocates notions of '*self-management*' and '*self-empowerment*' these catchcries are advocated in substitution for Australia's recognition of the right to self determination in the *Draft Declaration on the Rights of Indigenous Peoples*. Advocacy of empowerment becomes a means to disempower.

The Indigenous sense of injustice is so deeply inscribed that it forms an expectation of injustice. Now reconciliation is urged. The suspicion as to what motivates this, and who will be the ultimate

beneficiaries, should not be difficult to understand. Among many of the stolen generations there is a distrust and pain which in some people may never be assuaged.

The experience of telling their story to the Inquiry was a positive and cathartic process for some who gave evidence. The recounting and official recording of individual experiences gave a certain degree of recognition. The word 'validation' was frequently mentioned in our consultations with Indigenous people. Occasionally this word seemed to express the relief of telling a personal history and discharging a sense of guilt about what had happened. As though in some way, as a child, the individual was responsible for their removal, akin to the sense of responsibility and guilt that some children may experience when their parents separate or divorce. The psychological damage caused by the removal of Indigenous children was both gross and extremely subtle. The recognition that individual removals were truly the implementation of general assimilation policies, based on factors totally beyond the control or responsibility of the children or their families, cast individual experiences into a new light. In this context the idea that Indigenous people told their stories in some endeavour to inflict a sense of guilt on non-Indigenous people becomes distinctly ironic.

For a number of people who participated in the Inquiry the process was not cathartic. It opened wounds and left them despondent. There is criticism of the Human Rights and Equal Opportunity Commission for the inadequacy of counselling support for witnesses during the Inquiry.

The telling of the stories of removal is commonly viewed as somehow exclusively directed at the non-Indigenous community but, beyond the impact on the individuals who gave evidence, there were many other effects within Indigenous communities and families. In some cases the stories triggered reunions, informed younger generations of their parents' and grandparents' earlier lives, expanding understanding in learning of the precise experience of their relatives and in appreciating the cumulative effects on their communities. Those who were removed, and had an individual, personal experience of separation, encountered a wider range of experiences and the different ways in which children were treated in different institutions. The systemic patterns of removal policies were revealed.

Finding and reuniting with lost relatives, whose lives have taken vastly different courses, can be fraught. It can create intense problems regarding identity and acceptance. The full range of possibilities presented by reunion after long separation was experienced by individuals, families and communities. The effects of laws, policies and practices of separation have generated many issues for reconciliation between Indigenous and non-Indigenous people, but there are also issues for reconciliation among Indigenous people themselves.

In balance with these difficult and complex responses within Aboriginal and Torres Strait Islander communities there is a powerful and positive sense that a significant number of Australians have now heard of the stolen generations and know at least something of their experiences. This knowledge has aroused a range of reactions in the wider community. Some people remain uncomfortable with the expression 'stolen generations'. They regard it as unduly emotive, but its entry into the language of public debate marks an inescapable engagement with a part of our history that was previously hidden from general view. The issues that flow from the forcible removal of Aboriginal and Torres Strait Islander children have been raised ineluctably. They demand consideration and response. Whatever the response, the issues can no longer be ignored. In this fact alone there is a modest convergence of Indigenous and non-Indigenous perspectives.

More substantially, the stories of children, mothers, fathers, aunts, uncles, brothers, sisters and grandparents were truly heard by many Australians. They extended themselves imaginatively into the position of parents whose children were taken from them, through no fault of their own, but because of who they were and the fact that some remote source of power had generally decided that their children would be better off without them. This primary sense of identification with the human quality of Indigenous experience transcended race, ethnic background, culture, politics and arguments about legal rights. While such responses were primarily emotional, many people went on to grapple with the issues lying beyond their instinctive reactions.

Confrontation with the harm done to Indigenous Australians in the past, which was firmly based on the benign certainty of knowing what was best for Aboriginal and Torres Strait Islander peoples, led many Australians to a more thoughtful consideration of contemporary matters. It challenged a view, still commonly held, that Indigenous Australians should ultimately reconcile themselves to cultural absorption within the wider Australian society. For a great many people it was their first introduction to the history of government policies and de facto practices implemented over a long period of time to assimilate Aboriginal and Torres Strait Islander peoples.

The realisation that it was necessary to rule a line under the past by apology became indistinguishable from wider national support for reconciliation and for the recognition and protection of contemporary rights, advocated by such groups as ANTA: Australians for Native Title and Reconciliation. In this way the first Sorry Day was observed: not only as a moment of silence and respect for the anguish of the past, but as the marking of a new relationship for the future.

Yet, if there was one pronounced strain of non-Indigenous reaction to *Bringing Them Home* resulting in a shift in awareness, then it is equally clear that there were many other more critical responses shaped by the enduring divide between Indigenous and non-Indigenous perspectives.

The Prime Minister expressed his personal sense of sorrow for the experiences of Indigenous people, but he did not consider it appropriate to offer a national apology. He was by no means isolated in this view, or in declining to accept any responsibility for events of the past. The elapse of time; the belief that separation policies were fundamentally well-intentioned; the perceived anachronism of judging past events by today's standards; and the lack of immediate personal involvement were all seen to exonerate both the present generation of non-Indigenous Australians and current Australian governments. The methodology and balance of the Inquiry and its Report were challenged. Raking over the past was seen as unhealthy and unhelpful. Revisiting the past was perceived as a device to generate guilt, to be used in an attempt to prise out compensation monies and other advantages.

While it was considered acceptable to express personal sorrow and to sympathise with Aboriginal and Torres Strait Islander people for their evident pain, such responses were basically premised on a denial that Australia's Indigenous peoples were wronged in any way which gives rise to contemporary liability, either moral or legal.

In my view these criticisms, the absence of a formal, national apology and the repudiation of institutional responsibility are misconceived. However, as I have already said, it is not my intention to revisit the Inquiry or to argue its findings and recommendations. It is my purpose to consider a range of responses to *Bringing Them Home* and how they reflect on our potential to achieve a genuine reconciliation between the Indigenous and non-Indigenous people. The volume of critical reaction is fully acknowledged, it includes a spectrum of attitudes held sincerely by many people who do not intend to diminish the pain experienced by Aboriginal and Torres Strait Islander people.

If we cannot allow the sincerity of competing views, no matter how much we disagree with them, then we have very little prospect of constructive engagement. I have little doubt that many Australians were deeply disturbed by the histories of abuse and the damage done to so many lives, so counterproductive to our collective interests and to the view of our society as staunch in its foundation on the values of fairness, decency and respect for the human rights of all its members.

It is in this light that I suggest that the more critical responses to *Bringing Them Home* be considered. It is our responsibility to step outside our narrow personal construction of the world and endeavour to understand the perspective of others. Unfortunately, in my opinion, the inability to do precisely this is what characterises so many of the more negative responses. They remain enmeshed in a view that is formed by values and interests set within a non-Indigenous perspective. The experiences and the rights of Aboriginal and Torres Strait Islander people are judged primarily by their potential impact on the self-interest of others. In a curious way, as has been the constant dynamic of our history, what is seen to be a fair and appropriate response, what is seen to be ultimately in the 'best interests' of Indigenous people remains, in reality, what is in the best interests of non-Indigenous Australians.

Apart from the obvious issue of compensation, this attitude is perhaps most clearly demonstrated by those who generally regard the ‘raking over’ of the past as unhealthy and backward looking: that it will do Aboriginal and Torres Strait Islander people no good; they should get ahead and concentrate on the many pressing problems of today. In whose interests is it to pass discretely over the history of the forcible removal of Indigenous children? How much entry into the position of Aboriginal and Torres Strait Islander people is there in negating the deeply felt need to mark the loss within their communities, and for other Australians to stand with them on a day of remembrance? The criticism of Sorry Day as an unduly emotive and sterile exercise is strange in a country which rightly honours the defeats and sorrows of the past in other contexts.

There is another flashpoint which breaks open sharply divergent and antagonist perspectives. It is the finding that the forcible removal of Indigenous children constituted genocide. The very idea that assimilation is in anyway equated with genocide evokes the strongest non-Indigenous reaction. Whether or not the finding is legally correct is beside the point in exploring the gap between Indigenous and non-Indigenous responses and how these responses may be drawn into a closer, reconciled relationship.

To most people, genocide is equated only with the deliberate physical extermination of a people. Given the removal of Aboriginal and Torres Strait Islander children was primarily based on a benign intention to advance their interests, to call this genocide seems unreasonable and unjust. It demonstrates an irrational, highly emotive reading of events which erodes the credibility of the Indigenous position and reduces any willingness to acknowledge less contentious matters. *It produces anger and denial.*

From the Indigenous perspective, expressions of personal sorrow without any acceptance of responsibility are regarded, at best, as dismissive when contrasted with an experience which not only traumatised individuals, but intentionally threatened the integrity of Indigenous culture and the survival of Aboriginal and Torres Strait Islander peoples as distinct peoples. It is incomprehensible, in the face of a protracted nation-wide effort to remove their children, that the suffering could have been ignored, and that so few people spoke out against it. Given the policies of removal were squarely based on race, with a dominant white society taking and absorbing their children, the term genocide is regarded as perfectly apt. It justifies the need for the present representatives of that same society to acknowledge the wrong, to make a formal national apology and provide reparation. The failure to do so seems unreasonable and unjust. *It evokes anger and a denial that anything has really changed.*

Perhaps the recognition of how the term genocide generates common emotions provides us with a way to enter into the viewpoint of the other. It is ineffectual to ignore or dismiss either the Indigenous or non-Indigenous sense of unreasonableness or injustice. Both are powerfully felt, and we cannot make any progress locked into positions of anger and denial. This is not to undercut the objective basis on which a just reconciliation must rest, but it does offer the potential to arrive at a fresh perspective and understanding.

The term genocide evokes such strong reactions because there is a shared repugnance for the abuse of human rights that it describes. This can be recast into the positive: an affirmation of a shared respect for human rights. With such a starting point for reconciliation we can address substantive, practical issues. Reconciliation must look to the comparative position between Indigenous and non-Indigenous Australians. It must embrace the primary issues of sustenance: health, housing, education and employment. It is not merely an accident of language that the appalling infant mortality and peri-natal morbidity rates for Indigenous infants results in vastly disproportionate ‘hospital separations’ today, and that the juvenile justice systems of Australia continue to separate Indigenous children from their families at rates well beyond those for other Australian children. These are the embedded legacies of history, compounded by contemporary practices. These chronic disparities are tangible impediments to reconciliation.

The renovation of our future relationship, based on respect for human rights, must also address another primary, practical issue: the honourable burial of grievance. The making of peace with the past. Care for the human spirit is a profoundly practical concern.

The stories of *Bringing Them Home* not only tell of the experiences of children and their families at the time of separation. They reveal, in the most trenchant way, the aftermath of pain, anger and distrust which continues within Indigenous communities. The aftermath not only affects the view looking out to the surrounding non-Indigenous society, it affects the functioning and well being within Aboriginal and Torres Strait Islander communities. At a certain level it does not matter whether the issue is rendered in terms of 'responsibility', 'self empowerment', 'self management' or 'the right to self determination'. It is about the carriage of trauma, the ability to function in the present, the power of decision-making, regard for the broader Australian community and the expectation of how we will get along in the future. How much honesty is there in examining the past? How much trust does this give for the future?

Many Australians know this. It is not a matter of guilt or admission of liability. It is an extension of understanding for the hurt that has been endured and respect for certain losses that can never be recovered. It is a response that does not diminish our country, but will demonstrate our contemporary national values. It is not about a rearguard action for the past. The respectful marking of grief and past wrongs entails some judgment of our past: but it speaks more clearly about who we are now and our resolve for the future.

Just as the return of Gurindji land was done in a manner distinctive of our country and its history, so the formal and symbolic acts of reconciliation will be found within Australia. It is necessary that our resolution is freely negotiated to reflect our temper, our values and our place. But it is also useful to consider the approach of another Commonwealth country that has recently grappled with the same issues, flowing from a similar history. Canada has clearly determined to face its history. In the response of the Canadian Government, spoken on behalf of its citizens, I find no sense of diminishment, quite the contrary. It is clearly a springboard to a creative and productive future.

As Aboriginal and non-Aboriginal Canadians seek to move forward together in a process of renewal, it is essential that we deal with the legacies of the past affecting the Aboriginal peoples of Canada, including the First Nations, Inuit and Métis. Our purpose is not to rewrite history but, rather, to learn from our past and to find ways to deal with the negative impacts that certain historical decisions continue to have in our society today.

The ancestors of First Nations, Inuit and Métis peoples lived on this continent long before explorers from other continents first came to North America. For thousands of years before this country was founded, they enjoyed their own forms of government. Diverse, vibrant Aboriginal nations had ways of life rooted in fundamental values concerning their relationships to the Creator, the environment and each other, in the role of Elders as the living memory of their ancestors, and in their responsibilities as custodians of the lands, waters and resources of their homelands.

The assistance and spiritual values of the Aboriginal peoples who welcomed the newcomers to this continent too often have been forgotten. The contributions made by all Aboriginal peoples to Canada's development, and the contributions that they continue to make to our society today, have not been properly acknowledged. The Government of Canada today, on behalf of all Canadians, acknowledges those contributions.

Sadly, our history with respect to the treatment of Aboriginal people is not something in which we can take pride. Attitudes of racial and cultural superiority led to a suppression of Aboriginal culture and values. As a country, we are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures, and outlawing spiritual practices. We must recognize the impact of these actions on the once self-sustaining nations that were disaggregated, disrupted, limited or even destroyed by the dispossession of traditional territory, by the relocation of Aboriginal people, and by some provisions of the Indian Act. We must acknowledge that the result of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations.

Against the backdrop of these historical legacies, it is a remarkable tribute to the strength and endurance of Aboriginal people that they have maintained their historic diversity and identity. The Government of Canada today formally expresses to all Aboriginal people in Canada our profound regret for past actions

of the federal government which have contributed to these difficult pages in the history of our relationship together.

One aspect of our relationship with Aboriginal people over this period that requires particular attention is the Residential School system. This system separated many children from their families and communities and prevented them from speaking their own languages and from learning about their heritage and cultures. In the worst cases, it left legacies of personal pain and distress that continue to reverberate in Aboriginal communities to this day. Tragically, some children were the victims of physical and sexual abuse.

The Government of Canada acknowledges the role it played in the development and administration of these schools. Particularly to those individuals who experienced the tragedy of sexual and physical abuse at residential schools, and who have carried this burden believing that in some way they must be responsible, we wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at residential schools, we are deeply sorry.

In dealing with the legacies of the Residential School system, the Government of Canada proposes to work with First Nations, Inuit and Métis people, the Churches and other interested parties to resolve the longstanding issues that must be addressed. We need to work together on a healing strategy to assist individuals and communities in dealing with the consequences of this sad era of our history...

Reconciliation is an ongoing process. In renewing our partnership, we must ensure that the mistakes which marked our past relationship are not repeated. The Government of Canada recognizes that policies that sought to assimilate Aboriginal people, women and men, were not the way to build a strong country. We must instead continue to find ways in which Aboriginal people can participate fully in the economic, political, cultural and social life of Canada in a manner which preserves and enhances the collective identities of Aboriginal communities, and allows them to evolve and flourish in the future. Working together to achieve our shared goals will benefit all Canadians, Aboriginal and non-Aboriginal alike.⁸

Chapter 1: The Aftermath for Indigenous Peoples

It has been worth it because the wider community is more aware of the issues and our history, but the opening of the old scars has been difficult. It's vital that the truth comes out, though.

Community Member, North Queensland.

These words capture some of the complexity of Indigenous responses to *Bringing Them Home* and to events since the conclusion of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.

On one hand, Indigenous people welcomed the Inquiry and the recommendations of *Bringing Them Home*. A great deal that is positive has come from the Australian community's increased understanding of the full dimensions and human impact of separation policies. On the other hand, the exposure of intimate, personal experiences has awakened the pain for many people. Memories, stories of the past and fresh information have emerged from Indigenous communities, producing a range of reactions. While the heartfelt apologies of many Australians are deeply appreciated, the supportive responses of the non-Indigenous community are regarded with a degree of wariness by some Indigenous people. Doubts have been expressed about how enduring this support will prove to be.

This chapter is informed by an Indigenous perspective and is based on community consultation by staff of the Commission's Social Justice Unit. We endeavour to present the diversity of Indigenous responses to the Inquiry and events following the release of *Bringing Them Home*. However, the views

⁸ Statement of Reconciliation by Canadian Government, spoken by the Honourable Jan Stewart, Minister of Indian Affairs and Northern Development on the occasion of launching Gathering Strength – Canada's Aboriginal Action Plan, 7 January 1998, Ottawa, Ontario.

expressed are a mere sampling and do not pretend to be exhaustive of Indigenous perspectives. Resources limited the number of people we were able to reach and talk with face to face. The substance of the chapter is guided by discussions with 70 Indigenous people variously located in Adelaide, Darwin, Launceston, Hobart, Perth, Brisbane, Cairns and Sydney. We are particularly grateful to those from rural areas who travelled to Perth, Adelaide and Launceston to offer their views. The people we spoke to were drawn from many walks of life: youth workers, community health workers, policy officers, social workers, elected Indigenous leaders, directors and chief executive officers of Indigenous organisations, legal officers, educators and community members. Some were people who had taken part in the Inquiry. Others were not directly involved.

Individual attitudes and views are, by their nature, diverse. We found regional differences were quite marked and, to an extent, reflected the perceived impact of the Report on the surrounding non-Indigenous community. However, the greatest variation arises out of the profoundly emotional and complex nature of the issues involved. The stories themselves, as well as the direct experiences of separation, are intensely felt. Family reunions and issues of identity; the immediate catharsis of telling 'your' story and the longer term emotional aftermath; apologies and criticism of the Inquiry and its recommendations; the responses of governments and Sorry Day ceremonies: all these evoked complex and, at times, ambivalent responses.

People repeatedly expressed just how widespread and enduring is the suffering caused by the forced removal of children and the separation of families. The damage began a long time ago and continues to resonate in the physical, spiritual, emotional and mental health of Indigenous communities. We found relief, expectation, and a sense of completion, anger, frustration, despair, determination, resilience and courage. This chapter provides an inadequate, but necessary, medium for the direct expression of Indigenous responses.

I am so glad I lived long enough to see this day, in my whole life I have never felt so loved as I do today.

Indigenous Elder, New South Wales, on Sorry Day.

To know who you are, where you are from and to whom you belong is a basic human entitlement. It is essential to the realisation of the 'dignity and worth of the human person' which underpins the Universal Declaration of Human Rights. Many Indigenous people report that with participation in the Inquiry, and the release of *Bringing Them Home*, their deprivation of this fundamental entitlement was at least acknowledged, if not restored.

The violation of rights can be compensated. Reparation for the abuse of human rights is essential to justice. Yet, at a more fundamental level, the separation of children from their families is separation from a unique form of love that can never be restored. Formal apology for what is irretrievably lost is part of making amends and assuaging the pain. However, there is something beyond apology. It was found in the quality of concern and genuine sorrow expressed by so many Australians - a kind of grace which moved many of us to feel our potential to make peace with the past and find the basis for a new relationship between the Indigenous and non-Indigenous people of this country.

It was experienced, perhaps momentarily, in some Sorry Day events: in parks and local halls; public rallies and small gatherings. It was stimulated by the information provided in *Bringing Them Home*, but it was given substance by the human warmth of those present. The experience of a kind of restorative love, which some Indigenous people felt, is the highest achievement flowing from the Inquiry.

A chance to be heard

Indigenous people are receiving an ability to recover because they feel validated now that their stories have been heard, believed and recorded.

Senior Project Officer, South Australia

The Inquiry gave people a chance to speak of their experiences and have them recorded in a formal way. Many people spoke of how good it felt to finally tell someone and be believed; to tell someone and be listened to with attention and concern; to tell someone who felt empathy and did not blame them. The private burdens of individual, isolated stories were lifted as they were cast into a collective framework revealing the patterns of government policies.

One of the women who gave her submission to the Inquiry spoke of how frustrated she had felt for years, trying not only to tell people of her experiences, but also to have them recognise that this practice was official policy. Others spoke of a simple sense of relief when at last their stories could be told and recorded.

Within many Indigenous communities the process of telling the stories is considered one of the most important events of recent Australian history.

Gains in emotional strength

It was good for most people to be able to get this stuff off their chest...psychologically, it's been good for most to get it out and be heard by officials.

Community Health Executive, Western Australia

Sharing stories with each other has given Indigenous people strength. This capacity to gain strength from each other has held good for Aboriginal and Torres Strait Islander communities in periods of difficulty throughout history.

An Indigenous youth worker spoke of his stronger motivation to stand up to racism, particularly among colleagues, because he feels there is an increased awareness and understanding developing, as demonstrated by events such as Sorry Day. He said, 'challenging colleagues on their attitudes towards Indigenous clients is paying off.'

Some Indigenous people struggling to deal with their feelings said they left rallies and public meetings with a sense of greater support both at an individual and community level.

Removed people have been searching for their history and visiting places of significance to their family for many years, but since the release of *Bringing Them Home* the number encouraged to do so has increased.

Understanding each other

It has opened the doors for family members to come home - removed individuals understand more now and don't blame as much - forgiveness comes through reunion.

Senior Project Officer, South Australia.

The most immediate, direct benefit of the Inquiry for many people who participated was to bring families together again. There were times during hearings when family members who had been separated from each other were all gathered in the same room for the first time since childhood. The intense emotions, sense of relief and comfort were sometimes overpowering. The process of reunion

and the feeling of belonging is a critical part of the process of gaining and improving self-esteem through a stronger sense of identity.

The issue of identity is rendered complex by the very different experiences of those who were taken and those who remained with their families and communities. A young Aboriginal woman who has invested much energy in looking into her family background, said that the report had opened doors for her to come into and be accepted within her community. She said she had always felt there were 'classes' of Aboriginality, but the report helped her understand why people have such different experiences and such cultural gaps in their lives. One of her sisters had always associated Aboriginality with negative stereotypes to the extent that she found it difficult to identify herself as Aboriginal. Since reading the report, she has felt the positive value and the healing that identification can bring.

Other people also related how *Bringing Them Home* has assisted in educating people about apparent and real divisions within Aboriginal communities. It has helped people understand the diverse range of experiences of other Indigenous people and to place them in context.

The Aboriginal community around here has always known where most of their families were but there was always this barrier, an inability to interact with each other. The re-association process was always difficult but is slowly becoming easier thanks to *Bringing Them Home*.

Manager, Land Council, Tasmania

The information gathered in our discussions demonstrated that the Inquiry and its report helped many people recognise the relationship between separation and forced removal and problems they might have with issues such as identity, family violence, substance abuse, parenting difficulties, depression and offending behaviours.

An Aboriginal psychologist who had the opportunity to run some workshops following the Inquiry commented that finding out about people's particular backgrounds helped to develop an understanding as to why some family members had taken certain paths, especially in relation to damaging behavioural patterns such as physical, emotional, drug and alcohol abuse. While the precise relationship between childhood experiences and subsequent behaviour is an individual matter, the appreciation of the widespread impact and cumulative effects on families and communities became clearer through the report's identification of the systematic application of separation policies. The burden of individual history was lifted into a new perspective.

The benefit of new perspectives was by no means confined to Indigenous people.

Raising awareness in the non-Indigenous community

Non-Indigenous people may have reaped the biggest benefits from all of this. Murris who have opened up and told of their experiences have opened the eyes of the non-Indigenous community who may not have realised the extent of removal that took place and the effects that have resulted from this. There is a responsibility that goes along with this knowledge that all Australian families and communities should respond to.

Community Organisation Manager, North Queensland

Often when Indigenous issues receive particular attention, there are some in the wider community who become resentful and hostile. The notion that Abstudy is an unwarranted, special program is one example of this attitude. Intemperate reactions to the Wik decision is another. However, on the issue of the removal of children, there was a sense of much greater understanding and greater vocal and visible support from non-Indigenous Australians.

One clear reason as to why *Bringing Them Home* was received so well by the broader Australian community was suggested by a woman who made a submission to the Inquiry. She felt that many

mothers in the wider community were supportive because of their ability to imagine what it might feel like to have their own children stolen from them.

Other opinions reinforced this view. It was perceived that the effects of breaking the relationship between mother and child, as distinct from the relationship between people and the land, is an issue with which non-Indigenous people can directly identify and feel compassion.

Many Indigenous people we spoke to said that they know many non-Indigenous people with good intentions who are trying to respond appropriately to the report and this is deeply appreciated. They felt that relationships have been strengthened during the activities and acknowledgments that have taken place since *Bringing Them Home*. The apologies made by so many governments, churches and ordinary Australians; the Sorry books, rallies and other events of Sorry Day; the discussion of wider issues connected to separation, have all been important steps in the healing process and the road to improved relationships.

Support by non-Indigenous people has flowed on into other areas. Despite the existence of substantial opposition, there is increased support for the protection of native title and an increased appreciation of the significance of reconciliation. These issues have merged together in movements such as Australians for Native Title and Reconciliation.

An Aboriginal youth worker said that his opinion of non-Indigenous people has changed since the publicity surrounding *Bringing Them Home*. He talked about how some of the publicity had stirred up anger, but that the positive and compassionate responses that had come from many people demonstrated that the human quality of the report had helped to break down negative attitudes towards Indigenous Australians and to dispel a lot of ignorance. This has been encouraging, particularly when he sees his non-Indigenous colleagues trying to look at things differently and showing more understanding when they work with young Aboriginal people.

There is evidence of specific changes in attitudes. Part of the evidence to the Inquiry, given by a member of the Aboriginal Women's Legal Resource Centre, stated that: 'there have been a lot of Aboriginal women over the last 10 to 15 years who have been labelled with mental illness, with mental health disorders. I believe, through information from the Department of Health, that those women did not have psychotic episodes or anything like that: that it was part of them not knowing who they were, and struggling within themselves, [that] has caused women to have breakdowns ... they have actually been labelled as schizophrenic, psychotic, when that really isn't the truth of what's happening for them.' Enhanced knowledge of the widespread experience of removal and its psychological impact, particularly on the construction of identity, has not only deepened the understanding of individual cases but has assisted in the design and delivery of more effective community programs.

In Darwin we heard how family history research has increased since the release of the report and that non-Indigenous staff involved are now noticeably more interested in the work and helpful with Indigenous clients. This is doubly beneficial through the inter-relationship of both factors: because the environment is more supportive and comfortable, Aboriginal people are more willing to use the service.

This example, drawn from our consultations in Darwin, is representative of a wider phenomenon. Many people commented that increased awareness of issues by non-Indigenous Australians has produced new understanding and fresh attitudes that, in turn, have produced many positive, cumulative effects. These effects are primarily found in better Indigenous/non-Indigenous relations, but they are wide reaching and can offer new reflections on issues such as self-image and identity.

A young Aboriginal person described how he still has relatives who are reluctant to identify with their Aboriginality, but he has noticed that their attitudes are beginning to change some in the Australian Community have responded empathically. They have begun to feel as though they do have a place and a valid story to tell.

Some people felt embraced by the wider community they live in and for the first time able to actively participate in the life of their town. For others, it has meant that strangers come up to them in the street, in restaurants or in shops to explain all their reasons for not apologising: not a welcome intrusion. It must also be said that, while many Indigenous people are conscious of greater support, this shift is viewed against a wider backdrop.

A lot of non-Indigenous people have shown support for us, they have demonstrated that through their tears and grief and frustration but they are also at a loss as to what to do. They're a minority though - racism is still rampant.

Child Placement Manager, South Australia

An Aboriginal woman who works with Indigenous people to build their emotional well-being said that she has enjoyed watching Aboriginal people increase their trust of non-Indigenous people since *Bringing Them Home*. The change of heart demonstrated by non-Indigenous people has encouraged some Indigenous people to feel as though they have a reason to respond positively. However, this is a tentative position.

Some improvement in delivery of services

Big wounds have been opened and now it's become a national wound. There is so much emotional pain - what is being done to help the wound to heal, what support is there?

Counsellor, Western Australia

This question reflects a major concern that has been frequently expressed. It is perceived by some that counselling services currently available are inadequate, both in supply and structure, to meet the needs of those affected by separation.

In Western Australia, it was felt that awareness of Indigenous health issues was assisted by Bringing Them Home. We heard that there have been shifts in attitudes, and although the change is relatively slight, some tangible benefits in service delivery have been observed in some areas.

It is said by some that the Report has given Indigenous people more confidence to share their experiences, which has been beneficial to service providers. Those in human services have been able to use this information to improve their practices and deliver more relevant services. The publicity surrounding the Report, public gatherings, discussion and public comment relating to the effects of separation has resulted in human service workers gaining a better insight into the issues so they can work with Indigenous communities in more productive ways.

Gaining an historical perspective

My Nan was removed, and I didn't know that before, particularly in terms of what that meant...

Student, New South Wales

Bringing Them Home has played an important role in educating those Indigenous people who were not fully aware of what happened, how widespread separation and forced removal was. In some families, experiences had been kept secret because of the pain of remembering. In some communities, people had felt these experiences were limited to their particular region. The Report provided a depth and perspective that was not previously available to many Indigenous people. It is very important, particularly for young people, to gain an understanding of the experiences of their elders, together with the spiritual and social placement of their families.

Before the release of *Bringing Them Home*, many young people did not fully understand the legacy affecting their lives. Older Indigenous people expressed the view that a lot of younger community members feel personally responsible for all their problems and this is reinforced by some non-

Indigenous people. They said that the Report has assisted young Indigenous people to improve their knowledge and understanding of their community history: to help them gain better insight and a wider view.

Relief from guilt

For some Indigenous people, they are just realising for the first time that what happened to them was not their fault, that it was due to Government policy. They have stopped blaming themselves so much but then they feel sadness because their whole lives have been destroyed. They wished they'd discovered this much earlier.

Psychologist, Western Australia

50 year old men are still coming to terms with traumatic experience - only just realising now why they have had the various problems they've had all their lives with drugs, alcohol and parenting difficulties. They have carried guilt for the years of hardship their families endured because of this.

Psychologist, Western Australia

During our meetings it was frequently reported that the wider recognition of the effects of past treatment is facilitating recovery. Until there was some recognition of the broader causes and pattern of events, people somehow felt they were exclusively and individually to blame. Understanding the effects of removal does not diminish personal responsibility for present actions, but it places them in context. The sense of personal guilt for something that one had no power over is similar to the sense of responsibility and guilt sometimes experienced by children whose parents divorce. The acknowledgment of the legacy that removal and separation leaves has been a benefit to people at a personal level in trying to make sense of their lives.

At another level, there have always been those who refuse to recognise the relationship between current disadvantage and past government policies in relation to Indigenous people, but the information and discussion raised by the Inquiry makes this far more difficult to dispute. The compound impact of the policies of separation and assimilation wreaked enormous damage on the social cohesion of Indigenous communities throughout Australia.

In particular, artificial 'communities' on missions and government settlements were created, bringing people from many different places to the traditional lands of other people. The cultural relationships and family structures that gave identity, cohesion and meaning to social life were severely damaged or destroyed. Connections to the people and places of origin were lost, and these losses were exacerbated by education designed to strip children of their language and culture and to denigrate the very identity which was the cause of their removal.

Identity is a fundamental issue and the process of establishing it has not been easy for many. One woman recounted that, after the Inquiry, she had been told to go back to where she came from, even though she does not know where that is. All she is able to connect with as a result of her experience of institutionalisation is a place and a community that does not acknowledge her as a member. She now feels she does not belong anywhere. In our meetings, we discovered this experience is not uncommon.

Another woman described the pain and confusion she feels from belonging to a family where only some of the siblings identify as Aboriginal and others do not. Reconciling identity under these circumstances has interfered with once close relationships. It has created rifts in this particular family which is tremendously painful.

Subsequent to the Inquiry, people spoke of their gratitude towards Indigenous communities, which had embraced them and their different backgrounds. Previously, some had often experienced exclusion from their local Indigenous communities, they had feelings of not fitting in anywhere, in either the Indigenous community or the non-Indigenous community. Intense confusion and feelings of guilt about identity have, to some extent, been relieved.

New Pressure

How do you de-brief after 30 to 40 years of pain?

Community Health Executive, Western Australia

It took 26 years for me to find out my identity and where I'm from. The pain is still there, still strong and alive. Sorry Day has raised this pain for people all over again. Just when we were beginning to get on top of it. There remains scarring that can't be dealt with within time frames that funding bodies and Government set, it's just not realistic.

Trainer, South Australia

In constant tension with the perception of constructive outcomes, were responses by Indigenous people which emphasised the anger, disappointment, frustration and pain experienced as the aftermath of *Bringing Them Home*. In some ways people felt that the impact of the Inquiry and its Report is an extra weight on the shoulders of those who have carried the damaging legacy of forced removal and separation from their families and communities.

The lack of counselling services to help those who were emotionally distressed during the making of submissions was a major complaint about the Inquiry process. It was felt the Inquiry was under-resourced and consequently some participants said they felt 'ripped off' yet again. The absence of a trained mediator being consistently available during the Inquiry was interpreted as a reflection on the value of the experiences under consideration. It was felt that the effect of telling stories on the well-being of participants was underestimated.

There hasn't been enough follow-up, support or de-briefing - the process of the Inquiry stuffed people up, people were exposing themselves in ways they hadn't before and then the Inquiry moved on.

Senior Project Officer, South Australia

There is a strong feeling that the Inquiry aggravated a lot of old scars and that some people were now hurting more. This result is balanced against the achievement of recording the stories of removal and the benefit of communicating the full impact of the laws, policies and practices of assimilation to the Australian community. However, this sense of achievement is undercut by a growing perception that the wider community now feels the issue is over and done with - while for Indigenous people the repercussions of separation remain.

There was much frustration expressed at the lack of progress in many areas, particularly in relation to services and the lack of money for them. There was deep disappointment with the attitude of the Australian Government and the view by some that most government initiatives in response to the recommendations of the report were 'mere tokenism'.

There were ambivalent feelings about the value of some community activities such as Sorry Day, the Sorry books and the entire notion of reconciliation. Though some people welcomed the positive aspects of these things, others lamented that Sorry Day provoked expressions of prejudice and gave racism a new focus. The contempt that some non-Indigenous people expressed towards the notion of apologising caused a great deal of distress.

Coping with the responses from government

When Howard didn't apologise, this was heart breaking for many, a harsh dismissal.

Indigenous Liaison Officer, North Queensland

We found the reaction of Indigenous people to some government responses following the release of *Bringing Them Home* was, predominantly, one of intense disappointment mingled with great sadness and anger. People frequently expressed the view that the Australian Government had simply dismissed, and attempted to discredit, the Report. This gave an impression that the truth was being avoided and that the experiences of many Indigenous people in this country were discounted and belittled. Many saw the lack of what they considered to be an appropriate federal government response as indicating a determination not to do anything that may seem to show any understanding or compassion for Indigenous Australians.

We encountered a strong belief that, at the very least, symbolically, an apology from the Prime Minister on behalf of the nation would have demonstrated leadership committed to bringing Indigenous and non-Indigenous people of Australia closer together. Many thought that the Government was content for Indigenous issues to be misunderstood by the public even though this was highly detrimental to community well-being and the reconciliation process.

There were, as always, different readings of events. Some people felt that the Prime Minister's personal apology was a step in the right direction. The predominant response, however, was an amalgam of disappointment, anger and hurt. Many stated that the Government is comfortable to fully acknowledge the weight of other terrible events in our history, yet appeared to dismiss the removal of Indigenous children as merely an unfortunate occurrence of the past. Justification of the intentions behind the policies of separation seemed to outweigh any acceptance of responsibility on behalf of the Australian State for the actual effects of these policies and the devastation caused to the lives of so many Indigenous children and their families.

The word sorry still needs to come from the top. What's mostly required is attitudinal change.

Educational Executive Officer, Adelaide

A New South Wales social worker commented that for many Indigenous people, the Prime Minister's response had caused great distress, and was very disheartening. She said that people would call her and say things like 'what's the point of going on?'

It was commonly reported that feelings about the Federal Government's refusal to give a national apology were focussed quite personally and directly on the Prime Minister, despite broad media coverage of similar views by others within and outside government. Yet others conveyed that they were less concerned about the Prime Minister's reactions than those in the community in which they lived. It was expressed that local responses are equally as important as national ones, and in fact, more relevant to their lives. Some people said that they would not allow the lack of an apology from the Prime Minister to enable non-Indigenous people to negate their personal responsibility to take action.

Public debate about the lack of a national apology by the federal government made it extremely difficult for Indigenous people working in government positions. They reported that elders in their communities expected them to make the Government 'see sense'. For many of these people, trying to be balanced about what action to take as well as endeavouring to educate their colleagues, has taken its toll.

The recent and current political climate has interfered with the impact that the report could have had ... The political backlash has been detrimental.

Educational Executive Officer, South Australia.

There is a pronounced sense of 'too much buck-passing' about the Inquiry's recommendations between the State and Commonwealth levels of government. Both appear to be waiting for the other to take decisive action and set a standard. One man said he is feeling like a political football: as though the life chances of his family are dependent on the whims of politicians.

Paradoxically, Indigenous people advocating change within bureaucracies have found themselves criticised for being too 'political', and this has been a more prevalent response since the release of *Bringing Them Home*. Nevertheless, most Indigenous people interviewed thought that politics and responses to the issues raised by the Inquiry and recommendations are closely intertwined.

You can't separate politics and healing.

Psychologist, Western Australia

...nothing much has changed yet.

Community Member, North Queensland

Many felt the slow progress towards any tangible results for communities was directly due to the political climate. Workloads of agencies that deal specifically with Indigenous clients have definitely increased in areas dealing with forced removal and identity matters.

Worries about how counselling services will be set up once funding is distributed are widespread.

In general, scepticism towards the Federal Government's attitude, and doubts about the implementation of the recommendations of the Inquiry, sum up the mood of the Indigenous people who were interviewed.

The total Government approach to all Indigenous issues makes life difficult. \$63 million over 4 years is only replacing what this government has already removed from other Indigenous programs. The criteria for funding mean that people who need it won't get it.

Community worker, South Australia.

The state of people's well being

The public hearings were difficult - personal business became public property.

Community Activist, Northern Territory

As soon as people had participated in the hearings, they were left feeling depleted - they gave of themselves, went back in time and now it's supposed to be over.

Community Health Education Worker, Northern Territory

Despite the positive results we have noted, there were those who felt that in the twelve months or more since the release of the Report, the well-being of the Indigenous community has been depleted. While there was great excitement and joy experienced initially in the reunion of families, the longer term complexities of reunions were often traumatic. We heard of siblings who felt little or no connection with each other, particularly when they have spent their lives identifying their backgrounds differently. This is especially true for some Aboriginal and Torres Strait Islander people who are fair-skinned and who may feel isolated from their home community. Given that the light colour of a child's skin was a criteria for removal, this is not an uncommon experience. Some of those we spoke with explained that they coped well for a time, then unexpectedly broke down months later.

People spoke of their experiences at the Inquiry as including awkward moments - re-united families not knowing exactly what to do, whether to shake hands or embrace, trying to fathom the intimacy of their relationship with people who were effectively strangers. Others spoke of Sorry Day as being difficult, and compared it to the unveiling of child sexual abuse or domestic violence. There was an intense sense of public exposure and vulnerability.

Grief and loss are inadequate words for what people experience.

Psychologist, Western Australia

The destructive long term effects on Indigenous people removed were operative long before the Inquiry brought them to attention: identity problems in particular are recognised to have repercussions in other areas such as mental health.

It's hard to pass on an identity to your children if you don't have your own identity sorted out.

Aboriginal Educational Project Officer, Western Australia

Although there was already acknowledgment that many Indigenous Australians suffer from anxiety and adjustment disorders, substance abuse, cognitive impairment in older people and conduct disorders in children, the fresh attention given to these matters since the release of the Report has affected Indigenous people deeply. Rather than alleviating these problems, the release of *Bringing Them Home* has, in some cases, had the effect of exacerbating them.

Depression, premature death, mental anguish - all common results of removal policy.

Community Health Executive, Western Australia

The process of emotional and psychological healing is not an easy one and it is compounded by the financial hardship people can suffer when these difficulties are brought to the surface. The longer term effects of the Inquiry and subsequent events has in some cases resulted in people leaving employment for extended periods.

One manager described the effects she had seen on Indigenous staff around her. Since the Inquiry, there have been many workshops, seminars and community meetings where people have had the opportunity or been encouraged to tell their personal story. Not everyone has been able to cope after these public forums. There are examples of people taking leave without pay, some have resigned because they are suffering depression, and others have resorted to substance abuse in an endeavour just to keep going.

A significant impact on Indigenous communities has resulted from the responses of the wider community to *Bringing Them Home*. In parallel to the feeling of support, there has been a deep sense of surrounding indifference, even hostility. Greatest disappointment was expressed at the dismissive response that emerged from certain sections of the community which seemed to expect Indigenous people to put everything behind them as if it had never happened, in blunt terms, to stop exaggerating and complaining.

People who gave evidence to the Inquiry were dismissed, judged, discredited. It is so important that those people have their experiences validated.

Social Worker, New South Wales.

Ambivalence towards well-meaning non-Indigenous approaches

A more complex response, heard repeatedly everywhere we visited, concerned reactions by non-Indigenous people which were perceived by Indigenous people as patronising. In their desire to be involved, some people it was said 'have gone overboard', resulting in embarrassing moments. Not everyone feels comfortable with intimate emotional expressions from strangers. In general this is regarded merely as a teething problem, but it demands patience, sensitivity and some restraint from all concerned.

Reactions to Sorry Day and the reconciliation process were profoundly ambivalent. While some people found them a source of encouragement, others strongly disagreed and considered that no reconciliation is possible until a national apology is made. The backlash experienced due to Sorry Day received wide media coverage. The case of a mother keeping her child home from a school where

some activities were held was frequently mentioned. There was also a strong feeling that non-Indigenous people thought that once Sorry Day was over, then that was that. Many Indigenous people see the need for both Sorry Day and the reconciliation process, but recognise them as being fraught with the potential for superficial gestures. Until there is a genuine appreciation of the responsibility which goes with saying sorry and a substantial basis for reconciliation founded on the effective protection of Indigenous rights, both will continue to be viewed with a significant degree of scepticism.

The needs that have still to be met

It's wrong to get people to talk about their pain without a process in place to help with the healing.

Counsellor, Western Australia

People had many suggestions when asked about services to deal with the situation as it is now. It was emphasised that funding agencies and service providers should recognise the value of community-based activities. Community initiated support groups are valuable in many ways. Local community-based initiatives save service providers time and resources while meeting needs suited to the particular circumstances of different Indigenous groups. Suggestions were made regarding ways in which practical support could be provided, for example, taking elders out on tours to significant places where they can share yarns, have a laugh and thus undertake their own healing and consolidate cultural traditions eroded by separation policies.

The training of Indigenous staff to manage existing programs was considered to be too limited, especially where this training merely seeks to prepare Indigenous people to work within conventional structures and methods. It was considered that services would be greatly improved if those currently available were better co-ordinated and more complementary. The need for more effective communication between service providers, both Indigenous and non-Indigenous, was also widely expressed.

The lack of appropriate services to address mental health issues was identified as an urgent matter. It is critically important to recognise the relationship between forced removal and inter-generational problems. A mental health worker working with young Indigenous people believes most of the issues his client group are dealing with - especially those related to depression and suicide - stem from problems their parents had. Many of their parents were affected by the policies of forced removal. He said that addressing the needs of only part of the family unit is problematic as the impacts cross generational boundaries. The requirement of confidentiality was also emphasised.

It does not matter how much you do for the individual, if they are going back to a home that hasn't secured wellbeing for itself, all the work of months can be undone overnight.

Youth Mental Health Worker, South Australia

The design of support services is seen to be a distinct concern. Several people interviewed suggested that leadership should be sought among those who had a direct experience and understanding of the issues raised by removal and separation.

A Community Health Worker observed that healing comes in many forms and it is vital that all options are considered. He gave the example of people who have been searching for their history, visiting places of significance to their family. For many, healing has come through re-establishing these connections. He believes the facilitation of such opportunities would be a useful exercise for anyone in human services programs to address. Such activities are simple, direct and bridge the gap resulting from interference with cultural and family continuity.

Link-Up

There were more calls in 6 months to Link Up NSW after the launch of the report relating to crisis and suicide than there had been in total over the previous 18 year period. It brought the issue to the fore.

Former Public Relations Consultant, Link-Up, New South Wales

Without exception, funding to Link-Up programs was an area of intense concern. There is simply not enough staff in Link-Up structures to deal with the increased demand since the release of *Bringing Them Home*. The nature of the work takes its toll on the Indigenous workers in these programs. In some regions, Link Up was already overworked before the release of the report. While further funds have been committed to support the organisation, it will not meet the increased demand for assistance.

A place to go

Land is the most important thing - we need to have somewhere to bring people home.

Community Member, South Australia

There are very strong feelings about the recognition of relationships to land for those who were removed from their communities. It was felt that the recent amendments to the Native Title Act 1993 made insufficient provision for the specific needs and rights of the stolen generations.

Native title is a complex field integrating the interests of Indigenous and non-Indigenous people, but it is often forgotten that it is also complex at the personal and community level. The community workers we met with spoke of the number of people they come across who feel that they can never return to their traditional lands because they cannot be sure which community is theirs or they fear exclusion and are afraid of the difficulties in re-establishing connections to their people and traditional country.

In some cases, those wanting to return home are seen as a threat by traditional owners - there is suspicion as to their influence, coming as they do from a very different background, which is precisely what the policies of assimilation sought to promote. It is suggested that a dialogue needs to begin between the various Aboriginal Land Councils, Representative Bodies under the Native Title Act and representatives of the stolen generations so that understanding can develop and progress made. This was a view shared regularly in the Northern Territory and in Queensland. Though there are examples of Indigenous people who have been welcomed back with open arms to their traditional land, not all people are confident they will get the same reception.

The importance placed on land by those removed from their families and communities is profound. It is their 'homeland' in every sense of the word. Yet the Native Title Act 1993 allows only the most minimal accommodation of the effects of removal and the dislocation of entire communities. The registration of a native title claim requires the claimant group to demonstrate a current 'traditional physical connection' with the land claimed. This is an essential condition, save where it can be established before a Federal Court judge that:

S.190D(4)(b) at some time in his or her lifetime, at least one parent of one member of the native title group had a traditional physical connection with any part of the land or waters and would have been expected to have maintained that connection but for things done ... by:

- (i) the Crown in any capacity; or
- (ii) a statutory authority of the Crown in any capacity; ...

It is conceivable that the interruption of physical connection to land through the removal of children could be tempered by this provision. Prima facie proof of native title rights would also be required. The outcome would remain a matter for judicial discretion.

Personal compensation

Although personal compensation will remain on the agenda for many people, it is not in the forefront of the minds of all Indigenous people. There are non-Indigenous Australians who are uncomfortable with the recommendations concerning compensation. Clearly that does not undercut their validity or importance. Nor do the judgements made in parts of Australia, that money is the prime motivation behind telling the stories of forced removal, lessen the belief that compensation is warranted as a plain matter of justice. It was acknowledged that no amount of money could ever provide adequate compensation. However, that is no justification for not addressing the issue.

The way forward

As to the future, our greatest desire and intention is to have our voices and views heard and understood by the Australian community. They felt that ultimately it is the way in which Indigenous and non-Indigenous Australians relate to each other in a positive way now which will resolve the manifold effects of forced removal. The stories told to the Inquiry will take their rightful place in the history of this country. The main objective is to make improvements in the well-being of Indigenous communities today, which will flow on to future generations.

The Inquiry and *Bringing Them Home* have had a profound impact in showing the wider community the experiences which have shaped the lives of Indigenous Australians. Many have listened to personal stories and have absorbed their full implications. These stories reach back into the past but their real significance is in the present.

This chapter has tried to give some sense of the complexity of the repercussions of a process started by the Inquiry. It is flecked through with distress, relief, expectation and doubt. It has both healed and opened wounds.

The relationship between Indigenous and non-Indigenous Australians is under pressure, influenced greatly by the recognition of rights to land in accordance with distinctive Indigenous laws and customs. Native title has thrown up exacting questions about the history of Australia and the present enjoyment of Indigenous rights. In many ways the separation of Aboriginal and Torres Strait Islander children from their families mirrors and intensifies these questions. They cannot be avoided and will not be resolved without understanding and respecting both the human experience and the human rights of Aboriginal and Torres Strait Islanders.

Acknowledgments

Throughout this chapter we have presented the views of Indigenous people from different parts of Australia. We thank them for sharing with us their opinions, hopes and disappointments. We know that the journey of healing for Australia, begun in 1997 with the release of *Bringing Them Home*, remains largely incomplete. We can only trust that in the future all Australians will contribute to the work necessary to achieve a resolution that will nourish our country.

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Chapter 2: Non-Indigenous community responses

You would be hard pressed to find a newspaper, television or radio station that did not make mention of Sorry Day activities and National Reconciliation events over the past week.

But it is not until you put a human face to the issues, speak to someone to whom these events are all-important, that they become more than politically correct rhetoric.

Faye Moseley, elder of the Darkinjung Local Aboriginal Land Council, is one such woman. She opened her speech at Kurri Community Centre on Sorry Day with the words: 'I am a stolen child'. Suddenly the label had a face.

She asked the crowd to consider the importance of history to peoples all over the world.

'History is a very important part of culture,' she said. 'It doesn't feed us, or provide us with shelter. It doesn't keep us warm at night and it has little practical use, yet people in every culture in the world value their history.'

For Faye, history is the stories people of all nationalities tell the next generation to explain who they are, where they come from and why they are here, about pride and self-esteem, battles lost and won, hardships and survival.

'Those who forget the past are condemned to repeat it.'

Emilie Manning, 'Helping to put a face to need for reconciliation', *The Maitland Mercury*, 5 June 1998, p. 4

Radical though it may be, I respectfully suggest to the House that an Aboriginal man and an Aboriginal woman be invited to a joint sitting of this parliament to tell their stories of unimaginable pain and anguish that too few Australians have heard and even fewer understand. The reason I suggest that is that, like that young member of the Liberal Party who told me that he thought this was all a load of nonsense until he actually heard it, I think there are many people in this place who actually have to hear these stories told, not through the prism of some of the activists in the reconciliation movement but by the very people who lived this pain. The symbolism would be powerful, and it might just play a catalytic role in healing wounds deeper than the current national psyche can allow to easily heal.

Dr Brendan Nelson, Federal Member for Bradfield, extract from debate in House of Representatives, 2 June 1997, p. 4597, GRIEVANCE DEBATE

Twelve months on since the release of *Bringing Them Home*, we can look back at the public debate on the forcible removal of Aboriginal and Torres Strait Islander children from their families, and reflect on the impact of the Report and its implications for future understanding of issues affecting Indigenous Australians. For the non-Indigenous community, *Bringing Them Home* has challenged how we define ourselves and our country as Australian. For many people it has meant a questioning and often a denial of our contemporary responsibility as a nation; a reassessment of what we were taught about our country's history; a challenging of former and present leaders and decision-makers; and a greater awareness of our collective legacy.

There have been distinct patterns of debate since the launch of *Bringing Them Home*, such as whether individuals and our national leader should apologise; whether there should be a national Sorry Day; the understanding of words such as 'guilt' and 'shame'; the Inquiry's finding of genocide; the issue of compensation and reparation; the intersections with debates about native title and reconciliation; and the reassessment of Australian history and identity for which the Inquiry was viewed as a catalyst.

This chapter does not seek to revisit or justify elements of the Inquiry or *Bringing Them Home*. Rather it explores the diversity of responses by non-Indigenous Australians over the 12 months since the Report was released. Using letters to the editor and media reports of events in major and regional newspapers as the primary sources, this chapter canvasses the variety - and often the similarity - of reactions to what became widely known as the stolen children or stolen generations Report.

From the time *Bringing Them Home* became public property, many individuals and groups have spoken out to acknowledge, to apologise and to attempt to address publicly the injustices experienced by Indigenous Australians. This has been a community movement, played out in regional and national media, influencing public debate about Indigenous issues, as well as our Australian identity for decades to come.

Even before *Bringing Them Home* was tabled in Parliament, the existence of the Inquiry itself and its background research and hearings began the process of non-Indigenous Australians learning what Indigenous communities have always known: that generations of Aboriginal children were forcibly removed and alienated from their families under past laws, policies and practices, specifically because they were Aboriginal. Over the last 30 years there has been an increasing awareness in the non-Indigenous community of injustices experienced by Indigenous people. The strong reactions to the findings of the Inquiry were not so much based on an inability to conceive that such events took place but at the vast scale of forcible removals and the often abusive experiences of those taken from their families.

Reactions have ranged from outrage and sadness to disbelief and dismissal of the findings of the Report. Many non-Indigenous Australians could not understand how such events could ever have taken place in this country, while others strongly defended the actions and intentions of those who sanctioned the forcible removal of Indigenous children. Some people felt that the Report dwelt on the past, and others believed that the Inquiry had only focused on negative experiences of removal. Overwhelmingly, however, non-Indigenous Australians have gained an unprecedented insight into the legacy of institutionalised racism for Indigenous Australians.

From many younger Australians, or those born overseas, came a questioning of those who were able to remember Aboriginal children being taken from their families of ‘how could you not have known?’, or ‘why didn’t anybody do anything to stop it?’.

Drusilla Modjeska, the Australian writer who migrated to Australia with her family in the 1960s, spoke at the 1997 New South Wales Premier’s Literary Awards about her experiences at a Women for Wik meeting in Sydney in July last year. Although a group formed primarily in response to the ten point plan in the wake of the High Court’s Wik decision, this community action group, like many others, saw the issues of native title and the stolen children as inherently enmeshed.

When we left the meeting, the friend I was with, who had grown up here in the fifties, said that she was thinking of all those Germans who kept saying they didn’t know anything. She says she remembers, a wispy sort of child memory, that she did know, and when she enquired she was told ‘oh well they’re orphans’, or ‘they’re neglected’, or ‘they’re getting an education’. (p. 4)

... the moment at which I felt an acute kind of personal shame, or perhaps I should say the moment at which I felt the stir of history, as if a dark bird had flown over me and I’d been cast in its shadow, was when Jean Carter spoke of being born on the salt pan at George’s River. I felt it as a shock: the enormous disjuncture between her Sydney and mine. And I felt it most uncomfortably when she and Marlene Wilson both talked about being taken to Bidura Children’s Home in Glebe where they were dipped in lye and had their clothes removed with tongs; and when they talked of walking along Glebe Point Road calling out to the boys in their crocodile on the opposite pavement for news of their brothers.

I lived in Glebe when I first came to Sydney, twenty five years ago now; I was a student on the then generous Commonwealth Scholarship, with no need to work anywhere other than in the library. You could still rent a room for ten dollars, food was cheap, it was the seventies, we all had heaps of love affairs and nobody locked their back doors. Glebe was heaven. To me. And almost certainly to the kooris who lived on Blackwattle Bay in 1787. But not to the children in Bidura which was there when I was a student; we walked past it, smooching along with books under our arms. And it certainly wasn’t heaven for Jean Carter and Marlene Wilson who were there not so many years before, for no other reason than the colour of their skin, separated from family, mother, culture, land.

It is a shameful story, and we all feel it in different ways. I felt it that day as if another map had been laid over streets I’d mapped for myself in the most egocentric and naive of ways. (p. 5)

... All of them, all of you, all of us, are mapping and remapping our streets, our country, our past. (p. 6)

Whether non-Indigenous Australians need to re-learn, or to re-map, the history of their country, and how they should go about doing that, has been widely debated since the release of *Bringing Them Home*.

Many Australians have denied the need to substantially re-evaluate the balance of Australian history. There have been protests against the incorporation of the history of forcible removal of Indigenous children into school curricula and to the commemoration of a national Sorry Day. The process of acknowledging, apologising and making reparation to those Indigenous people affected has been regarded by some as a betrayal of conventional heroes and their achievements: an unhealthy dwelling on negative aspects of Australia’s past, or privileging a ‘black armband view of history’.

Yet remembering and commemorating Australians who have suffered in the past is by no means an alien concept in this country. Reluctance to acknowledge and pay respect to the stolen children then is quite inconsistent with the clear support given to the importance of understanding the past in informing the present in relation to other issues.

Shortly after the tabling of *Bringing Them Home*, the Minister for Veterans’ Affairs, Queensland National MP Bruce Scott, speaking about the depiction of Australian prisoners of war in the film ‘Paradise Road’, said:

We must never underestimate the importance of telling history as it really was. ... Current and future generations of Australians need to understand history. It is only through the accurate recording of history that we will ensure that it never happens again.

Ian McPhedran, 'Minister's history lesson irks ALP', quoted in *The Canberra Times*, 6 June 1997, p. 6

There has been much debate about whether or not *Bringing Them Home* was an 'accurate recording of history', particularly as a result of viewpoints published by certain social commentators.⁹ However, there was little contention that past laws, policies and practices which forcibly removed Indigenous children from their families have not been part of Australia's official history, and that there were events that took place that should never be allowed to happen again. While a distinct strain of response to the Report was to contextualise the policies of removal in the values of the times and to extenuate the extent of damage done, there developed an increasing awareness throughout the non-Indigenous Australian community concerning the importance of acknowledging and apologising for Indigenous suffering.

I am sure every parent must have some sympathy for families that were broken up in this way. There are many other ethnic groups of people living within the community that have had terrible wrongs done to them in the past.

But Aboriginal people are the original indigenous population of Australia and it would be a good move towards reconciliation to admit that they as a people have suffered.

The situation that saw children removed from their parents is not the fault of individuals today and Aboriginal people should understand that many white Australians have not been told the truth about our history as a country.

Deborah Botica, 'Healing the wounds of the past', *Kalgoorlie Miner*, 19 June 1997

The personal stories in *Bringing Them Home* of the experiences of Indigenous people who had been taken away from their families became living history, the voices of proof. It is perhaps one of the most important repercussions of the Report that an environment was created for Indigenous Australians to speak directly of their experience to other Australians.

Through personal contact with Indigenous people who had been taken from their families, many non-Indigenous Australians in the 12 months since the release of *Bringing Them Home* began to gain a better understanding of the discrimination experienced by Indigenous people, and an insight into damage done by policies based on racial stereotypes which reinforced and perpetuated the very stereotypes underpinning these policies.

This writer should declare an interest. At primary school, my best mate was a boy called Peter. We sang country songs as a duo, and spat on our hands and told each other we'd always be brothers. But one day, he disappeared. The next time I saw him, many years later, he was an alcoholic. In the intervening years, he had been taken from his family, fostered to a wealthy city family, placed in a leading private school and given the benefit of social opportunity.

When he came back, finally, he had little in common with the brothers and sisters he hardly knew, and his mother was dead. And he was still an Aborigine, unable to fit into the white world that had been fitted around him, and which still did not accept him as an equal. Like many thousands of others, he sank his loneliness and his grief and his anger in a bottle.

Tony Wright, 'For Pete's sake, it's time to right the wrongs', *The Sydney Morning Herald*, 21 May 1997, p. 5

The approach which justified removal of Aboriginal children from their families - that it was 'for their own good' - continued to prevail in some comment on this issue. This rationale has been strongly

⁹ For example, see Brunton, R. 'Betraying the Victims: the 'stolen generations' Report', *IPA Background*, February 1998, Volume 10/1; and McGuinness, P. P., 'We need a closer look at the stolen children', *The Sydney Morning Herald*, 5 March 1998, p. 17.

repudiated by historical analysis and recorded personal experiences that show the main principle behind the removal of Aboriginal and Torres Strait Islander children was not concern for the individual child's well-being. The majority of children were removed because they were Indigenous. It was thought that Indigenous peoples of Australia were a 'dying race', and that children of 'mixed descent', particularly those with fairer skin, could be assimilated into the broader community.

However, most Australians - as a child or a parent - readily understand that, irrespective of race, the effects of past policies and practices which removed Indigenous children from their families were harmful and misguided. In the debate about the Inquiry's finding of genocide and the use of words such as 'shame' and 'guilt', there was a strong empathy for those Indigenous Australians who were deprived of the right to grow up with their family, and whose experiences had for so long had been silenced.

There was an immediate public response to the stories of *Bringing Them Home* from individuals all over the country who felt compelled to comment, to express their own perspectives, and to apologise.

The mail has become much easier to sort. Two piles - one for the broad topic of Aboriginal and race letters, and the other for The Rest (the latter being comparatively few). Wik and Mabo were knotty subjects. They could be discussed in terms of principle but many found it difficult to come to grips with what the court rulings would mean in practice.

No such difficulty arises with the 'Stolen Children'. Every parent can understand the aching void of having a child snatched from you. Everyone can imagine what it would be like not knowing who your blood family was or where to find it. There were no legal niceties in the letters, just words from the heart. Space prevents us publishing the many individual apologies from those who feel beholden to do so in the absence of a figurehead apologising on behalf of the nation. We have given the gain-sayers (they constitute about 1/8), those who have tended to say the separations were a good thing in the long run, a disproportionate representation on the letters page.

Geraldine Walsh, Letters Editor, 'Postscript', *The Sydney Morning Herald*, 2 June 1997, p. 16

Overwhelmingly the initial response to *Bringing Them Home* was one of empathy and sorrow. Many non-Indigenous people felt compelled to express their opinions and emotions in an unprecedented and public way. There were those people who maintained the line that Indigenous children had benefited from being removed from their families and communities, and this perspective, as noted above, was given due attention in the media coverage of the debate. However, the clear majority of opinions expressed in the major and regional newspapers were in favour of an apology to Indigenous people.¹⁰

Media coverage

There is no doubt that the findings of the National Inquiry generated a substantial amount of public interest and debate reflected in widespread and sustained media coverage. The high media interest in *Bringing Them Home* has not been restricted to Australia.

The Federal Government has failed to understand the impact of issues such as the stolen Aboriginal children or Pauline Hanson on Australia's image abroad, according to international media services.

Wire service Reporters have been run off their feet filing stories on race issues with a particular focus on the stolen children and Pauline Hanson. Those stories have the potential to reach up to two billion people. According to the Canberra correspondent with the Associated Press [a major international agency], Alan Thornhill, the stolen children story was the biggest of the year.

Ian McPhedran, 'PM not in the foreign affairs race', *The Canberra Times*, 3 June 1997, p. 2

¹⁰ For example, see also 'Most back apology, says poll', *The Advertiser*, 16 June 1997, p. 4; and Mervyn Smythe and Associates, 'An analysis of the media coverage of *Bringing Them Home: The Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*', conducted for the Human Rights and Equal Opportunity Commission, funded by the Australian Institute for Aboriginal and Torres Strait Islander Studies, June 1998.

A detailed analysis of the media coverage of *Bringing Them Home* after tabling¹¹ considered the attitudes expressed in the print media, (editorials, columns, opinion pieces, feature articles) in handling this issue. In particular, it included an analysis of the proportion of media coverage of the issue that was supportive, and the extent to which the media considered the conclusions of the Report proved rather than controversial or open to question.

The role of the media in shaping or reflecting public opinion is always arguable. However, there is a defining role that daily newspapers across the country play in raising awareness, informing readers of different perspectives, making comment and providing a public forum in which the issues are discussed.

the probability of achieving the objectives of educating the public, and creating a higher level of sympathetic awareness to a problem or situation within the community, will be greatly enhanced if the material contained in the media Reports is sympathetic to the subject and indicates that a high level of credibility can be placed on the information being conveyed, and on the organisation and persons conveying that information.

Newspapers surveyed for the media analysis were the *Australian/Weekend Australian*, the *Sydney Morning Herald*, the *Daily Telegraph*, the *Canberra Times*, the *Age*, the *Herald Sun*, the *Courier-Mail*, the *Advertiser*, the *West Australian*, the *Mercury*, and the *Australian Financial Review*.

All the newspapers examined carried editorials on the subject, often more than one. All agreed that the assimilation policies were a blot on Australia's past, virtually all called for a formal apology, and most were critical of the Prime Minister when he gave only a personal apology at the Reconciliation Convention. ...

Many papers editorially had trouble with some aspects of the Report, such as the use of the word 'genocide' to describe the separation policy, and the subject of compensation. However, there were many articles on the opinion pages which supported, often very strongly, these elements of the Report.

Most of the writers - full-time journalists, regular columnists, and people who contributed articles due to their expertise or interest in the subject - were sympathetic towards and supportive of both the Report and the adverse effects that forcible removal had on Indigenous people.

Across the newspapers over the period which was analysed, the great majority of writers of comment and opinion pieces accepted the truth of the material in the Report, welcomed the bringing to light of the events described, supported the idea of a formal apology and were critical, often scathingly, of the Prime Minister when it was not given.

Many commentators also made the connection between understanding and acknowledging the past forcible removal of Indigenous children and current issues such as health, housing, education and reconciliation.

The inquiry was needed to give the nation a better understanding of the continuing social consequences of forced removal of children from their families. The evidence and the Report show that governments routinely broke up families, disrupted the continuity of Aboriginal heritage and created lost generations of adults without awareness of their identities. ...

The best compensation governments can offer to Aborigines is effectiveness in helping them to overcome the shameful disadvantages in health, education, housing and employment that make their communities the most deprived in the nation. This is not a matter necessarily of more money, but of political will and determination. A commitment by the Government to achieve significant improvements should be part of the negotiations for reconciliation.

Editorial, 'Aboriginal progress is the answer', *The West Australian*, 26 May 1997, p. 12

¹¹ Mervyn Smythe and Associates, 'An analysis of the media coverage of *Bringing Them Home: The Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*', conducted for the Human Rights and Equal Opportunity Commission, funded by the Australian Institute for Aboriginal and Torres Strait Islander Studies, June 1998.

The Prime Minister's speech at the Reconciliation Convention after the tabling of *Bringing Them Home* was a catalyst for much media debate:

Personally I feel deep sorrow for those of my fellow Australians who suffered injustices under the practices of past generations towards indigenous people. Equally I am sorry for the hurt and trauma many here today may continue to feel as a consequence of those practices.

In facing the realities of the past, however, we must not join those who would portray Australia's history since 1788 as little more than a disgraceful record of imperialism, exploitation and racism. ... Australians of this generation should not be required to accept guilt and blame for past actions over which they had no control.

John Howard's speech to the Reconciliation Convention, quoted in *The Australian*, 27 May 1997, p. 1

The problem with such a conditional expression of sorrow is that the practice of removing children from their parents is not something which was done in the dim, dark past, but something which was pursued as government policy until very recent times. The Stolen Children are still with us, except now they are adults who were deprived of their childhoods, their parents, their extended families and their culture. This is not ancient history. And there is no convenient moral statute of limitations for culpability over what was done.

Editorial, '30 years on and still no reconciliation', *The Canberra Times*, 27 May 1997, p. 8

There is little point in Mr Howard's comments of Monday that 'Australians of this generation should not be required to accept guilt and blame for past actions and policies over which they had no control.' There is little to be lost from issuing an unconditional national apology for undoubted past wrongs which linger in their effects today. Rather than looking backward, this would provide a foundation from which to base a national commitment to cooperatively address current problems.

Editorial, 'The business of reconciliation', *Australian Financial Review*, 28 May 1997, p. 22

The issue is not, at this stage, about compensation. It is about expressing white society's apology that, for most of this country, many Aboriginal children and their parents were treated as little more than convenient breeders.

It would be a marvellous act, a sign of true white concern rather than mean spirit, if the Parliament of Australia could find the words to frame an apology for those deeds. Then both sides, black and white, could get down to real negotiations with the assurance that printed in the Hansard, for current and future generations, was one government clearly stating that past actions were wrong.

Editorial, 'The value of making an apology', *The Advertiser*, 3 June 1997, p. 10

The Federal Government's Reported offer of \$50 million to the Aboriginal community is an unsatisfactory response to the tragedy of the 'stolen generations'. It is a minor amount in the context of government expenditure and, although welcome, meaningless against the backdrop of generations of suffering.

The lesson of the past 25 years is that the problems that beset the indigenous people of Australia cannot be addressed by money alone. If that were the case, the massive amounts spent over recent decades would have given indigenous Australians the same standards of health, happiness and opportunity enjoyed by all other citizens. ...

Some of the language surrounding the 'stolen generations inquiry' and its revelations has been unnecessarily emotive and difficult to digest for many Australians who played no role in the events of previous years. Accusations of genocide and the liberal use of words such as 'shame' contribute nothing to sensible discussion and do nothing other than offend white Australians and drive some of them into the arms of extremists.

However, it is idle to pretend that great wrong was not done to Aboriginal children removed from their families: at most times with the very best of motives. The policies of yesteryear were harmful but they were well-intentioned, if crude, attempts to give Aboriginal children a chance to advance themselves in white Australian society. There is no reason for Australians of today to feel or express sentiments of

shame. The same arrogant assumptions led to the removal of many white children from their families and their subsequent adoption.

However, that should not preclude us, through our Prime Minister, from acknowledging those wrongs of the past, accepting that good intentions can have unforeseen tragic results, and expressing our apologies. Anything less would demean the \$50 million to be offered by Mr Howard and be a betrayal of the 'stolen generations' and generations of Australians to come.

Editorial, 'Stolen Generations deserve apology' *Courier Mail*, 15 December, 1997, p. 10

The Prime Minister continued his stance on an official apology throughout the community debate leading up to Sorry Day on 26 May, 1998, and maintained the distinction between addressing concrete issues such as health and housing and the symbolic act of apologising.

Prime Minister John Howard will today announce a \$10 million expansion of the Army assistance program for remote indigenous communities.

The announcement coincides with the start of Reconciliation Week and follows the Government's rejection of National Sorry Day.

Instead Mr Howard repeated his commitment to Aboriginal health, housing and education and today will double funds to a program he believes reflects this approach.

'It is the view of my Government that a formal national apology of the type sought by others is not appropriate,' he said.

Helen McCabe, 'Reconciliation not sympathy: PM', *The Mercury*, 27 May 1998, p. 19

An apology

Much of the debate since the release of the Report has focused on whether or not non-Indigenous Australians should apologise to Indigenous people stolen from their families, and in particular, whether the Prime Minister should have offered a national apology. The manner in which the Prime Minister delivered his speech at the Reconciliation Convention in May 1997 sparked controversy, and made him a personal target in the debate.

The strong feelings about the Australian Government's response to *Bringing Them Home* should not begin and end with a particular individual. The issues are wider and more fundamental. There were, for a variety of reasons, many other Australians who supported the Prime Minister's refusal to apologise as elected leader of this country.

Acting in his capacity as Prime Minister an official apology presented at the Reconciliation Convention may have reshaped the environment of debate about this issue. As it was, debate became sharply polarised over the issue of an apology, and of a day of commemoration.

This polarisation represented a loss in many ways. It was not only a loss of a particularly apt symbolic moment, it also obscured the Government's own commitment to concrete action in health, housing, employment and education by presenting it as an alternative to any symbolic gesture of apology. The Prime Minister's position on this was not one of isolation. Other politicians, commentators and members of the public echoed the view that 'practical measures' and an apology were somehow mutually exclusive.

In one of the most significant speeches of his prime ministership, John Howard yesterday laid out a practical program for reconciliation between Aborigines and other Australians. It was a program based on cooperation rather than confrontation, progress in areas such as Aboriginal health rather than ideological grandstanding. ...

Many at the Australian Reconciliation Convention in Melbourne booed and heckled the Prime Minister during his speech yesterday. But many more Australians outside that venue will applaud his commonsense commitment to real change and disregard of superficial gestures.

Editorial, 'Black and white go together', *The Daily Telegraph*, 27 May 1997, p. 10

Many non-Indigenous Australians remained divided over the issues of compensation and reparation, but a great number of people - reflected in part in the level of support of community events and letters to the editor - were united in the understanding of the need for acknowledgement and apology in order to move on, to begin to right the wrongs, and to attempt any kind of meaningful reconciliation.

The reconciliation compromise is assisted by an apology. It is mutually exclusive of nothing else. It reinforces Howard's practical moves to attack disadvantage. It is nonsense to say these approaches are mutually exclusive. ...

The past treatment of indigenous people is, as Sir William Deane says, 'a matter of national shame'. This is the fact; it is the history. Reconciliation is incomprehensible without an acceptance of history. Howard insists that Australia must look forward. But Australia cannot look forward until it confronts its past. The reality is that many Australians are unaware of this history or don't want to confront it.

Paul Kelly, 'Say sorry and heal the gash', *The Australian*, 28 May 1997, p. 13

South Australians have endorsed calls for a formal apology to the Aboriginal 'stolen generation' - but have backed away from compensation.

An Advertiser survey has shown that while 38 per cent of respondents do not believe apologies are necessary, a 58 per cent majority supports apologising to the stolen children. But only 16 per cent of those people believe compensation should be paid. Four per cent were undecided on the issue.

The poll of 400 voters, conducted on Wednesday night, comes two weeks after State Parliament formally apologised to the stolen children and their families for government policies until the 1960s that saw the removal of Aboriginal children from their homes.

The survey showed more women (65 per cent) than men (52 per cent) believed an apology was necessary. By age group, about 80 per cent of respondents aged between 18 and 39 believed apologies should be made, and 40 per cent of 18 to 24-year-olds also calling for compensation. In contrast, 49 per cent of people aged over 55 did not think apologies were needed, compared with 47 per cent who did.

'Most back apology, says poll', *The Advertiser*, 16 June 1997, p. 4

As ever, it seems, 'apology' letters prevail over all others...

Geraldine Walsh, Letters Editor, 'Postscript', *The Sydney Morning Herald*, 29 December 1997, p. 8

Shame/guilt

A core issue in people's feelings about whether or not an apology should be made to Indigenous Australians, either on a personal or collective level, turns on the difference between the concepts of shame and guilt. There were those who expressed the opinion that they personally had done nothing wrong, so there was no need for them to apologise. There were many others who felt strongly that publicly recognising collective shame is inherently linked with sharing national pride.

Australia is very much a reflection of the achievements of the past, a treasure trove which generates great pride. No Australian, recounting why they love their country, can do so without drawing on the examples set by the nation's heroes. It is a pride which is part of a nation's heritage is accepted as such. [sic] We do not lay claim as individuals for the achievements which created this pride. This is as it should be. If we can feel pride for the great moments of our past, and celebrate them, isn't it reasonable that we should feel shame at the dark things which occurred?

Feeling ashamed for yesterday's actions by a nation does not mean each individual of today is guilty of what happened. Such an apology does not mean today's Australians can be blamed for shameful events; it means no more than that they are sorry that these events occurred. An apology is required by many of Australia's Aborigines. It is at the heart of the hoped-for reconciliation between black and white Australians.

Mr Howard, at the first national convention on reconciliation in Melbourne, made a personal apology to Aborigines 'who suffered injustices under the practices of past generations'. He should extend the scope of that apology and make it on behalf of all Australians. If Mr Howard cannot make such an apology, it should be made by the Federal Parliament. Australia will be the better for it being offered. Shame and pride are the opposite sides of the same coin. Our pride in our nation will be shared by more people, will be more honest in its expression, will be strengthened, when the shame of the past is openly acknowledged.

Editorial, 'Pride and shame', *The Mercury*, 28 May 1997, p. 18

In the wake of the release of *Bringing Them Home*, there was a sense in many of the letters to the editor in both the major and regional newspapers of Australia being at a crossroads in its national identity. With Wik and reconciliation also being widely debated, there was a demand from many non-Indigenous Australians that these issues be addressed and resolved so that future generations would not have to keep re-visiting them, and that the nation could move into the next millennium united, rather than divided.

Sir Ronald Wilson, who for many came to represent the non-Indigenous face of *Bringing Them Home*, spoke at the Reconciliation Convention about his own journey during the process of the Inquiry, and the personal effect it had on him. In particular, Sir Ronald conveyed the need for responses to this Report to be from the Australian community as a whole, both in acknowledging past wrongs and apologising as fundamental steps towards reconciliation.

Let me speak personally. I have been changed by my exposure to the stories of my fellow Australians, Australians for whom I have now unbounded respect because of their courage, their dignity, their suffering and through it all their generosity of spirit. ...

I knew very little about the stolen children when I took up this inquiry, but as I heard more and more I recognised that the suffering has gone so deep and is still being felt today that the stolen children issue and its healing by a full hearted response from all Australians is fundamental to the success of the reconciliation process.

The laws and policies of non-Indigenous Australia divided the nation. Our denial of that truth, our continued denial of that truth holds the division in place and without our sincere and frank acknowledgment, without a willingness to say we are sorry and to implement that sorrow in deeds, coupled with a longing for reconciliation, we can not find freedom from the shackles of a divided and deeply wounded nation. It is in the national interest that we do so, it's the interest of all individual Australians that we do so.

Sir Ronald Wilson, then President of the Human Rights and Equal Opportunity Commission, speech to the Australian Reconciliation Convention, 27 May 1997

Criticisms of *Bringing Them Home*

As was to be expected, given its subject, there were strong criticisms of the Inquiry, its findings and its Report. It was said that the Inquiry was biased, that it only focused on the negative stories of removal; that it was not representative of most people's experience; that it did not require corroboration of witnesses' evidence; that it judged past legislation and practices by current standards.

The 'stolen generations' hype gives the impression that all those part-Aborigines who were placed in foster care suffered emotionally from the experience. No effort appears to be made to establish the conditions in which they would have been raised in their natural families. ...

Like so many debates today, we receive only the sensational side. The politically incorrect view, no matter how factual, is rarely presented.

Ron Fischer, 'Stolen generations received new life', *Wimmera Mail Times* (Horsham), 16 June 1997.

It is not the purpose of this review of responses to *Bringing Them Home* to engage in debate, to defend the methodology of the Inquiry or the findings of the Report. However certain criticisms were directed to matters beyond the control of the Inquiry: such as its scope.

Why did the Human Rights and Equal Opportunity Commission and the previous Labor government confine the 'stolen generation' inquiry to the fate of Aboriginal children, ignoring the deplorable history of white child migration to Australia?...

It seems to me that children brought to this country by an Australian government scheme and who suffered the horrors and mismanagement of that scheme are as deserving of an apology, monetary compensation and other assistance as Aboriginal children who suffered separation.

Any Report tabled by the Government which fails to address the travesties perpetrated on white as well as black children will be flawed and properly condemned as racially biased, favouring one section of the community - Aborigines - for reasons of political correctness.

Gordon Walsh, 'More than one 'stolen generation' suffered', Letter to the editor, *The Courier Mail*, 27 May 1997, p. 14

The Human Rights and Equal Opportunity Commission did not determine the subject matter of the Inquiry. The terms of reference set by the Attorney-General were unambiguous in directing examination of matters affecting 'the separation of Aboriginal and Torres Strait Islander children from their families'. The rationale for this is clear in that while any child may be separated from its family for a variety of reasons, only Indigenous children have been subject to separation on the grounds of their race.

The failure to prosecute those who may have committed criminal offences against children within their care was another ground of criticism. Yet the Human Rights and Equal Opportunity Commission does not have a prosecutorial function. Where evidence received by the Inquiry disclosed the potential commission of a criminal offence the pursuit of the matter appropriately lay with the relevant State, Territory or Commonwealth police and prosecution authorities.

... Because the issues at stake in the 'stolen generations' inquiry are so important, and because these involve a number of matters of ongoing and heated contention, it was imperative that the Inquiry did everything in its power to ensure that its accounts of past practices and its conclusions were beyond any reasonable question. Otherwise the painful experiences which the Inquiry sought to make known could be easily dismissed or ignored, as could their contemporary implications. But the Commissioners unwisely seem to have interpreted their role as being that of advocates, providing the media with emotive commentaries on evidence as it was presented and indicating that they would be promoting the findings irrespective of the Government's views.

And, unfortunately, anyone who expects to find a rigorous, sober and factual assessment of the past in *Bringing Them Home* will be sorely disappointed. The Report is a most unworthy and tendentious document.

Amongst its many faults, it is poorly argued, it demonstrates considerable intellectual and moral confusion, it applies inconsistent principles at different times so as to create a 'damned if you do/damned if you don't' situation, it misrepresents a number of sources and ignores crucial information, and it readily makes major assertions which are either factually wrong or unsupported by appropriate evidence. It is immaterial whether these defects are a result of a deliberate attempt to distort, or whether they stem from the Inquiry's inability to bring the requisite judgement and analytical skills to its task. When accounts that purport to make people aware of injustices misrepresent events, or omit relevant matters for reasons of partiality, or make unfounded claims, they dishonour the very people whose interests they claim to uphold. *Bringing Them Home* betrays the Aboriginal victims of the past almost as surely as would a Report which attempted to deny their experiences completely.

Ron Brunton, 'Betraying the Victims: the 'stolen generations' Report', *IPA Backgrounder*, February 1998, Volume 10/1, pp. 2-3

In response to Ron Brunton's analysis of *Bringing Them Home*, extracts of which appeared in several major newspapers, there was much discussion about the validity and accuracy of the Report and its political ramifications.

... The tremendous emotional impact of the Report, the fact that it is an attempt to tell a story that Australia long repressed, and that it is a call to the nation to redress a great wrong, all make criticism of the Report difficult and suspect. Yet, precisely because it is such an important step in coming to terms with the past, and in achieving reconciliation, it is important that it be subject to fair-minded criticism. It is not the last word on a difficult and painful subject, but a foundation which ensures that the voices of those who suffered can never again be ignored.

In particular, the Report is not a definitive and rounded treatment of the protection and assimilation eras, and could not have been, given the Inquiry's limited time and resources. Ordinary experience tells us, as indeed the Report itself occasionally hints, that the problems perceived by administrators, the motives which determined their responses, the changing content and practical effects of their policies and practices over the years, and the differences between jurisdictions, were more complex and significant than the Report allows.

It is not my task to review the Report, and my comments are simply to emphasise that it is not as its uncritical champion that I have agreed to review Ron Brunton's booklet, 'Betraying the Victims'.

I would be the first to applaud a critical appraisal of the Report, pointing out its limitations and sometimes excessive pretensions, and seeking to open up and debate some of the important issues it takes for granted. Why then do I find myself angered by 'Betraying the Victims'? To put it bluntly, this booklet is a 'hatchet job' that, quite unfairly, paints the Report as a dishonest piece of work that no self-respecting person would have anything to do with. Far from opening up discussion of the Report, it stifles it, polarising people into being either for or against the Report. ...

The very pomposity and repetitiveness of [the] claims [made in 'Betraying the Victims'] suggest that the purpose is not intellectual but political. ... [T]he thrust of the booklet is not just to join issue on some of the Report's arguments or conclusions, or to correct some alleged errors. It is to damn the Report as unworthy of attention, to create such an atmosphere of sleaze and suspicion around it that those who want to reject or ignore it feel they can comfortably do so. Others will feel that they cannot give credence to the Report without doing research they lack the time or resources to undertake, so they, too, ignore it. The denigration thus becomes an effective weapon for suppression of the whole Report.

Hal Wootten, 'Ron Brunton and *Bringing Them Home*', *Indigenous Law Bulletin*, June 1998, volume 4/12, pp. 4-5

... In summary, Brunton takes apart the 'stolen children' Report, *Bringing Them Home*, and shows that despite having been chaired by a former High Court judge, Sir Ronald Wilson, it has shown scant regard for evidence, balance and the credibility of witnesses. While there is no doubt that many of the witnesses wept when they recalled their childhood, and the hearts of many were wrung, there is more than one cause of adult misery than removal from one's parents. Again and again, Brunton shows, the Report fails to distinguish between forcible removal, sending away of children with consent of their parents, total removal and partial (eg, returning to family at weekends) removal, detention imposed for repeated delinquency preceding any removal, spells in hospitals and schools, and the saving of children from physical and sexual abuse within their own family and by others.

While the evidence given by witnesses to the commission cannot be ignored, neither can it for the most part be checked against other sources of evidence. Most of the witnesses were anonymous. Little or no attempt was made to cross check their evidence with what is on official record. ...

Everybody accepts that many terrible things were done to our Aboriginal peoples by European settlers and colonial societies. But to demand an apology and compensation for a policy which has yet to have been established to have been universal, without fair and judicious examination of what actually happened, is conducive to neither reconciliation nor the future welfare of Aborigines.

Padraic P. McGuinness, 'We need a closer look at the stolen children', *The Sydney Morning Herald*, 5 March 1998, p. 17

I agree with the headline of Padraic McGuinness's article, 'We need a closer look at the stolen children', but not with his comments on Bringing Them Home. He needs to look more carefully at the Report himself, because the quotes he has given from Brunton's book collapse on reading what is actually written in the Report.

The inquiry dealt only with 'forced removals'. Removals which occurred after the free consent of parents or guardians were not considered. The children were not 'returned for the weekends'. Throughout the Report extracts from relevant government Reports, parliamentary debates and official statistics are juxtaposed with the personal testimonies of the people appearing before the commission.

The witnesses were not 'anonymous' to the commissioners but their identity is protected in the public domain of the written Report. Bringing Them Home records only a fraction of what has happened to Aboriginal people in this country; it is far from being 'overstated'.

Read Bringing Them Home. Ask any Aboriginal family about their experience, and then do a reality check on Ron Brunton's claims. Do take a closer look.

Rosemary Kinne, 'Look closely', *The Sydney Morning Herald*, 12 March 1998, p. 14

Genocide

Perhaps the most contentious issue raised by *Bringing Them Home* was the finding that the policies which forcibly removed Indigenous children from their families constituted genocide.

Genocide is a crime against humanity. The crime of genocide does not necessarily mean the immediate physical destruction of the group. The *Convention on the Prevention and Punishment of the Crime of Genocide*, which was adopted by the United Nations in 1948 and ratified by Australia in 1949, defines genocide in Article II:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm of members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the groups
- (e) Forcibly transferring children of the group to another group.

The Inquiry's examination of historical documents found that the clear intent of removal policies was to absorb, merge or assimilate children so that Aboriginal people, as a distinct racial group, would disappear.

Policies and laws may be genocidal even if they are not motivated by animosity or hatred. The Inquiry found that a principal aim was to eliminate Indigenous cultures as distinct entities. The fact that people may have believed they were removing Indigenous children for 'their own good' was immaterial. The removal remains genocidal.

For most Australians, the popular understanding of the term 'genocide' conjures up images only of deliberate, mass killings. In that context even those who acknowledged that past practices of forcibly removing Indigenous children from their families were destructive and racist, found it difficult to accept that Australia had engaged in genocidal practices.

The commission, unfortunately, does the cause of reconciliation over this issue a serious disservice when it describes the removal programs as amounting to genocide. ...

The effect of this sort of extremist embellishment will be to make it easier for unsympathetic people to reject the Report - and make it harder to develop a political and community consensus that an act of reconciliation is appropriate.

Editorial, 'Recognition of a past disgrace', *The Australian*, 21 May 1997, p. 12

The story of the separated families, now finally coming out, is, I think, the one experience of theirs about which other Australians can feel the way Aborigines do. ...

Bringing Them Home has immense power as a cry of anguish but many flaws and imbalances as history. It cannot be considered as more than raw material in the process of public decision-making. Pedantic discussion - without considering the question of ill-will - of whether removal of children from their families constitutes 'genocide' under United Nations conventions is sensationalism that detracts from the gravitas of the Report. ...

This said, the brutality of the assault on Aboriginal families should never again escape public awareness and must surely influence future efforts at reconciliation. Critical parliamentary study of Bringing Them Home might appropriately culminate in a fervent expression of regret passed unanimously by a joint sitting of the two houses.

Frank Devine, 'Yes, cry for the children but no more sackcloth and ashes', *The Australian*, 2 June 1997, p. 13

... I am confident that we will eventually have a more complicated history than is given in the stolen generation Report, and that it will somewhat redeem this dark period of our history. We know already that the actors in the program include those with a clear and brutal genocidal intention, those whose intentions were not genocidal, and those whose intentions were uncomplicatedly good. We do not know their proportions. Let us hope that there are far more of the last category than Bringing Them Home suggests. Even so, it will not alter the fact that a terrible evil was committed against our indigenous peoples and that its rightful name is genocide.

Raimond Gaita, 'Peace Crimes', *The Weekend Australian*, 5 July 1997, p. 24

Compensation

During the Inquiry and after the Report was released, many people - Indigenous and non-Indigenous - said that what was required first and foremost was a recognition of the racism of past laws, policies and practices that forcibly removed Indigenous children from their families, an acknowledgement of their devastating effects on the Indigenous community, and an apology. The primary importance of recognition and apology was not intended to exclude further, more tangible compensation. However, for many non-Indigenous people acts of acknowledgement and apology became both paramount and exclusive. Ironically for some the very depth of emotional trauma suffered was taken to put the issue beyond compensation.

The issue of monetary compensation remains highly contentious. While many non-Indigenous people had no difficulty accepting that past policies and practices which removed Indigenous children from their families were racist, it seems that the issue of compensation taps into more deeply held prejudices about Indigenous people. Myths about government handouts and 'special treatment' for Aboriginal people have fed into the argument that compensation to the stolen generations would be 'divisive'.

The Report is clearly well-intentioned but misguided in its recommendation that a tribunal should be established to work out compensation payments to people affected by the former policy.

Such payments would expose Aborigines to the unfair but highly probable criticism that they want to exploit their emotional traumas for financial gain. There is already an unacceptable level of antagonism in Australian society towards Aborigines because of the special help they get from governments. The compensation plan would broaden and intensify this. ...

The best compensation governments can offer to Aborigines is effectiveness in helping them to overcome the shameful disadvantages in health, education, housing and employment that make their

communities the most deprived in the nation. This is not a matter necessarily of more money, but of political will and determination. A commitment by the Government to achieve significant improvements should be part of the negotiations for reconciliation.

Editorial, 'Aboriginal progress is the answer', *The West Australian*, 26 May 1997, p. 12

The endless outpourings of moral outrage over John Howard's refusal to say sorry has again served to distract Australians from the fundamental issue of compensation for the stolen generations of Aborigines.

No amount of illusion over symbolic gestures should be allowed to disguise this. The simple fact is that the quest for cold hard cash has driven the stolen generations agenda ever since the week-long Going Home conference in Darwin in 1994. ...

David Nason, 'No apology, just a big bill: Australia will be sorry indeed when it must pay for the policies that created the Aboriginal stolen generations', *The Australian*, 2 June 1998, p. 13

The Government can't be expected to take blame for something a past government did. ...

This is not to say that the majority of Australians, black or white, do not feel sorry for injustices suffered by their fellow citizens. But saying I feel sorry for you is different from saying I apologise.

The only reason an apology is being pushed for is so that it can be relied on as an admission of guilt and grounds for monetary compensation - make no mistake about this.

If our politicians, so-called Aboriginal leaders and other reconciliation enthusiasts want something to cry about, or hold a minute's silence for, they should get out and look at the appalling health conditions, lack of housing and the shameful level of education among our black fellow Australians.

G. Guidice, 'An apology means money', *The West Australian*, 13 June 1997, p. 12

Native Title

Unlike native title, the legal technicalities of which many non-Indigenous Australians find overly complex and confusing, the issue of the stolen children affected many people very strongly. They were able to make an act of personal identification with the issue, and to recognise that both raise fundamental questions of human rights.

Links between the two have arisen. Many non-Indigenous people have come out strongly in support of native title in the past 12 months through becoming involved with the reconciliation movement because they felt strongly about the stolen children. The activities of Women for Wik and ANTAR most clearly demonstrate this linkage.

Even those Australians overwhelmed by the complexities of Mabo and Wik could not fail to grasp the human tragedy set in motion by the decisions of state governments decades ago to remove Aboriginal children from their families and forcibly assimilate them into white society. While 'terra nullius' and 'native title' remain for many people obscure terms for lawyers and politicians to quibble over, it requires no special insight to appreciate the anguish caused by the enforced break-up of families. It is time for the Federal Government to acknowledge the psychological and, in some cases, physical harm that was done to the stolen generations and to offer them the nation's apology.

Editorial, 'A page of our history too dark to ignore', *The Courier Mail*, 24 May 1997, p. 22

Other voices

In the wake of the Inquiry it was not just the voices of those who were stolen from their families that affected non-Indigenous Australia, it was also those of the non-Indigenous foster and adoptive parents, church and community leaders speaking of their experiences.

Julie Lavelle's pain as one of the 'stolen generation' (Herald, May 20) may never be recognised by the Government, but as an adoptive mother I can acknowledge her pain. I have seen it in my own children.

It has been very difficult for me to accept that no matter what I did or how 'good' a mother I tried to be, the loss my children felt would still be there. My daughter has tried to fill the emptiness with things that almost destroyed her. Thankfully her wonderful spirit has pulled her through.

Our children have always known they are Aboriginal and adopted and we have tried to bring them up to be proud of who they are, but the great tide of ignorance and racism now being unearthed by Pauline Hanson has taken its toll.

When we adopted our children in 1977 and 1980, we believed their mothers wanted them to be adopted. Now I am not so sure. I find the TV programs on the 'stolen generation' almost too painful to watch and I am filled with guilt. However, I am also coming to believe that adoptive parents were also victims of the system.

I want my children to find their natural families, to clean the wound and fill it with hope, and peace of mind. I acknowledge your pain, Julie, and the pain of my children, and the pain of mothers who had their children wrenched from them. And I acknowledge my own grief and pain as an adoptive mother.

Sue Olsen, 'Time to right such terrible wrongs', Letter to the editor, *The Sydney Morning Herald*, 22 May 1997, p. 14

There are Indigenous people removed from their families and communities in circumstances which fall outside the Inquiry's terms of reference, but their experiences were similar to those of the stolen generations. These individuals serve to highlight the fact that even without legislation specifically directed at Aboriginal and Torres Strait Islander people, Indigenous people were adversely affected by the child welfare system. Their experience raises the question of the degree to which the practices of past removals continue in current practice.

Contemporary separations

Much of the debate following the tabling of *Bringing Them Home* focused on past removals. The debate has overshadowed the large section of the Report on contemporary separations of Indigenous children from their families and communities. People find it easier to acknowledge and confront historical wrongs which do not implicate them personally, rather than to take responsibility for current discrimination, such as the vastly disproportionate rates of Indigenous juvenile arrest and detention.

Acknowledging the past for whatever reason is not about guilt, it is about history.

No self-respecting democracy can deny its history. It is not a symptom of guilt to look reality in the face, it is a symptom of guilt to look away and pretend that it does not exist. How can anybody hope to gain an insight into the present if they have no understanding of the past?

How can we, as a nation, hope to move forward if we continue to say, 'I was not there, I was not responsible'? It is now on our shoulders because it will be our great grandchildren who will blame us for not being responsible when the opportunity arose.

No doubt the same words will be spoken: 'I was not there, I was not responsible'.

A. Weston, 'No denials', Letter to the editor, *The West Australian*, 10 June 1997, p. 12

How should non-Indigenous people respond?

Since the release of *Bringing Them Home*, many non-Indigenous Australians have been looking for ways to personally respond to the issue of the stolen children and injustices experienced by Indigenous people in general.

Today I sent a sympathy card to the parents and the children of the stolen generation, care of Mr Mick Dodson, inquiry commissioner, the Human Rights and Equal Opportunity Commission.

I sent it on the premise that if a neighbour lost a parent or a child, I would send a card to indicate that they had my sincerest sympathy in the hope that they would be comforted by my support.

At no time would my neighbours assume that this meant that I was in any way responsible for their loss. Nor would I be expected to compensate them in any way. But I would give them any assistance within my means to help them through their sorrow so that they could progress through the grieving process.

There is very little that I, as an individual, can do to assist with the reconciliation process. However, if many other like-minded individuals also sent a sympathy card, c/- Mr Dodson, the Aboriginal community will hear as offering our sympathy and our emotional support.

The Prime Minister is between a rock and a hard place. He has offered his sympathy as an individual, but, as PM, he will be damned if he does and damned if he doesn't. This is not a political issue, it is a social issue. Perhaps a show of sympathy and support will help our society progress to the next step.

I shall also ask schools if they will inquire about the possibility of Aboriginal elders coming to the classroom to educate our children in regard to Aboriginal culture in the hope that the reconciliation process will flow more freely in the next generation. We can't erase the past, but perhaps by educating our children about the destructive ramifications on the Australian community we may prevent it from happening again.

Perhaps the Aboriginal elders will then follow our lead and with education help their community to overcome its ingrained prejudices against our white society so that their children will be free to live in both cultures with success.

I hope that somewhere out there are other individuals who want Australia to have a better future and who are prepared to give this idea a chance to work.

Michelle Dodd, 'Send a sympathy card', Letter to the editor, *The West Australian*, 11 June 1997, p. 13

Many Australians have sent messages of sympathy and letters of apology to the Human Rights and Equal Opportunity Commission since the release of *Bringing Them Home*. In particular people wanted to respond personally to former Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson, and former President, Sir Ronald Wilson, who were closely identified publicly with the Report and the individuals who spoke about their experiences to the Inquiry.

People's movement

The responses of many non-Indigenous people to *Bringing Them Home* have constituted a strong and active people's movement.

People power to urge the holding of a national 'sorry day' is one way for us ordinary people to respond to the stolen children Report. ...

We can say 'sorry' in a meaningful way to Aborigines and Torres Strait Islanders who have been separated from their cultures, their lands, their communities and their families, without having to feel personally guilty for what has been (and still continues to be) inflicted on them by our public institutions. ...

Where the people lead, the leaders will follow.

M. Lane, 'We'll have to lead our leaders', Letter to the editor, *The Canberra Times*, 1 November 1997, p. 6

Liberal backbencher Peter Nugent joined forces with two Opposition colleagues yesterday to launch a public fund to help implement the recommendations of the stolen children Report. He denied the fund was needed because of Government neglect.

The brainchild of Labor senator Margaret Reynolds, the fund would provide counselling and education for the children forcibly removed from their families, their descendants, and the broader community, Mr Nugent said.

'We look to government to do its part as well, but clearly you can't expect government to do everything, and I think there is a responsibility on the broader community to get involved, and I think this gives them an opportunity to do just that.'

Aban Contractor, 'Stolen children bring all parties together', *The Canberra Times*, 28 August 1997, p. 5

Many events organised by individuals in their local community had a powerful effect on the Indigenous and non-Indigenous people involved.

Perth car dealer Denis McInerney has a one-word answer to any suggestion that churches and governments are doing enough to make amends for the damage done in trying to assimilate indigenous people into Western culture - bull....

'They are part of what happened and they have an obligation to stand up and right the wrongs of the past,' he said.

The head of McInerney Ford is one of the community members who have joined forces under the banner of the Stolen Generations Action Group to ensure former human rights and equal opportunity commissioner Sir Ronald Wilson's Bringing Them Home Report does not gather dust.

'Lobby group urges church, State action', *The West Australian*, 16 February 1998, p. 10

There was standing room only as 350 people crowded into the Uniting Church hall on Tuesday evening to hear Mick Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner, and Barbara Nicholson, a local Indigenous woman, speak of the past policies of forcibly removing Indigenous children from their families and to share stories of their own removal.

The meeting was organised in order to present Mr Dodson with a petition that had been signed by over 2,500 local residents to formally apologise for the forced removal of Aboriginal children from their family homes. The apology was signed in the spirit of sincere contrition and national reconciliation, the signatures having been collected since the release of the 'Stolen Children' Report - Bringing Them Home - in May this year. The Report has so far failed to elicit an apology from the Federal Government.

***Southern Highlands News*, 5 December 1997**

We, the undersigned citizens of the Southern Highlands, in the absence of national leadership wish to express to the Aboriginal people of Australia our deepest shame and sincere regret for the harm and distress caused by the policies and actions of previous governments and religious and community groups in the forced removal of Aboriginal children from their family homes. We extend this heartfelt apology in a spirit of sincere contrition and national reconciliation.

Statement of apology by the Southern Highlands community, 2 December 1997

Don't use me as an excuse, Mr Howard. I am one of the 40 per cent of Australians born overseas.

On December 2, at a public meeting in Bowral, I stood up before Mick Dodson, Betty Little and other Aboriginal people and said I was sorry for the pain all Aboriginal people suffered these past 200 years.

This was not an admission of guilt but an expression of empathy for their suffering. I will only feel guilt if now, having learned about the stolen generations and the dispossession of their lands, I do nothing to help Aboriginal people overcome the past and build a better future.

I became an Australian out of affection and pride in my new country. Right now, Mr Howard, I feel I want to renounce that citizenship.

Jane Pollard, 'Sincere apologies cost nothing', letter to the editor, *The Sydney Morning Herald*, 15 December, 1997, p. 16

Sorry Day

Just how emotive can one two-syllable word be?

In the case of 'sorry' it can prompt a gamut of feelings from profound sorrow, sadness and regret to bitterness, anger and in some cases, disdain. At least that was the response from Herald readers last week during the big Sorry Day debate which dominated the page for four days.

Readers were divided between those who called for an apology over the Stolen Children so that reconciliation could be achieved between black and white Australians and those who doggedly maintained that they were in no way responsible for the actions of others and that no apology was needed or justified. One feeling was that those who removed children acted only out of the best intentions. Another suggestion was that Aborigines themselves should express forgiveness for injustices done against them as a step towards reconciliation.

In the end, more people wrote in favour of Sorry Day than against it.

Kerry Myers, Letters Editor, *The Sydney Morning Herald*, 1 June 1998, p. 18

Although Sorry Day was the subject of a recommendation in *Bringing Them Home* directed at the Federal Government, the original idea and the result came from the community. The idea initially came from Link-Up (NSW), and in the absence of Federal Government endorsement of the recommendation, national and regional committees of Indigenous and non-Indigenous people made it happen on 26 May 1998. The Commission was not formally involved in the planning of Sorry Day, and the decision for the day to be held on the anniversary of the tabling of *Bringing Them Home* was a decision of the National Sorry Day Committee.¹²

The national Sorry Day reignited much of the community debate about the stolen children.

I have received a letter from the East Waikiki Primary School explaining that an assembly will be held to commemorate the 'First National Sorry Day' at the school.

Would someone please let me know why this is being held at a primary school? There are children aged between five and 12 who are being forced to participate in a function which has nothing to do with them. They can't understand or care what it is all about.

Most of the children who attend this particular school are of migrant or mixed parentage and their ancestors had nothing to do with the infamy that was carried out by a racist government. They are all pure Australians, but for these children to be made to stand up and say sorry is absolutely appalling and tantamount to being discriminated against by the [Western Australian] Government which, as the letter says, fully endorses such an action.

I will not allow my child to participate in such an assembly and from the reaction of more than 70 per cent of the parents who have complained to the headmaster, neither will they allow their children to participate. ...

The Government has a Sorry Book which can be signed by anybody who cares to. Surely a better idea would be to circulate this book to all schools and have those who want to express their sorrow sign it rather than have baby students, such as my daughter, participate in what can only be described as a vote-seeking, headline-grabbing exercise?

S. Dale, 'Sorry Day assembly at a primary school?', Letter to the editor, *The West Australian*, 25 May 1998, p. 12

¹² Carol Kendall and Greg Thompson chaired the National Sorry Day Committee. A transcript of the Sorry Day statement is found in Appendix 3.

It was with disbelief that I read the letter from S. Dale about Sorry Day. It is the attitudes of people like them that our children and our children's children will be apologising for in the future.

Surely, even if we don't directly owe the Aboriginal people a personal apology for what our ancestors did, just think for a moment about what you may have done.

Maybe they deserve an apology for every time you crossed the street in the city to avoid them or every time you sat on the other side of the train to avoid making eye contact. What about all of the racist jokes you have laughed at or all of the times you have made some comment about the Aboriginal dole bludgers buying booze.

It is our generation that should be sorry. We can't hide behind the facade, which our ancestors did, of not knowing any better. We know that the Aboriginal people deserve better than they get, but so long as people like S. Dale are depriving their children of taking part in educational activities such as Sorry Day, nothing is really going to change.

Kerren O'Dea, 'We can't hide any longer', Letter to the editor, *The West Australian*, 27 May 1998, p. 12

The commission's Report suggests that there should be an annual 'sorry day'. This is unrealistic: it is asking too much to expect governments to display their shame continually; they, with some reason, will want to put the problems of the past behind them and move on with the business of governing. If 'sorry day' is to become a regular occasion, it can only be as a community event.

Editorial, 'Recognition of a past disgrace', *The Australian*, 21 May 1997, p. 12

So honest John's Government has rejected an annual Day of Sorrow... even before tabling the Stolen Children Report for popular discussion.

Well, to hell with the politicians. Let mainstream Australians join in a voluntary Day of Sorrow - or Day of Acknowledgement if you prefer. Take leave without pay for one day a year to gather in the streets and acknowledge the devastation our governments wrought on our fellow citizens from 1883 to 1969.

The day is not a grovel for the past but an opportunity to celebrate a bright, united future 'for all of us'.

Paul Mason, 'Three little words: we are sorry', Letter to the editor, *The Sydney Morning Herald*, 24 May 1997, p. 40

The 'sorry book' for the Aboriginal people tells a story of its own. It tells of a race of people demanding an apology from another race of people for something that happened long ago that only the people involved in the original 'offence' can possibly correct or apologise for.

Instead of seeking an apology from a prime minister of a country who has absolutely nothing to do with what happened (therefore being vindicated of any need to say sorry on behalf of the people of history), I wonder if there is another answer to the problem?

If the Aboriginal community so desperately desires a release from a wrong to their people some years ago so as to build a bridge of unity between races, why does it not think of the obvious answer which would show the nations of the world how to live in unity and in peace?

The solution - the leaders of the Aboriginal communities should publicly declare to the world and themselves that they forgive the people who offended them and robbed them. This would show two things: That the Aboriginal race deserves respect and recognition as a people and that the people transgressed against will not flow down a path of bitterness or resentment but will rather embrace today and let the past die. ...

Yes, the Aboriginal people were blatantly abused - to demand an apology shows nowhere near as much maturity as would be displayed with a public declaration of forgiveness. The world would applaud with respect.

D. Barnes, 'Forgiveness is a beautiful solution', Letter to the editor, *The West Australian*, 30 January 1998, p. 13

Criticisms of the call for an apology to the stolen generations often seek to polarise the issue as an Indigenous/non-Indigenous one. This disregards the strong support from many non-Indigenous Australians for personal and national apologies. Indeed, the most strident calls for a national apology appear to come from the non-Indigenous community.

It is astounding that so many objected to the concept of ‘sorry books’.

None of my ancestors actively participated in the deaths or oppression of Aboriginal Australians, but they did belong to a society that permitted such atrocities to occur.

I am sorry that up until 1968, the year before my birth, Aboriginal Australians were not permitted to vote.

I am sorry that children were systematically removed from their homes, simply because of the colour of their skin and economic status.

I am sorry that a society in which my ancestors lived enslaved, raped and murdered countless Aboriginal Australians.

Finally, I am sorry that there are still people today who believe they have nothing to apologise for. I truly feel sorry for these people.

Melissa Baker, ‘Plenty to apologise for’, Letter to the editor, *The Daily Telegraph*, 2 February, 1998

Sorry books for the blacks! Fine. But if sorry books for the whites aren’t also available at councils and elsewhere, then this approach is indefensibly a very sorry one-sided handshake and, transparently, very discriminatory and Deane, very transparently, is not for all Australians.

S.A. Millar, ‘What about sorry books for the whites?’, Letter to the editor, *The Australian Financial Review*, 20 April 1998, p. 18

Essendon footballers will wear black armbands in support of the Aboriginal stolen generation when they meet Melbourne at the MCG on Saturday.

The gesture is seen by players as part of the reconciliation process and the apology by white Australians to Aborigines.

‘Footballers to mark Sorry Day’, *Northern Territory News*, 20 May 1998, p.3

Football commentator Eddie McGuire said it didn’t matter that present generations were not responsible for the acts.

‘We’ve got people who are fellow Australians who have been aggrieved and I think it’s just a good way for all Australians together as one nation to apologise to those people who did suffer,’ he said.

‘We want to say sorry’, *Herald Sun*, 22 May 1998, p. 18

The decision, which at heart was a grassroots one, to mark the first anniversary of the release of the Human Rights Commission Report on the ‘stolen generations’ (Bringing Them Home) with a Sorry Day produced controversy and, it must be said, division. But that does not mean that it was a futile exercise. On the contrary, the fact that Sorry Day itself became a discussion that dominated much of the week will have focused attention on past policies towards indigenous Australians and on the more general issue of black-white relations. From that kind of attention often come insight and agreement. The division over Sorry Day has not vindicated the Federal Government’s decision against an apology on behalf of the nation to the stolen generations. Nor has it justified that position.

Editorial, ‘Hardest word’, *The Sydney Morning Herald*, 30 May 1998, p. 46

Chapter 3: Church Responses

We must all face the truth of the past. It lives on in us. We must learn from it and deal with it, so that there may be justice, reconciliation, healing and hope for the future. We therefore recognise this crucial moment in the history of the Canberra Baptist Church as a God given opportunity for us:

to approach the local Aboriginal and Torres Strait Islander community and publicly express our sorrow for the hurt that has occurred;

to acknowledge that by silent acquiescence, by moral insensitivity or ignorance we are partly responsible for that hurt;

and to commit ourselves to do all we can to make sure that such things will not occur again.

Apology offered by Canberra Baptist Church to the Aboriginal and Torres Strait Islander People, December 14, 1997.

Introduction

There is a long-standing relationship between the churches and Indigenous people. Any responsible account of that relationship must acknowledge both its positive and negative aspects. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families came at a time when churches had already begun to grapple with issues arising from the effects of missions on the lives and cultures of Indigenous people. The release of *Bringing Them Home* accelerated this process by vividly confronting many church members with the details of the instrumental role played by the churches in the separation of Indigenous children from their families.

This chapter outlines various church responses to the Inquiry and the recommendations of *Bringing Them Home*. Resource constraints governed our research and extensive consultation was not possible. It is important to point out that the church responses identified here are Christian. This is not to say non-Christian churches or religious groups have not also made responses. Our focus on Christian churches was determined by the role they played in the removal of Indigenous children from their families and communities. The substance of the chapter is drawn from a selection of public materials, media releases, statements and apologies made by churches and church-based organisations. It is not exhaustive but rather indicates the character of responses formulated by institutions that played such a central role in implementing the laws, practices and policies of assimilation.

Diversity of opinion

One clear theme that has emerged in assessing the churches' responses is the diversity of opinions, particularly at the local level. The churches' responses must be viewed in the context of debate within their congregations.

While some groups may find their church's response minimal, others would argue that some action has been too radical. The public responses certainly reflect the overall engagement of a great number of people constituting the membership of the various churches.

There are those who do not recognise the significance or relevance of the Inquiry and report. There are also those who are aware but who refuse to be drawn into a 'cause' for Indigenous people. There are perceptions that responses, particularly apologies, reflect too adversely on the character of the churches of previous times. There are members who refuse to have anything to do with 'symbolic acts of reconciliation'.

There are also those who express a deep concern for the plight and ongoing struggle of Indigenous Australians. Within the churches there are non-Indigenous people working for the rights of Aboriginal

and Torres Strait Islander people, as well as Indigenous groups engaged in the struggle for recognition, reconciliation and social justice.

As Christians, we apologise that this happened in our country and communities and offer those affected our moral, emotional and spiritual support.

Seventh-Day Adventist Church statement on 'The Stolen Generation', November 20, 1997.

This diversity of opinion and perspective within individual churches, as well as distinctive denominational positions, has contributed to the debate surrounding the responses of religious institutions to *Bringing Them Home*.

Factors affecting church responses

From one perspective, churches can be seen as microcosms of society, constituted by lay and non-lay members within structures extending throughout Australia. They also possess an international dimension with values and organisational structures that transcend national boundaries. However, their responses to the Inquiry are influenced to some degree by their membership of institutions that were intimately involved in the processes of separation and removal.

The Australian Catholic Social Justice Council feels great sorrow for the pain and anguish of the Aboriginal and Torres Strait Islander families affected by the former government policy of forcibly removing indigenous children from their families. Many Catholics didn't know much about this practice until the Human Rights and Equal Opportunity Commission conducted its National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. We now understand that many indigenous Australians have been deeply hurt by this experience. The brave telling of personal stories at the Inquiry's hearings tore at the hearts of mothers and fathers. We are all someone's children.

Today the Australian Catholic Social Justice Council acknowledges our Church's part in these events and offers the Aboriginal and Torres Strait Islander people, and especially the 'stolen generation', our sincere regret. We hope through this acknowledgment of the truth of the past to take another step together on the path to healing.

The Australian Catholic Social Justice Council of the Catholic Church in Australia, statement on National Sorry Day, May 26, 1998.

The churches are institutions with a large majority of non-Indigenous members and their responses to *Bringing Them Home* reflect this composition, evidenced by the overwhelming tendency toward apology. In this respect their responses can be seen as intertwined with, or forming a subset of, the broader non-Indigenous community response. However, the churches are not only comprised of non-Indigenous people, and any representation of their responses must incorporate the reactions of their Indigenous members.

Indigenous people's position within the churches is distinctive for a number of reasons. First, it was Indigenous people who were so devastated by the policies of forcible removal. In many cases Indigenous members of churches were themselves the subjects of removal. Second, Indigenous people are parishioners and members of church communities that are endeavouring, as institutions, to come to terms with the history of involvement in these practices. Third, Indigenous people have reported that within the churches they are often seen, somewhat unrealistically, as representing all Indigenous Australians and are therefore expected to be experts on drafting apologies and developing policies regarding the recommendations of *Bringing Them Home*. In combination these factors result in a complex and sometimes difficult dynamic of personal responses by Indigenous people within the churches.

The churches hold a unique position as contemporary social institutions and custodians of ethical values. As such, their responses hold a particular significance and carry a special influence. Regarded from an institutional framework, the position of the churches in some ways parallels the position of governments. The instrumental role of the churches in carrying assimilation policies into effect on

behalf of governments creates an interesting point of comparison between church and some government attitudes towards acknowledging institutional responsibility for past practices. It throws light on different understandings of the issue of accepting contemporary corporate responsibility, and the appropriateness of making a formal apology.

...We regret that the government has not found room in its heart to apologise, or to pay any specific compensation to groups and individuals for the damages caused by the past policies. We appeal to the government to reconsider. No sum of money has the power to heal the wounds caused to individuals and to the Indigenous peoples as a whole, if not accompanied by an apology. While the government refuses to apologise this issue will continue as a cancer in the nation, and the whole nation - Indigenous and non-Indigenous - will continue to suffer. What was done cannot be undone, but we can end the silence. We can stop turning our heads away.

Open letter to the Prime Minister from leaders of the Uniting Church in Australia, December 19, 1997.

Reconciliation

Since 1988, the bi-centenary of first settlement, or Governor Philip's arrival in Australia, churches have been dealing seriously with the dispossession and marginalisation of Indigenous peoples. In some ways, the churches were better prepared than the rest of society to respond to the issues raised by the Inquiry regarding the effects of past policies and the treatment of Indigenous Australians. The negative impacts of native missions on Indigenous people had already been recognised, as were the complexities of reconciling good intentions and genuine concern for the welfare of Aboriginal and Torres Strait Islander people with actions which resulted in the denial of their human rights. Dealing with the past, while continuing to play a major influence in the lives of many Indigenous people, seems to have sharpened the conscience of many church leaders and members of church communities.

In dealing with issues of the past, present and the future, placed in the context of a broad societal discussion of the rights of Indigenous people, the churches have become major participants in the process of reconciliation. There is an awareness that active engagement with Indigenous people as partners is essential to the process. For many non-Indigenous church members there is a merging of broad themes. The specific matters reported on in *Bringing Them Home* are seen as connected with the historical dispossession and general marginalisation of Indigenous people which transcend the particular recommendations of the Inquiry. The issues of dispossession, marginalisation, disadvantage and the recognition of contemporary rights can only be met by a wider response.

We are ashamed that we have failed to recognise the extent of dispossession, deprivation and trauma over the past 200 years. We have been and are part of the culture that has dominated, dehumanised and devalued Aboriginal religious, cultural and family life. For this we are deeply sorry and express our heartfelt apology to the Aboriginal and Torres Strait Islander Australians. We commit ourselves to working towards a reconciled Australia.

Quaker Sorry Statement to the Indigenous People of Australia. January, 1998.

Churches are involved in the education of the broader community as well as educating their parishioners. A great deal of church action occurs through local groups. Such groups may be made up of different denominations gathering to show ecumenical, or at least trans-denominational support for Indigenous people. A significant leadership role may be taken at a higher level or through special interest groups within a denomination.

...We, the Catholic Bishops of Australia, wish to take the opportunity offered by this occasion of remembrance to ask the victims of the policy of breaking up indigenous families their forgiveness for any part the Church may have played in causing them harm and suffering. We note with regret that lamentable chapter of Australian history which saw the unjustifiable separation of Indigenous children from their families. We express our deepest sorrow for the suffering and hurt inflicted on Indigenous Australians which have consequences still in evidence today - social dislocation, loss of culture and identity, and a continuing sense of hopelessness in the lives of many of the First Peoples of our nation...In the spirit of sorrow and forgiveness, we, the Catholic Bishops of Australia, wish to record

our commitment to continue the healing process for the benefit of the victims of the unjust policies of the past, to support the needs of indigenous peoples today, and to contribute to the quest for national reconciliation.

Australian Catholic Bishops Conference Statement on National Sorry Day, May 26, 1998.

Recommendations with particular relevance to the Churches:

- 6.** Acknowledgment and apology;
- 8a.** School education;
- 10.** Genocide convention;
- 23.** Joint records taskforces;
- 38.** Private collections;
- 39.** Application of minimum standards and common guidelines;
- 40.** Counselling services;
- 41.** Land holdings;
- 42.** Social Justice.

The recommendations particularly relevant to the churches cannot be exhaustively stated. In one sense they may all be supported by the churches. None lie within their exclusive providence. There have been specific responses made at many levels with varying degrees of involvement and commitment to specific action.

We will continue to be in solidarity with the Australian Aboriginal peoples as they seek a 'fair go'. We stand also with the churches in Australia as they play their part in addressing these issues where basic human values are at stake.

Rev. Dr Konrad Raiser, General Secretary of the World Council of Churches (WCC), March 4, 1998.

Churches have responded at a national level with apologies from all major denominations.

On behalf of the Anglican Church of Australia the General Synod apologises unreservedly and seeks forgiveness for any part played, knowingly or unwittingly, by the Anglican Church that has ever contributed in any way to that hurt or trauma by the unjustified removal of Aboriginal or Torres Strait Islander children from their families, and for our past silence on this issue.

Anglican Church of Australia, passed at General Synod meeting, Adelaide, February 1998.

Churches have expressed apology at state and regional levels.

We confess that our failure to see what we were doing denied our common humanity, degraded us all, and was not Christian. For all this we are truly sorry and apologise unreservedly.

Apology from the Victorian Baptist Union, presented March 13, 1998.

Local congregations, particular communities and specific interest groups have responded directly.

Today the Australian Catholic Social Justice Council acknowledges our Church's part in these events and offers the Aboriginal and Torres Strait Islander people, and especially the 'stolen generation', our sincere regret. We hope through this acknowledgment of the truth of the past to take another step together on the path to healing.

The Australian Catholic Social Justice Council of the Catholic Church in Australia, statement on National Sorry Day, May 26, 1998.

In many local congregations there was a desire to express a broader message of sorrow and regret for the historical position of Indigenous people. Apologies addressing the removal of Aboriginal and Torres Strait Islander children acted as a catalyst for wider apologies as the contemporary representatives of a people who dispossessed another people. There is an interest in a broad re-evaluation of the past and a desire to set a new framework for the future. This sincere grassroots community response recognises the deeper significance of *Bringing Them Home*.

We, the people of the Rosanna Baptist Church, acknowledge the pain and suffering of Indigenous Australians that occurred as a result of European settlement. We further confess our ignorance of Indigenous cultures, and our lack of compassion for Indigenous people in their plight. By our silence we have allowed this suffering to occur and continue, through the removal of children from their natural parents and environment, and by taking over the land without recognition of the nature of the relationship of Indigenous people to the land, or proper consideration of the impact on Indigenous people and their culture. We confess also the attitude of cultural superiority which has undergirded all these actions and attitudes.

For these things, we unreservedly apologise.

Apology from the Rosanna Baptist Church presented to representatives of the local Indigenous community and from the Baptist Church

Apologies aside, there have been other initiatives that represent movement towards restorative justice. The Uniting Church in Australia has taken steps towards the restitution of land, and other churches are engaged in discussions to this end, consistent with recommendation 41. Various statements of apology, moreover, contain commitments to other forms of specific action. These statements have emerged from a process of sharing, learning and confronting the reality of the churches' involvement in the separation and removal of Indigenous children. They are based on an insight into the experience of loss and its full human implications. This entry into the perspective of Indigenous Australians and the recognition of responsibility to redress the aftermath, speaks of a genuine resolve common to the responses of Australian churches.

I wish to offer a heartfelt and unreserved apology to the Aboriginal and Torres Strait Islander peoples on behalf of the Religious Orders of sisters, brothers and priests of Australia. We are sorry for the pain you have suffered because of the forced separation of your children which took place over many decades. We are deeply sorry for any pain that you and your children have felt by being placed in our Catholic institutions. In the light of the National Inquiry Report, we are beginning to understand some of the devastating effects that government policy had on your lives and the part we played in implementing these policies. Children suffered the shocking experience of losing their present and their past - they lost their parents, families, their language, spirituality, land and identity. In having their children taken from them, Indigenous communities were deprived of their future and their hope.

We undertake to offer help where possible for people to trace their records, so that they may recover their identity and hopefully find their way home again.

We commit ourselves to be part of the national process of reconciliation in dialogue with you. We know an apology cannot undo past sufferings. We want to be part of healing the deep wound which affected Australia because of past practices. We pray that, walking together, we can find a new way forward in this land we call home.

Apology to Indigenous People from the Religious Orders of Australia, June 11, 1997.

Nonetheless Church action so far, with few exceptions, has been primarily in the area of awareness and apology. While this is a positive first step, there is still much for the churches as institutions, communities of faith, and as distinct sections of society, to initiate. The apologies are a response to one of the recommendations of the Inquiry Report. There are several others that remain to be addressed.

Chapter 4: Government Responses to the Recommendations of *Bringing Them Home*

Bringing Them Home - the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (the National Inquiry) - made 54 'head' recommendations, 83 recommendations in total¹³, to address what was referred to as 'the continuing devastation of the lives of Indigenous Australians'. The implementation of most recommendations requires action to be taken by the Commonwealth Government and/or State or Territory Governments. A follow-up project was undertaken by Human Rights and Equal Opportunity Commission (the Commission) to collate the various Government responses. The results of the project are presented in *Bringing Them Home: Implementation Progress Report* (the Implementation Report¹⁴). This chapter reproduces the research in that Report.

The Implementation Report does not purport to be a comprehensive account of all actions taken by the nine governments in full or part response to the National Inquiry's 83 recommendations. The enormity of the task to compile such a matrix of individual and joint government responses to each recommendation is obvious and clearly beyond the bounds of the Commission's follow up project. In any case, such a task - like the painting of the Sydney Harbour Bridge - would never be finished. Rather, the aim is to provide a more general account of the governments' responses. This is reflected in the thematic structure of the Implementation Report, where related recommendations are grouped under broad headings and discussed collectively. The Implementation Report focuses on the principal initiatives that have been taken by governments (as well as those that have not) which bear significantly on the matters of concern raised by the recommendations. The Implementation Report is largely descriptive, though an effort has been made to place governments' responses in the context of the aims of the National Inquiry's recommendations.

The Commission has continuing statutory responsibilities that relate to the report of the National Inquiry. Pursuant to these responsibilities the Commission established the follow up project in order to facilitate the implementation by governments, in their individual and collective capacities, of the recommendations made in the report of the National Inquiry. The project ran for a total of seven months, from early December 1997 until the Implementation Report was completed in late June 1998.¹⁵

The project had four objects:

(i) to fulfil statutory obligations

Under section 46C of the *Human Rights and Equal Opportunity Commission Act 1986* (HREOCA) the Commission, through the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner, is required to report on, and generally to promote, 'the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders'.

Under sections 11(1)(e),(f),(g),(h) and (p), 13(1), 14(1) and 29(1) of the HREOCA the Commission is further, and more extensively, empowered to examine current or proposed enactments and practices regarding their compliance with human rights. It is also empowered to research into and to promote human rights in Australia in such manner as the Commission sees fit, and to report on its findings.

¹³ Some recommendations comprise a number of separate recommendations.

¹⁴ The follow-up project was funded by a grant from the Stegley Foundation and the Australian Youth Foundation. Dr David Kinley was responsible for the collation of all information and material drawn from government consultations and the preparation of the Implementation Report.

¹⁵ The Implementation Report was updated in August 1998 in order to incorporate the ACT Government's response delivered in July 1998.

The Commission's concern to see the recommendations of the National Inquiry implemented and its establishment of the follow up initiative to assist and assess that process clearly falls within each of these enumerated statutory obligations and provisions.

(ii) to explain the findings and recommendations of the National Inquiry

Though the recommendations are clear on their face, the Commission appreciated that there was a need for their scope and rationale - including the findings that lie behind them - to be more fully articulated, especially in the context of governments faced with the practicalities of implementing the recommendations.

As author of *Bringing Them Home*, the Commission was well to do so.

(iii) to facilitate inter-governmental communication

As the nature of many of the recommendations requires a common or coordinated response from Australian governments, there is a need for an ongoing institutional and procedural framework for inter-governmental coordination and communication to facilitate this process.

The Ministerial Council on Aboriginal and Torres Strait Islander Affairs (MCATSIA) has been charged with the primary responsibility for coordinating cross-governmental implementation of the National Inquiry recommendations at a ministerial level. There appeared, however, to be a need for communication and coordination between departmental officers on more informal terms and on a more regular basis than is possible through MCATSIA. The project, therefore, was viewed clearly as a supplement to the MCATSIA process, not a substitute for it.¹⁶

(iv) to facilitate communication and mutual assistance between governments and the National Indigenous Working Group on Stolen Generations

In so far as it was able, the Commission assisted in establishing lines of communication and understanding between governments and the National Indigenous Working Group on Stolen Generations. It was intended that the concerns both of governments and Indigenous people regarding the former's responsibilities to implement the recommendations would be more fully appreciated and better addressed in advance of implementation, as well as in the process of implementation.¹⁷

Methodology of Follow Up Project

In respect of each of the nine Australian governments, the Department or agency responsible for the construction and/or coordination of the government's response to the National Inquiry's report, or, more generally, had carriage of the Aboriginal and Torres Strait Islander Affairs portfolio, was identified and the responsible Minister approached. In each case a meeting was sought initially with that Minister, the Director or Chief Executive Office of the relevant agency and other officers, as well as Ministerial advisers. Despite concerted efforts, it was not always possible for all of these people to attend the meeting in each jurisdiction.

Meetings with each government were held, though the composition of the government representatives varied from jurisdiction to jurisdiction. In each case, however, the meetings were attended by Sir Ronald Wilson and Dr David Kinley, representing the Commission, and a local member of the National Working Group on Stolen Generations and/or a representative or representatives of other local Indigenous bodies. The meetings were conducted in each jurisdiction from February 1998 to late April 1998.

¹⁶ Endorsed by the first meeting of the representatives of governments convened by the National Indigenous Working Group, Brian Butler and Sir Ronald Wilson in Melbourne in December 1997.

¹⁷ It is anticipated that the National Indigenous Working Group will assume this role in future.

Meetings were held with the responsible Minister in three jurisdictions. Meetings were held with representatives of appropriate departments in all jurisdictions. In the case of the Commonwealth Government, however, though meetings were held with officers of the Department of Health and Family Services (and with a member of the office of the Minister for Health and Family Services) and with officers of ATSIC, there were no meetings held with officers from the Office of Indigenous Affairs in the Department of Prime Minister and Cabinet or the Office of the Minister for Aboriginal and Torres Strait Islander Affairs.

A constant feature throughout the progress of the project was the involvement of the National Indigenous Working Group on Stolen Generations, especially through its then co-chair Ms Carol Kendall. In particular, it was always the case that the Indigenous representative or representatives from each State and Territory that attended the follow up project meeting in that jurisdiction also sat on the National Indigenous Working Group on Stolen Generations. Invariably a meeting was held with the Indigenous representative or representatives immediately before the scheduled meeting with the relevant government.

Questions and discussions in the meetings centred on each government's response where there was one (in the case of the Commonwealth, Tasmania and Victoria), or progress of response to the National Inquiry's recommendations, as well as issues and initiatives raised by each government in their respective submissions to the National Inquiry throughout its term.

Pertinent information and materials were obtained from governments both during and after the meetings. Indeed, a significant part of the collection of material occurred by way of numerous communications with agencies representatives in the months that followed the initial meetings. Inevitably, some information will have been missed. Generally speaking, agencies were open and willing to provide all that they could and were frank in their answers to our many queries. But it is true that some were more cooperative than others.¹⁸

Overview of government responses and implementation

Progress of responses

On 31 July 1998, one year and two months after the tabling of the National Inquiry's report in the Commonwealth Parliament, five governments had delivered formal responses to the recommendations of the National Inquiry. They are, in order of delivery:

Tasmania, 17 August 1997 (43 pages; including full recitation of each recommendation);

Victoria, 17 November 1997 (60 pages; including full recitation of each recommendation);

Commonwealth, 16 December 1997 (13 pages);

Queensland, 7 April 1998 (18 pages; including abbreviated descriptions of recommendations);

Australian Capital Territory, July 1998 (17 A5 pages; including full recitation of each recommendation).¹⁹

Formal responses are in the process of being compiled in all of the other four jurisdictions. In respect of **South Australia** and **Western Australia** the process is well advanced, in that it is our understanding that completed drafts of the responses are awaiting Cabinet approval.

¹⁸ In this respect, the follow up project team's repeated efforts to obtain requested material from the Northern Territory Government were frustrated. The limited discussion of the Northern Territory Government's initiatives in the Implementation Report duly reflects the paucity of material made available.

¹⁹ One apparent complicating factor in the preparation of the ACT's response was the holding of an election during the period of the responses compilation.

In **New South Wales**, a detailed draft response was prepared by the government, but on its presentation to the Steering Committee in May 1998 significant concerns were raised as to its form and content. The government is currently reviewing how best it can meet those concerns in its response,²⁰ but, in any event, anticipates making a response by September 1998. The Government published a brief *Statement of Progress* on 26 May 1998. In addition, however, it should be noted that the New South Wales Government made available a draft summary of its response (dated April/May 1998), on the condition that its use in the Implementation Report be acknowledged as such and that it be further noted, in particular, that the summary 'is not endorsed by either the Department of Aboriginal Affairs or the Minister for Aboriginal Affairs at this stage, as it is yet to be considered by Aboriginal communities and organisations' in forthcoming consultations (see further detail below).

In respect of the response of the Northern Territory Government, it is our understanding that it has been approved in outline by Cabinet and is presently being finalised. In any event, in the meetings with each of the governments it was indicated to the project team that each of the governments whose response is outstanding expected to deliver their response within a matter of months, and almost certainly before the end of 1998.

In the meetings with those governments yet to respond, the project team was told repeatedly that one of the reasons for delay was to await the delivery of the Commonwealth's formal response.

Funding specifications

Breakdowns of the financial implications initiatives are not provided in the responses of Queensland, Tasmania, Victoria and the ACT. Some specific sums are nominated (though in the case of Queensland, none of these appear to relate to newly funded initiatives established or to be established in direct response to the National Inquiry's recommendations) and these are referred to under the particular headings below. A total amount of new funding of more than \$425,000 over two years was announced in a statement that accompanied the Victorian Government's response.²¹ No such total sum of new funding has been provided by Tasmania, Queensland or the ACT.

In anticipation of the publication of its response, the Western Australia Government, through the Minister for Aboriginal Affairs, Dr Kim Hames, announced on 20 May 1998, that '\$1 million had been provided in the 1998-9 State Budget to begin the initiatives outlined in the response'.²² These initiatives (as discussed further below) are concerned with records access and management, regional information and counselling services. The Minister also stated that approximately \$600,000 would be recurrent funding for these services.

The Commonwealth's response contains a broad outline of funding for the initiatives it proposes, as reproduced below. Details of the breakdown of the proposed expenditures were not provided in the response.

Total Commonwealth funding package = \$63 million (\$54 million 'new' funds) over an average of four years:

- \$39.15 million: employment and training of 50 additional counsellors (\$33.25 million); research, clinical support and parenting programs (\$5.9 million). To be administered by the Commonwealth Department of Health and Family Services (DHFS).

²⁰ In particular, it was considered by Indigenous representatives on the Steering Committee (see further below under 'Involvement of Indigenous Communities') that the dense bureaucratic form of the draft response was such as to make it unintelligible to those who would be most affected by its content. The New South Wales Government, in tandem with Link-Up New South Wales, conducted a series of public forums throughout the State during July and August 1998 at which Indigenous people and communities were able to voice their opinions as to how best the Government can respond to the National Inquiry's recommendations, with a view to producing a more 'user-friendly' response.

²¹ Media Release from the Office of the Minister Responsible for Aboriginal Affairs, 19 November 1997, p.2.

²² Media Statement, 20/5/98.

- \$11.25 million: establishing a national network of Link-Ups. To be administered by ATSIC.
- \$2.0 million: indexing and preservation of records. To be administered by Australian Archives.
- \$1.6 million: to run an oral history project. To be administered by the National Library.
- \$9.0 million: to bolster the work of language, culture and history centres. To be administered by ATSIC. It must be noted that this amount comes from within ATSIC's existing general purpose budget.

These figures are confirmed in the 135 page statement issued by the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, entitled 'Addressing Priorities in Indigenous Affairs', delivered on the same day as the Budget was handed down (12 May 1998).²³ Specific details of the breakdown of these amounts were not provided in the statement. However, the appendices to the statement do provide some additional general information about the departmental programs through which the funds will be channelled, as well as the expected outcomes.²⁴ This additional information is discussed below.

Structure of responses

The responses of Tasmania, Victoria, Queensland and the ACT specifically consider each of the National Inquiry's 54 recommendations (and sub-divisions, where appropriate), as regards the nature and extent of what the governments perceived to be their responsibilities. In each case, the responses begin with a brief overview of the background of the National Inquiry, the general strategies of the government in question in respect of Indigenous issues and specific initiatives (whether ongoing or planned) that bear on the issues raised by the Inquiry.

Themes

It was recognised by all governments that the broad scope of the National Inquiry's recommendations was not confined to the responsibilities of Aboriginal and Torres Strait Islander Affairs portfolios. The matters covered in the recommendations fall within the bounds of a number of government departments. Typically, the other 'mainstream' portfolios affected are those covering human, community and family services, health, education, youth affairs, records and archives, Attorney-General's, justice (and juvenile justice, if separate), police and finance.

A direct result of this cross-portfolio responsibility was that a coordinated approach to the compilation of individual governments' responses was invariably adopted. This approach took the form of the establishment of a Steering Committee (in New South Wales)²⁵ or an Inter-departmental Committee (in Victoria, Western Australia and the Commonwealth). In the alternative, the Department or Office responsible for Aboriginal and Torres Strait Islander affairs acted as coordinator (in the ACT, Queensland, Northern Territory and South Australia), or the Offices of Premier and Cabinet Office (Tasmania and Western Australia), or Prime Minister and Cabinet (the Commonwealth) took on the role.

²³ pp.13-4. There is a small discrepancy between the figures quoted in the response and those in the statement. Namely, the latter indicates that \$11.3 has been allocated to the Link-Up network and \$39.2 million to DHFS, which represents an additional \$50,000 for each allocation from the amounts originally declared in the response.

²⁴ The following page references are from Senator Herron's statement: for the language, culture and history centres (\$9 million), see pp.41-3; for the Link-Up network (\$11.3 million), see pp.44-7; for the Australian Archives records project (\$2 million), see p.74; for the National Library Oral History programme (\$1.6 million), see p.80; and for the DHFS programmes (\$39.3 million), see p.107.

²⁵ For the composition of the Committee, see the Government's 'Statement of Progress in Commemoration of National Sorry Day', 26 May 1998.

Just as the breadth of issues encompassed by the recommendations required a coordinated, cross-portfolio response, so the implementation of the governments' responses will require a coordinated scheme of supervision and monitoring. This need has been foreshadowed by some governments. For example, the Office of Aboriginal Affairs in Tasmania has indicated that it will be undertaking a review of the Government's response by September 1998. The Victorian Government has proposed a more elaborate three-tier scheme for monitoring implementation involving regional reference groups, a monitoring Inter-Departmental Committee, and a commitment from the Government to report annually to Parliament on the progress of implementation.²⁶ In respect of the other governments (including the Commonwealth) it is proposed or supposed that the Department that has carriage or primary carriage of Aboriginal Affairs will perform this coordinating and supervisory role. In the apparent absence of any cross-portfolio coordination in Queensland, the advisory and monitoring responsibilities are to lie with the Government's peak Indigenous advisory body, the Indigenous Advisory Council (see below). However, implementation would seem to remain the responsibility of the lead agency or the Department of Families, Youth and Community Care. Though the ACT's Aboriginal and Torres Strait Islander Consultative Council presently has responsibility for monitoring the Government's response to the Royal Commission into Aboriginal Deaths in Custody (RCADIC) recommendations, there appears to be no plans to extend its terms of reference to include monitoring of the implementation of the National Inquiry recommendations.²⁷

The question of Australia-wide, cross-government monitoring of governments' implementation of responses is yet to be fully addressed. The suggested structure that constitutes **Recommendation 2** of the National Inquiry - that is, principally, the establishment of an 'Audit Unit' within the Commission to which peak Aboriginal bodies would provide evaluating advice and to which governments would submit annual reports - has not been favoured. The Commonwealth's response provided no indication whatsoever as to the process of monitoring, nationally, implementation at a national level. No funding, it appears, will be forthcoming for the establishment of the recommended Audit Unit (**Rec. 2(b)**), and none for ATSIC to assist Secretariat of National Aboriginal and Islander Child Care [SNAICC], National Aboriginal Community Controlled Health Organisation [NACCHO], and National Aboriginal and Islander Legal Services Secretariat [NAILSS] to advise the Audit Unit on behalf of Aboriginal communities (**Rec. 2(c)**).

It was made clear to the project team that governments had no desire to follow the monitoring system employed for the implementation of the recommendations of the RCADIC, which, it was felt, had not been successful. It is our understanding that the Ministerial Council of Aboriginal and Torres Strait Islander Affairs (MCATSIA) indicated in its August 1997 meeting that the rigid, recommendation-by-recommendation style of the monitoring of implementation applied to RCADIC ought not to be applied to the monitoring of the implementation of the National Inquiry's recommendations.²⁸

It is understood, furthermore, that during the same MCATSIA meeting, it was resolved that a working-group be established with the broad aim of considering issues concerning implementation, including the monitoring of the implementation of responses. Victoria was charged with the responsibility for the setting-up of the working-group. At the time of writing the working-group has not yet been established. It is understood that the intention is to establish the body after - rather than in advance of - all governments having finalised and published their individual responses. The project team has been assured nonetheless by the Office of the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs that 'MCATSIA will be providing inter-governmental coordination mechanisms as required'.²⁹ It is unclear how this objective is to be achieved.

Given the nature of the National Inquiry, the involvement of Indigenous people in the governments' formulation and implementation of responses to the National Inquiry's recommendations is particularly important. In any event, the necessity of Aboriginal and Torres Strait Islander peoples

²⁶ Discussed below at footnote 145.

²⁷ See Response, p.17.

²⁸ Discussed below at footnote 143.

²⁹ Correspondence from Mr Greg Hunting, Chief of Staff, 3 March 1998; on file.

involvement in the making and implementation of policies that directly affect them has been unequivocally recognised by all Australian governments in the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*,³⁰ where it is stated that:

[t]he Governments of Australia, in making the National Commitment, have as guiding principles:

... the need to negotiate with and maximise participation by Aboriginal peoples and Torres Strait Islanders through their representative bodies, including the Aboriginal and Torres Strait Islander Commission, Regional Councils, State and Territory advisory bodies and community-based organisations in the formulation of policies and programs that affect them.³¹

There are a number of levels at which Indigenous communities have been involved in the governments' compilation of responses, and could be involved in the future implementation of those responses.

The level of representation of Indigenous communities stretches from government departments of Aboriginal and Torres Strait Islander affairs and governmental advisory or consultative bodies, through quasi-governmental or non-governmental peak Indigenous bodies, to specific small groups or individuals. Any of these, in turn, might be involved with government as a whole or with individual departments.

The form of the involvement is equally variable, ranging from full consultation and collaboration, through the provision of advice to governments, to mere notification by governments of that which has been, or will be done. Involvement in the process of determining the content of a government's response has been through formalised and regular broad-based consultations, or advice sought, on all issues affecting Indigenous peoples (as is the case with the Commonwealth³² and the ACT³³ and Queensland³⁴), or has been through involvement related specifically to the matter of the stolen generations (as in New South Wales³⁵ and Victoria³⁶). The relevant departments of Aboriginal Affairs also gauge the opinions of Indigenous communities through the links that their own Indigenous staff have with the communities and more informal liaisons. In the absence of additional consultative

³⁰ As endorsed by Council of Australian Governments (COAG) in May 1992, and subsequently reaffirmed by the MCATSI in its July 1996 meeting. Furthermore, the Prime Minister advertised the reinvigoration of the *National Commitment* in his speech opening the Reconciliation Conference, 26 May 1997, Melbourne.

³¹ National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, para. 4.3.

³² That is through ATSIC. As regards the process of formulating the Government's response, ATSIC staff attended the single Interdepartmental Committee meeting convened on 22 July 1977 to discuss the response. ATSIC staff were also involved in a number of bilateral discussions with staff of the Department of Prime Minister and Cabinet. The ATSIC Board, however, was never formally or directly consulted, though according to Senator Herron, 'the matter was raised at a number of ATSIC Board meetings when I was present': response to a question put to Senator Herron by Senator Bob Collins, Senate Debates, 4 March 1998, pp.435-6.

³³ The Aboriginal and Torres Strait Islander Consultative Council. The Council provides advice to the Chief Minister 'on issues affecting the interests and well-being of Canberra's Indigenous population and to act as a link between government agencies and Indigenous peoples'; ACT Response, p.17. The Council has an ad hoc membership and it meets approximately every six weeks.

³⁴ The Indigenous Advisory Council (IAC). The IAC is a standing body with 10 staff and chaired by Neville Bonner. It provides advice to government on the full range of Indigenous issues. See further, Queensland Government Response, p3.

³⁵ The Steering Committee convened by the New South Wales Government to oversee its response to the National Inquiry's recommendations included two representatives from the New South Wales Stolen Generations Working Group. The New South Wales Government has considered the detailed recommendations made by Link-Up (New South Wales) to the National Inquiry as integral to the preparation of its response. The Link-Up submission and recommendations have been published separately under the title *In the Best Interests of the Child?*, 1997.

³⁶ The Victorian Government's response that the Department of Human Services, through Aboriginal Affairs Victoria, 'will make available \$50,000 to employ an Aboriginal officer to debrief Aboriginal communities on the National Inquiry and, particularly, those who gave witness testimony. They will also be required to provide feedback to the Government on the implementation of the State Government initiatives'; p.10.

processes in some jurisdictions, it is this form that is principally relied upon in Tasmania, Northern Territory, South Australia and Western Australia.

All governments have, to some extent, consulted and are consulting, with Indigenous peoples and representatives of communities, even if it is no more than is usual for the relevant department to undertake in the process of policy-formulation. With the exception of an initiative in New South Wales, however, it has not been possible for the project team to identify precisely when, in what manner, and how often Indigenous communities or Indigenous representative bodies were engaged in such discussion in respect of all governments.

In New South Wales, the Steering Committee established to oversee the compilation of the Government's response has, apparently, been successful in insisting upon the importance of consultations with Indigenous communities. In May 1998, the Government agreed to hold a series of public forums around the State in conjunction with Link-Up (New South Wales), with the aim of seeking advice 'on the most appropriate ways to target ... programs and policies to better suit the needs of the Stolen Generations'.³⁷ Six such forums were held during July and August 1998. This initiative is important because the Government has effectively been prepared to forego its (by then) near complete draft response, which it will now use as a framework to produce a more direct and succinct document.

Nonetheless, there remains some difficulty in measuring how successful any of these efforts (including the New South Wales initiative) have been, or will be, in reaching Indigenous communities and reflecting their concerns in the resulting policy initiatives of governments.

The bulk of the National Inquiry's recommendations are directed towards the governments; to this extent it is the responsibility of governments (singly and collectively) to respond to them, and, where accepted, to implement them. But even in respect of those recommendations that are not apparently directed at government, they would best be implemented with the co-operation of government, or at least in parallel with governmental actions, initiatives, regulations or laws: see for example the commentary below on recommendations regarding access to private collections of records (**Rec. 38**); provision of counselling services by non-government bodies (**Rec. 40**); and, the consideration of the return of private land holdings (**Rec. 41**).

The need for action on the part of all Australian governments must be understood within the broader context of the governments' collective commitment to 'improved outcomes in the delivery of programs and services for Aboriginal peoples and Torres Strait Islanders' made in the *National Commitment*.³⁸

Added to this, in respect of the Commonwealth Government, Senator Herron in his 1998 Budget day Statement *Addressing Priorities in Indigenous Affairs*, pronounced that:

[t]he government came to office with a firm commitment to address the unacceptable level of disadvantage suffered by Australia's Indigenous people, particularly in the key socio-economic areas of health, housing education and employment',³⁹

and that:

[t]his government is committed to ensuring value for money in indigenous affairs by systematically targeting areas of greatest need, particularly in rural and remote communities where access to mainstream services is limited.⁴⁰

³⁷ New South Wales Government's *Statement of Progress* 26 May 1998.

³⁸ National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, para. 2.

³⁹ National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, Overview, p.1.

⁴⁰ National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, Overview, p.1

He further announced that:

[w]e have implemented innovative and responsive policies such as the ATSIC/Army initiative, support for indigenous businesses, and the trachoma project. We are also providing generous levels of funding. We will spend over \$700 million more in real terms in our first four years in office than we spent in the previous four years.⁴¹

Certain recommendations of the National Inquiry are expressly directed towards specific governments or levels of government, while others are directed, or may be presumed to be directed, towards all or a number of governments. In the latter case, it was supposed by the National Inquiry that the most appropriate level or levels of government would assume individual, collective or parallel responsibility for addressing the issues raised and/or implementing the recommendations made.

From the existing government responses, and from the project team's consultations with governments, it is clear that *perceived* demarcations of responsibilities between the Commonwealth, States and Territories are also instrumental in determining responsibility. The ready resort to federal divisions has had the unfortunate result of the responsibility for many issues being shunted between governments.

National legislation

The National Inquiry made a number of recommendations calling for the introduction of national legislation. A strict adherence to Federal divisions of responsibilities clearly presents an insurmountable obstacle to the implementation of these recommendations. Two forms of national legislation were proposed:

- (i) national framework legislation (**Rec. 43**) - such legislation, which would be structural in form, would have the object of promoting self-determination through consultation and cooperation between governments and Indigenous peoples at community and regional levels in respect of the development and implementation of policy and legislation; and
- (ii) national standards legislation (**Recs 44-53**) - such legislation, which would be more detailed and likely be binding at all levels of government, would aim to establish minimum and/or 'best practice' standards in government/Indigenous community interrelations in respect of policy and legislative initiatives.

The specific areas covered under both proposals are broadly the same - namely, children's care and protection, welfare and adoption, and juvenile justice, including police, judicial and government departmental functions.⁴²

It was apparent from the project team's consultations with governments, that there is no consensus among Australian governments to pursue such uniform legislative goals through Commonwealth Office of the Attorney General (COAG) or appropriate Ministerial Councils. Indeed, quite the contrary appears to be the case. The current situation is that each jurisdiction is being left to pursue those goals relevant to the issues covered by the recommendations in a way, and to an end, that best suits its particular circumstances.⁴³

⁴¹ National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, Overview, p.1

⁴² The recommendations stipulate 8 specific standards spread across recommendations 46 to 53.

⁴³ Both the Queensland and Victorian Governments expressly reject the notion of national framework or national standards legislation; see their responses, p.14 and p.42, respectively. The Governments of Tasmania (response, p.34) and New South Wales on the other hand, are more amenable to the idea and would support inter-governmental discussion of the issue. The ACT Government has indicated that it 'would be prepared to consider national standards in relation to child protection and placement and for young offenders', response, p.3.

Senator Herron stated in the Commonwealth Government's response that for 'the Commonwealth to seek to override the legislative and related responsibilities of the states and territories in these circumstances would, I believe, be counter-productive for all concerned.'⁴⁴ In reply to this, the National Inquiry's recommendations do not require such an 'override' stance to be taken by the Commonwealth; in fact, quite the reverse. What they suggest is that the Commonwealth takes a lead in ensuring a *cooperative* approach to establishing common frameworks and setting common standards in achieving common goals.

Although a 'top-down' approach to national legislation might be the most desirable and the most efficient means of delivery, it is clearly not an option that has found favour with governments. Nevertheless, the process of separate government responses and initiatives can yield best practice models which may, by way of a 'bottom up' effect, develop into national legislation. The particular, pragmatic advantage of this approach is, as a number of governments pointed out to the project team, that it reflects the political reality of federal/state relations, while still allowing for the goal of progressing towards some form of uniformity.

The 'National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders',⁴⁵ the New South Wales Government's 'Statement of Commitment to Aboriginal People',⁴⁶ and the Victorian Koori Services Improvement Plan⁴⁷ are examples of frameworks at the policy level, which conceivably form the basis for the establishment of framework legislation. To this end, the 'National Commitment' talks of a 'framework for improving outcomes'⁴⁸ for Indigenous peoples; the 'Victorian Strategy' talks of 'an 'umbrella' framework within which both existing and future ... policies for Koori services will sit',⁴⁹ and the New South Wales Statement declares itself to be the 'foundation for moving forward'.⁵⁰

Likewise, in respect of standards, policy statements in one form or another exist in most jurisdictions in the areas of Indigenous health, welfare, education and juvenile justice (as discussed below). Individually and collectively (as most share common themes) these policies provide the basis for common legislative standards for consultations with, and the delivery of services to, Indigenous peoples and communities.

However, with the notable exceptions of the widely adopted Aboriginal (or Indigenous) Child Placement Principle (ACPP or ICPP) and a patchwork of juvenile justice standards, the current position is one of potential rather than actual delivery. The potential of the policy statements, in other words, have yet to be translated into legislation.

In the 'National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders' the Australian governments 'have agreed on the need to achieve greater coordination of the delivery of programs and services by all levels of government to Aboriginal peoples and Torres Strait Islanders.'⁵¹ The same document also declares 'effective coordination in the formulation of policies and the planning and management and provision of services to Aboriginal peoples and Torres Strait Islanders by governments' to be one of the 'guiding principles' for governments.⁵²

⁴⁴ At p.10.

⁴⁵ See discussion below.

⁴⁶ November 1997.

⁴⁷ 'Improving Human Services for Victorian Koories: A Five Year Plan', March 1998. The Strategy expressly echoes the sentiments of the National Commitment upon which it is based.

⁴⁸ At, p.8.

⁴⁹ At, p.3.

⁵⁰ At, p.5.

⁵¹ Introduction, (para.1.1).

⁵² National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, May 1992, para.4.4.

Not surprisingly, given the insistence on the demarcation of governmental responsibilities, inter-governmental coordination has foundered. As noted above, the COAG never addressed the issue; the MCATSIA delegated the matter to a working group and the working group has not yet been convened.

A significant dimension of the governments' responses has been the matter of making officially sanctioned apologies. It is fair to say that whatever else is contained or is to be contained in individual government responses, the character of that response is largely set by the fact of whether an apology is made or not, and where one is made, its form and tone.

It is important to stress the context in which these apologies and refusals to apologise by Australian governments occurred. For the various local governments, trade unions, churches and other non-governmental groups, as well as a great many individual Australians (culminating in the 'Sorry Day' events on 26 May 1998), they were all moved to express in their own words messages of apology, acknowledgment or regret.

Implementation in specific areas

Apologies/statements of regret: Recommendations 3, 5, 6, 7

Some heads of government and relevant ministers made statements of apology or regret in their own right, but the definitive statements of apology were those made by the corresponding Australian Parliaments. Seven of the nine Parliaments in Australia passed motions of apology expressing, in slightly different forms, feelings of deep or sincere regret for the hurt and distress suffered by Indigenous people as a result of the policies of forced separation of Aboriginal and Torres Strait Islander children from their families.⁵³

The two jurisdictions in which neither the government nor the Parliament issued statements of apology were the Commonwealth and the Northern Territory. In both cases the underlying reasoning for not doing so was the notion that the generations of today ought not to be held responsible for the wrongs of former generations.

The Prime Minister proclaimed in his speech opening the Australian Reconciliation Convention in Melbourne on 26 May 1997 that 'Australians of this generation should not be required to accept guilt and blame for the past actions and policies over which they had no control'.

In the same vein, Mr Tim Baldwin, the Northern Territory Minister for Aboriginal Development, stated in a debate on the issue of an apology in the Northern Territory Assembly, that 'any call for an apology for the policies of past Commonwealth governments does not involve this government, given that those policies pre-dated self-government in the Territory'.⁵⁴

Clearly, such concerns were not so dominant in the thinking of the other seven Australian jurisdictions.

The cleavage between the past and present is echoed in the response of the Commonwealth Government in which the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, stated first that '... we do not believe that our generation should be asked to accept responsibility of earlier generations, sanctioned by the law of the times ...'. However, Senator Herron then added that, 'we fully accept that we of this generation have an obligation to address the consequences of those actions and policies'.

⁵³ South Australia: 28 May 1997; Western Australia: 28 May 1997; Queensland: 3 June 1997; ACT: 17 June 1997; New South Wales: 18 June 1997; Tasmania: 13 August 1997; and, Victoria: 17 September 1997.

⁵⁴ Parliamentary Record (NT), 17 February 1998, p.17.

It is in this two-part approach that the heart of the controversy over the making of official apologies lies, for it is claimed that a critical feature of any meaningful 'addressing of the consequences' by governments has to be an acknowledgment and expression of regret on the part of those governments for what occurred in the past. The claim of a current government's lack of any direct responsibility for the actions of past governments is to overlook a fundamental and enduring feature of Australian democracy - namely continuing responsible government. As one member of the Northern Territory Parliament stressed during the Legislative Assembly's debate on the question:

No one accuses this government of any wrongdoing in this matter. This government simply was not in existence at the time. No one accuses this current federal government of ill-doing in this matter. It is a very different government. It is a very different time. However, this government and the federal government are the bodies politic & the only authorities that can 'say' sorry, that can issue an apology on behalf of all Australians.⁵⁵

In respect of State Police Forces, the New South Wales Police Commissioner, Peter Ryan, stated publicly on 21 May 1998:

On behalf of the New South Wales Police Service, I offer a sincere apology to members of the 'stolen generations' and to all Aboriginal and Torres Strait Islander people for the prominent role that police played in enforcing past unjust laws.⁵⁶

No other police force has formally apologised. The Queensland Government notes, however, in its response that '[t]he historical role of the police in the removal of children was acknowledged during the Inquiry by Inspector Col Dillon, formerly Inspector in Charge of the Cultural Advisory Service'.⁵⁷

26 May 1998, which marked the first anniversary of the tabling of the *Bringing Them Home* report in the Commonwealth Parliament, was decided upon by the National Indigenous Working Group on the Stolen Generations (NIWGSG) to be the most appropriate to mark the commemoration of the history of forcible removals and its effects (**Rec. 7**). The NIWGSG formulated a one page statement articulating the objects of the Sorry Day and facilitated the holding of events across the country. Certain Governments and certain agencies within government actively encouraged and participated in these events. The NIWGSG received a grant of \$20,000 from ATSIC to assist it in its organisation of Sorry Day activities.

It is not yet settled whether the Sorry Day will be an annual event.

Telling, recording, keeping and accessing stories: Recommendation 1

At the national level, the Commonwealth has provided \$1.6 million for an oral history project to be run over four years by the National Library. The objectives of the project are:

Documentation of personal and social experiences of Indigenous Australians who were affected by the various separation programmes and of those involved in administering and implementing these programmes.⁵⁸

There will be an initial 'pilot project', to commence in 1998 and to run for 12 months, during which time 30 'oral history interviews' will be undertaken. The object of the pilot project is, according to the Commonwealth, to test the feasibility of a full scale project and to determine arrangements for its

⁵⁵ Mr Stirling, Parliamentary Record (NT), 17 February 1998, p.59. The ACT Government's position is different in this respect. For while it invokes the 'not directly responsible' argument in its rejection of the Inquiry's recommendation that financial compensation for those affected be considered (response, p. 27), the Government, together with the Legislative Assembly, did issue a statement of apology.

⁵⁶ In fact, the Commissioner made clear in the statement that the apology was made on behalf not only of the police service, but also the Chief Executive Officers of all New South Wales justice agencies.

⁵⁷ Response, p.4.

⁵⁸ Senator Herron, Budget Day Statement, 1998, 'Addressing Priorities in Indigenous Affairs', May 12 1993, p.80.

establishment should it be considered feasible. The envisaged outcome is 'a permanent national record of a significant period in Australian history, and a publication based on the testimonies of participants in the oral history project'.⁵⁹

No details as yet have been provided as to the extent of the full-scale project - that is, the number of histories to be recorded, and the methodology of the project, how the histories will be collected, where and by whom.

Also at the national level as noted earlier, ATSIC is to increase its funding of the 20 or so regional language and cultural centres by \$9 million over the next three years. This additional amount is not 'new money' but rather will be drawn from ATSIC's General Purpose grant.⁶⁰ According to the Commonwealth Government these funds 'will be targeted to areas of greatest priority in relation to culture and language maintenance'. Furthermore, the Government anticipates that 'extensive' community consultations will precede the setting of any funding priorities.⁶¹

At the level of States and Territories' language and cultural initiatives, the landscape of current and future schemes is varied.

In its response, the Victorian Government announced that the pre-existing Koori Oral History Program, administered by the Koori Heritage Trust, is specifically 'to record the stories of Aboriginal people affected by separation from their families'.⁶²

The New South Wales Government has indicated that the 'State Library would work with the relevant Government and Aboriginal Organisations to establish an oral history strategy'.⁶³ The Government also pledged \$40,000 seed money to the New South Wales Stolen Generations Memorial Foundation.⁶⁴ It is a primary intention of the Foundation that a 'keeping place' be built as a monument and memorial to those affected by the policies and practices of separation.

It should be noted that under a grants scheme operated by the Community and Personal Histories Section of the Queensland Department of Family Services and Aboriginal and Islander Affairs, funding (up to a maximum of \$5,000) can be obtained to aid, among other initiatives, the establishment or maintenance of oral history, family or community history projects.

The ACT Government has allocated \$2.5 million for the construction of an ACT Aboriginal and Torres Strait Islander Cultural Centre (to be opened in 2001). The Cultural Centre's vision is 'to retain, maintain and share cultures of contemporary Indigenous peoples in the ACT region, with special recognition of the traditional owners - the Ngunnawal people'. In its response the Government expanded on the Centre's 'underlying philosophy', indicating that it is 'to build a place for all people to visit, learn and experience Indigenous cultures as presented by Indigenous peoples themselves. This will include oral histories, exhibitions and associated materials relating to the stolen generations'.⁶⁵

⁵⁹ Senator Herron, Budget Day Statement, 1998, 'Addressing Priorities in Indigenous Affairs', May 12, 1993, p.80.

⁶⁰ In the words of the Commonwealth Government's Response the 'ATSIC Board has agreed to commit an additional \$9 million over the next three years for language and culture centres'; p.10.

⁶¹ Commonwealth Government's response, pp.41-3.

⁶² News Release from the office of the Minister Responsible for Aboriginal Affairs, Victoria, 17 November 1997, p.2; see also p.16 of the Victorian Government's response.

⁶³ New South Wales Government's 'Statement of Progress', May 26, 1998, p.2.

⁶⁴ Statement made by the Premier, Mr Bob Carr, at a Sorry Day Service, Government House, Sydney, 26 May 1998; reported in the *Sydney Morning Herald*, 27 May 1998, p.1.

⁶⁵ Response, pp.14-5.

Compensation: Recommendations 14 – 18, 41, 42

The National Inquiry's recommendations are based on three foundation principles for monetary compensation:

- (i) the reasons for compensation, or 'heads of damage' (**Rec. 14**) - these cover both loss (in the sense of cultural, land, or economic rights), and damage (as occasioned by racial discrimination, loss of liberty, abuse, and pain and suffering);
- (ii) the establishment and operational structure of a fund from which compensation would be paid; and
- (iii) the bases upon which compensation claims will be heard/assessed and the entitlement to a minimum lump sum.

Though no express indication was provided in the Implementation Report as to the precise form or process by which compensation payments would be determined, there are essentially three alternatives:

- (i) by way of litigation in the ordinary courts;
- (ii) administered through a government department or other agency; and
- (iii) by way of a tribunal.

No government showed any inclination to be proactive in providing compensation or reparation under the second and third of these mechanisms (the first mentioned requires, of course, no facilitative action on the part of the state beyond maintaining the pre-existing court structures), though some had considered certain possibilities. In the case of three governments, Victoria,⁶⁶ Queensland,⁶⁷ and the ACT⁶⁸, the unequivocal view is that no monetary compensation ought to be or will be paid. It was repeatedly put to us by governments that no matter how far their own thinking had developed on the issues, the matter was unquestionably a national one and therefore would necessarily require a coordinated national initiative. Tasmania, for example, indicated that it would support discussion of the issue at COAG or ministerial council levels. All governments were content for the time being to wait and see what the outcome will be of the various cases currently on foot. All governments were aware (at different levels of acuity) of the various litigation on foot - namely:

- after the serving of more than 700 writs in the Federal Court in the Northern Territory in October 1996, the Northern Territory Stolen Generations Litigation Unit (SGLU) is pursuing two cases in the Federal Court against the Commonwealth - *Cubillo* and *Gunner* - on the grounds of alleged breaches of fiduciary duty, negligence, breach of statutory duty, breach of guardianship duty, unlawful conduct and unlawful imprisonment due to unlawful conduct. A date for the joint hearing of these two cases has been set down for 1 March 1999;
- the three cases in New South Wales: the *Williams*⁶⁹ and *Stevens*⁷⁰ cases in the New South Wales Supreme Court, *inter alia*, alleging breaches of fiduciary duty on the part of the State;⁷¹ and, the

⁶⁶ Response, p.10.

⁶⁷ Response, p.4.

⁶⁸ Response, p.27.

⁶⁹ *Williams v Minister, Aboriginal Land Rights Act and the State of NSW* (1994) 35 NSWLR 497. The substantive matter of the case is yet to be argued.

⁷⁰ PIAC filed and served a claim for compensation of the plaintiff in the Supreme Court of New South Wales on 19 February 1998.

⁷¹ In respect of the *Stevens* case, PIAC's statement of claim is almost identical to that of the SGLU's in the two Northern Territory Federal Court cases detailed above.

Stubbs case which is being run by Public Interest Advocacy Centre (PIAC) currently before the Victims Compensation Tribunal (NSW);

- the Western Australia Aboriginal Legal Service is considering proceeding with a number of joined cases against the State alleging breach of fiduciary duty.

The ‘watching brief’ adopted by governments in respect of these cases has, invariably, two points of focus: first, the grounds (if any) that courts indicate would provide sufficient basis for damages to be awarded; and, secondly, if awarded, the magnitude of damages.

Another issue of particular concern for governments is whether the provision of assessed or ex gratia payments under any administrative (that is, non-curial and non-tribunal) scheme, would necessarily displace any additional civil action in the courts concerning the same issue (as would appear to be the intended effect of **Rec. 20**). State and Territory governments, in other words, are especially concerned over the possibility of being exposed to a ‘double jeopardy’ in respect of compensation payments.

The only evidence of consideration of an appropriate mechanism by which such compensation or reparation might be delivered has been by the New South Wales Government. This came by way of a proposal put forward by the PIAC for an ‘Indigenous People’s Reparation Tribunal’ (IPRT). This proposal was submitted to the New South Wales Government and formed part of the *Briefing Material* issued by the New South Wales inter-departmental Steering Committee which is coordinating the Government’s response. The proposal which was based on consultations with Link-Up (New South Wales), Tranby Aboriginal Co-operative College, Aboriginal legal, medical and children’s services, and members of the stolen generations was conceived as an alternative both to seeking redress for legal wrongs through litigation in the ordinary courts and the National Inquiry’s recommendation for a nationally administered Compensation Fund to be established (**Recs 15 & 16**). The new Tribunal, it has been suggested, might be based on the form and procedure of the existing New South Wales Victim’s Compensation Tribunal, thereby avoiding the potentially traumatising adversarial features of court-room litigation. The PIAC proposal indicates that,

[i]t would be given powers to make orders relating to compensation, based on oral or written submissions, and would also be authorised to make Recommendations relating to the other aspects of reparations as set out in *Bringing Them Home*; ie apologies, guarantees against repetition, measures of restitution and measures of rehabilitation.

Awards made by the Tribunal could be formulated to give classes of people benefits rather than simply limiting relief to individual claimants.⁷²

As some of the remedies envisaged are very different from anything that is currently available from existing tribunals, there is some doubt over how, or indeed whether, the proposed IPRT would be able to deliver them. It is expected that some indication as to how practicable (as well as politically acceptable) the proposal is will be provided in the eventual response of the New South Wales Government.

Reunion and records issues: Recommendations 12, 21 - 31, 38 - 40

Record keeping (access; archiving procedures and transfers)⁷³

Access to, and maintenance of government held records was an important focus of the National Inquiry. It also featured prominently in governments’ responses and preparations of responses, and in the project team’s meetings with governments. It is true that serious problems continue to exist (especially in providing counselling services), but equally it is fair to say that out of the stolen

⁷² PIAC, *Providing Reparations: A Brief Options Paper*, October 1997, p.9.

⁷³ In reading this Section, the reader might also refer to the table compiled in the *Bringing Them Home* Report (pp.330-1) which outlines the records searching and tracing services available in each jurisdiction. This section takes that table as its base, and the following observations and comments are provided either to draw out a particular important feature or point, or where the situation now significantly differs from that recorded by the National Inquiry.

generations issues addressed by governments, improvements in record keeping have been notable. At least one of the reasons for this would appear to be the relative immediacy of beneficial results that can be attained. The fact that the records are, in the main, still in existence and held by the governments has meant that establishing procedures by which the records can be accessed has been readily foreseeable and practicable.

At the national level, the National Archives of Australia (NAA; formally, 'Australian Archives') has been especially active. It established in March 1997 a 'Memorandum of Understanding' (MOU) in respect of access to records held by the NAA in the Northern Territory, with a number of Aboriginal and Torres Strait Islander peak bodies including the Northern Territory Stolen Generations Combined Reference Group. The essential aim of the MOU is to:

facilitate access to open period Commonwealth records in the custody of Australian Archives relating to Aboriginal people, including records or information which would otherwise be exempt under s.33(1)(g) of the *Archives Act* 1983 [that is, unreasonable disclosure of the personal affairs of an individual].⁷⁴

Specifically, the MOU is intended to assist Indigenous people affected by separation policies.

It is understood that a similar initiative is under consideration between the NAA and the Public Records Office of Victoria.⁷⁵

The Commonwealth Government has also provided \$2 million over four years to the NAA to compile name indexes, copy and ensure the preservation of Indigenous family records, and to publish 'detailed finding aids which will enable individuals and organisations from all parts of Australia to locate relevant records more easily'.⁷⁶

There would also appear to be some expectation of inter-governmental coordination on the question of records. As foreshadowed in the Commonwealth's response, the Council of Federal, State and Territory Archives (comprising the head archivists in each jurisdiction), has moved in this respect. It is understood that a 'References and Access Working Group' established by the Council is to convene at a forum in Perth in August 1998 with the express aim to share ideas and consider the possibility of initiating a joint agreement on common keeping and access standards for records relevant to Indigenous people affected by separation policies. Such an initiative would provide a sound basis for meeting the demands of **Recommendations 24** and **25** for governments to enter into memoranda of understanding for dealing with the tracing of records interstate and minimum access standards.

Interestingly, in handling interstate enquiries, the Queensland Government notes in its response that its experience 'suggests that formal memoranda of understanding between States dealing with interstate enquiries may not be necessary'. The Government based this contention on the fact that the practice in the Queensland system on receiving requests for records information from interstate was simply to send copies of the material direct to the persons concerned. However, while such an approach may satisfy the need to access information, it does not take account of important ancillary needs such as counselling which might have to be the subject of some inter-governmental agreement.

The ACT Government, on the other hand, supports of the development of memoranda of understanding between governments for dealing with interstate enquiries. This is hardly surprising given the peculiar position that exists in the ACT where, as its response notes, 'a significant number of

⁷⁴ MOU, p.2. 'Open period records' are records more than 30 years old. 'Closed period records' less than 30 years old are not generally accessible and are therefore not covered by the MOU. It should be noted, however, that the Australian Law Reform Commission has recommended in its report, *Australia's Federal Record: A Review of the Archives Act 1983*, that MOUs ought to be developed between government departments and Indigenous peoples in respect of records less than 30 years old; ALRC report No.85, 1998, Rec.213, p.361.

⁷⁵ Victoria is particular in this regard, as it alone among the states transferred to the Commonwealth in 1975 all records it held relating to the administration of Aboriginal Affairs.

⁷⁶ Commonwealth Response, at p.6; see also Senator Herron's 1998 Budget Day Statement, p.74.

ACT records were held previously by the Commonwealth or NSW governments, and a number of people now living in the ACT were forcibly separated from their families in other jurisdictions'.⁷⁷

Records Taskforces

The National Inquiry's **Recommendation 23** that there be established within the Commonwealth and each State and Territory joint records taskforces has not been universally adopted. The idea of such taskforces being 'joint' is not just to ensure that all relevant government departments work co-operatively, but also that non-governmental record-keeping bodies (such as the churches) and Indigenous representatives might also be involved. As yet, however, the involvement of non-government representatives has been inconsistent. Only the South Australia Records Taskforce reaches beyond government departments to include representatives of non-government records holding agencies *and* Aboriginal groups; though the Tasmanian taskforce has non-government Indigenous representation. The Records Taskforce established in New South Wales has consulted with church groups, in its joint initiative with the Department of Community Services 'Connecting Kin' Project,⁷⁸ and in Western Australia the Government intends to expand its taskforce to include representatives of non-government agencies. When its taskforce is established, Victoria intends to have both Indigenous and non-government bodies represented, as well as government agencies.

In Queensland, the functions of the taskforce are undertaken by the Community and Personnel Histories Section of the Department of Families, Youth and Community Care.⁷⁹

In the ACT, there is a contact point in the Adoption Information Service which also acts as a contact point for state and Northern Territory taskforces.⁸⁰

Access fees

Access to personal or family history records for Indigenous peoples is generally free (in that there is no fee or it is invariably waived) or at a minimum cost, and is available by right.⁸¹ Though freedom of information (FOI) legislation exists in every jurisdiction except the Northern Territory, it was made clear to the project team by all governments except the ACT Government, that there was usually no need to resort to such legislation to secure access. Rather, such access is provided under the adoption, welfare or archives legislation. In the ACT, perhaps because of the limited use made of any access provisions, use of FOI legislation seems to be more readily anticipated.⁸² In any case, fees and charges for FOI requests are waived in the ACT if the records relate to people affected by separation.⁸³

In the Northern Territory, where there is no archives legislation,⁸⁴ access is provided either through the above-mentioned MOU in the case of relevant Commonwealth records, or the Protocol on *Access to Northern Territory Government records by Aboriginal People researching their families* (October 1997) (which in large measure mirrors the MOU).

There is also no archives legislation in the ACT.⁸⁵

⁷⁷ Response, p.36.

⁷⁸ This project, which was on foot before the National Inquiry's recommendations were made, covers the tracing of family and communities' records held by government and non-government bodies relating to Aboriginal and non-Aboriginal people. The resultant *Connecting Kin* **B**Guide to Records is expected to provide a guide to one-stop records access.

⁷⁹ Response, p.5.

⁸⁰ Response, p.36.

⁸¹ The Northern Territory Government has no plans to enact FOI legislation as called for in **Recommendation 26**.

⁸² Response, pp.8 & 37.

⁸³ Response, pp.36-7.

⁸⁴ There are no plans to enact archives legislation in the Northern Territory.

⁸⁵ The Government has declared that it intends to examine the need for such legislation; response, p.34.

Assisting access

A crucial factor in the practical accessibility of records is the ‘user-friendliness’ of the procedures put in place by the agencies to whose records access is sought. **Recommendation 27** of the National Inquiry highlights the desirability of a ‘one stop shop’ (or ‘first stop shop’) for access. This has proved to be a challenge for all governments. At base, they are faced with a dilemma where on the one hand, the central records keeping agency (ie the archives office) is best placed to provide access to records originating from across all government agencies. On the other hand, the agency responsible for Aboriginal or Indigenous affairs may have the appropriate or greatest expertise and be the agency with which Indigenous communities are most familiar and have most contact. The situation at present varies with each government.

The Victorian Government is still in determining how it will respond to this question. The Public Records Office of Victoria plans to hold a series of ‘Public Records Forums’ around the State in order to disseminate information concerning current access provisions as outlined in the well received ‘My Heart is Breaking’ Guide.⁸⁶ The Forums will gather information from Indigenous communities to identify the access problems they encounter and how best they might be resolved through modified or new access procedures.

The Tasmanian Government has made a short-term appointment of an Indigenous officer within the Department of Health and Community Affairs whose remit has been to ‘develop a policy framework and establish protocols and procedures that ensure that Aboriginal people have appropriate access to personal information held by the Department and other agencies’.⁸⁷ It is understood that this officer has also provided a point of entry to government held records for Indigenous people seeking access to them. It is as yet unclear what long term access provisions and staffing will be made in Tasmania.

The Adoption Information Service within the ACT Department of Family Services operates as the contact point for access to records. There is a relatively small demand for the Service: since its establishment in June 1996 there have been less than 10 enquiries.⁸⁸

Under the Northern Territory Government’s Protocol on access to its records the first point of contact is the Northern Territory Archive Service. The staff of this Service facilitate access directly where possible or direct the applicant either to the appropriate Northern Territory Government agency,⁸⁹ or to the NAA (under the terms of the MOU described above). Though not a ‘one stop shop’, this process appears to be working well.⁹⁰ An apparent gap in this system is that of access to non-government held records. It is unclear what, if any, consideration is given to bringing such records under the umbrella of the government regime, or what assistance or advice is provided for the establishment of separate but appropriate records keeping and access standards.

The position in Western Australia - where until recently there were two parallel records access systems in two separate departments - has been recently rationalised and reformed in response to the National Inquiry’s recommendations. The Department of Family and Children’s Services has established a Family Information Tracing Bureau (FITB), which became operational in mid 1998. The Bureau’s object, as foreshadowed by the Western Australia Aboriginal Affairs Minister, is to ‘provide

⁸⁶ *A Joint Guide to Records about Aboriginal People in the Public Records Office of Victoria and the Australian Archives*, 1993.

⁸⁷ Response, p.2.

⁸⁸ Response, p.39. However, it is relevant to note that according to the ACT Government itself, the Australian Institute of Aboriginal and Torres Strait Islander Studies (Canberra) is usually the first port of call for Indigenous people seeking personal and family information; project team meeting with Government.

⁸⁹ Protocol, pp.5-6.

⁹⁰ Note, there is also provision for the training of archives staff under the MOU; p.5.

a comprehensive family and information tracing service to Aboriginal people through a central point of search rather than people having to go to a raft of agencies'.⁹¹

What is more, the reach of the FITB will be extended through the 23 regional offices of the Aboriginal Affairs Department: \$400,000 has been assigned to the FITB for 1998/9, as well as \$400,000 provided for the enhancement of the keeping and management of relevant records, particularly, to transfer them to CD-ROMS. A sum of \$440,000 has been pledged in recurrent funding.⁹²

The Department of Human Services in South Australia provides access to records relating to those affected by past separation policies through the single Link-Up officer located in the adoption unit of the Department. It was made apparent to the project team during its meeting with the Government that this scheme does not work well, not least because the officer in question is effectively having to play two roles (ie facilitator of reunions and of records access) which reduces the effectiveness with which records are made available and accessed. Certainly, given the staffing levels of the other States' records access schemes, the position in South Australia would appear to be under resourced.

In Queensland the Community and Personal Histories Section of the Department of Family Services and Aboriginal and Islander Affairs provides Indigenous peoples with access to the Department's historical records relating to their forebears and the history of the communities they belong or belonged to.⁹³ Established in 1992, largely in response to a recommendation of the Royal Commission into Aboriginal Deaths in Custody (**Rec. 53**), the services provided by the Section are widely accepted as the most progressive in Australia and serve as something of a model for other jurisdictions. The Section is well staffed, both in numbers and Indigenous staff; a 'user-Friendly' Records Guide is available (price: \$25) that advises what is available and how the process of records access works;⁹⁴ and, there is a grants program which funds individual, family and community searches up to a maximum of \$5,000.

The employment of Indigenous archivists and/or historical researchers across the States and Territories ranges from more than half of the staff employed in tracing stolen generations records (as in Queensland) to none (as is the present case in Victoria, though in its response the Government has pledged \$60,000 over two years for the training of two Indigenous archivists).⁹⁵ There is also a grants program which funds individual, family and community searches up to a maximum of \$5,000.

Prohibition on records destruction

In respect of prohibiting the destruction of relevant records (**Rec. 21**), the governments' responses have been varied: in Tasmania, for example, the Government notes in its response that the types of records referred to in the recommendation have not been destroyed and 'will continue to be protected by the provisions of [Archives] Act [1983]';⁹⁶ and in New South Wales a moratorium of one year has been set on the destruction of records.⁹⁷ The Northern Territory Government has stated that it 'will consider withholding from destruction [relevant] records',⁹⁸ and the Commonwealth has placed an

⁹¹ Media Statement 20 May 1998, p.1.

⁹² Media Statement, 20 May 1998, p.1

⁹³ However, that the service relates only to those records held by the Department (whether in its offices or in State Archives). The Section can and does direct users to other departments (such as Births, Deaths and Marriages) or non-governmental bodies (such as churches) where it does not hold the records sought. In respect of the latter records, many are either held by the John Oxley Library, or the Library has access to them. Volume 3 of the Guide referred to in the following footnote focuses on these other sources of records.

⁹⁴ Only the first of three volumes of the Guide is currently available. This first volume (along with volume 2) will describe the historical records held by the Department. Volume 3 will describe the records held by other government departments (for example, Police, Lands, and Auditor-General). The price quoted refers to the first volume. The Guide is a joint initiative of the Department and Queensland State Archives.

⁹⁵ Response, p.26.

⁹⁶ Response, p.19.

⁹⁷ Statement of Progress, May 26 1998, p.8.

⁹⁸ Northern Territory Government Protocol, p.13.

indefinite freeze on destruction pending the National Archives of Australia taking the ‘necessary steps’ to identify which records are to be withheld from destruction.⁹⁹ In Victoria, records destruction is unlawful unless in compliance with a relevant standard. However, there is no standard for records concerning the separation of Aboriginal children from their families, ‘nor’, in the words of the Government’s response, ‘is there any intention to issue such a standard’.¹⁰⁰ The position in the ACT (where there is no archives legislation) is unclear in respect of the matter of records preservation. The Government has, however, indicated its intention to ‘examine the whole records management regime’.¹⁰¹

Counselling

An important dimension to accessing stolen generations records is the matter of parallel and/or subsequent counselling for those who are seeking or who have obtained access to records. Such is the nature of the records and the circumstances of their access that the effects on individuals and family are potentially traumatic. The need for counselling services is, therefore pressing and constant. It is true to say that all governments recognise the importance of this factor; indeed, some even stipulate that counselling is compulsory for those seeking this type of information (this is the case in Tasmania, for example).¹⁰² However, in all cases, the provision of counselling through governments’ resources or offices is minimal. None automatically provide initial ‘on-site’ counselling nor subsequent counselling. Rather, the relevant government agencies provide to those who are seeking access to records advice on counsellors (which may be either or both private and state funded) that may be contacted. During our meetings with governments the concern was repeatedly expressed by Indigenous representatives in each jurisdiction, that to leave it entirely to the individual concerned to determine whether and when to seek counselling was not as responsible a course of action as could be taken by governments. At the very least, more advice as to the objects of, and potential need for, counselling should be provided to individuals as they embark on the process of seeking access to such records. This is what was envisaged in National Inquiry **Recommendation 30(b)**, specifically, points 3,4 and 5.

Throughout our consultations with State and Territory governments it was made clear to us that many officials saw the \$39+ million allocated to health and counselling issues (specifically the foreshadowed engagement of 50 new counsellors) by the Commonwealth Government in its response as going a long way to filling the lacunae each recognised in its counselling services. Though governments did not go so far as to say that such services are the responsibility solely or even primarily of the Commonwealth, all were happy to rely on the uncertain prospect of this funding (see further below) as a reason not to commit themselves in this respect. The Commonwealth initiative in this regard is discussed in more detail below.

Link-Ups and reunion

A vital role is played by State and Territory Link-Ups and like organisations or services. In effect, these bodies provide the essential link between Indigenous people who have been affected by the policies and practices of separation and their present needs - that is, access to information about their past and help and advice as to what to do with that information, including the possibility of reunion with family or communities. The largest, most established and successful Link-Ups are those in New South Wales and Queensland. Though funded through a combination of ATSIC and State government funds, they operate independently of government, though by way of their expertise and their constant interaction with government agencies, they are intimately familiar with ‘how bureaucracy works’ and how best to assist their clients in accessing the material and services they require.

⁹⁹ MOU, p.6.

¹⁰⁰ Response, p.19.

¹⁰¹ ACT Government Response, p.34.

¹⁰² Response, p.27: where it is noted that under s 74(1) of the *Adoption Act 1988* (Tas), counselling is mandatory for all adopted persons or birth parents seeking information; this applies, of course, to Indigenous and non-Indigenous people alike.

Accordingly, how governments relate to Link-Up type services - how important they regard them and to what extent they support them is of the utmost importance. This is reflected in National Inquiry **Recommendation 30(a)** which calls upon COAG to 'ensure that Indigenous community-based tracing and reunion services are funded in all regional centres with a significant Indigenous population'. No such action has been taken by COAG.

At the federal level the important role of Link-Up services is alluded to: 'all Link-Ups reported an increased demand for their services as a result of the ... National Inquiry ...'.¹⁰³ The thrust of the Commonwealth Government's response in this regard is based on a pledge of \$11.25 million over four years to support the establishment of a national network of Link-Up organisations based on an equivalent of the New South Wales and Queensland services'.¹⁰⁴ The funds are to be used 'to expand the existing New South Wales and Queensland services and to establish similar services in other jurisdictions'.¹⁰⁵ Though the Commonwealth has stated that the funds will be administered through ATSIC,¹⁰⁶ an independent needs assessment is being undertaken which, it is anticipated, will largely determine how and where ATSIC will direct funds. ATSIC is working with both the Office of Aboriginal and Torres Strait Islander Health Services (OATSIHS) in the Department of Health and Family Services and the National Aboriginal Community Controlled Health Organisations (NACCHO) in developing these Link-Up services.¹⁰⁷ As discussed below, OATSIHS is also talking directly to Link-Ups and like organisations about the relationship between them and the proposed 50 new counsellors.

Notwithstanding this increase in funds, the Commonwealth has stressed the fact that although Link-Up services are largely supported by the Commonwealth through ATSIC, the 'proper responsibility' for such support lies with the States and Territories. The reality is, however, that with two possible exceptions the States and Territories do not provide, nor is there any immediate prospect that they will provide, significant support for independent Link-Up type services. Exceptionally, the New South Wales Government has pledged \$100,000 to be granted to Link-Up New South Wales, for one year only,¹⁰⁸ and the Queensland Government has announced, without details, that it is to develop a 'specifically targeted cross-cultural awareness training program to assist reunification of members of the stolen generations with their families and culture and promote understanding of Indigenous culture within the non-Indigenous families involved' and has employed an individual to work on the project.¹⁰⁹ Once again, the Commonwealth's allocation of funds for health counsellors discussed above, the temptation yielded to by the States and Territories has been to adopt a 'wait and see' approach as to how far the allocation of Commonwealth funds within their jurisdiction will go and with what effect, before considering what they might contribute. The response (to **Rec. 30(a)**) of the Victorian Government is typical in its pledge to 'make strenuous representations to the Commonwealth seeking its support for the provision of additional funding for Link-Up'.¹¹⁰

Outside the New South Wales and Queensland institutions, Link-Up services are mostly provided by Aboriginal or Aboriginal and Torres Strait Islander Child Care Agencies. This is far from ideal, as such bodies do not have the funds, personnel or expertise to undertake such a task. The objects of

¹⁰³ Senator Herron's Budget Day Statement, 12 May 1998, pp.47.

¹⁰⁴ Response, p.7.

¹⁰⁵ Response, p.7.

¹⁰⁶ See Senator Herron's Budget Day Statement, 12 May 1998, pp.46-7. The Commonwealth points out that this extra funding represents a 300% increase in the ATSIC's annual budget for this purpose.

¹⁰⁷ Correspondence from the Commonwealth Minister for Health and Family Services, Dr Michael Wooldridge (to Sir Ronald Wilson), 12 May 1998; Commission file.

¹⁰⁸ *Statement of Commitment*, p.8.

¹⁰⁹ Addendum to the Queensland Government's response. Crucially, no indications are provided as to how long the employee will be engaged on developing the project and when it might be finished; how the resultant training program might be administered and by whom (the Department or Link-Up?), and no costs estimate or budget is provided.

¹¹⁰ Response, p.28. Similarly, the ACT Government's response talks, in this respect, of 'applying' for an additional mental health counsellor for the ACT from the 50 new Commonwealth positions to be created; at p.4.

such bodies are, in any case, not necessarily suited for the specific task of providing tracing and reunion services to people affected by separation policies. Such people are now almost invariably adults, even if their relevant experiences occurred when they were children, and therefore the work of a child care agency is ill-suited to their needs. Indeed, it would seem that this very mismatch is one of the reasons why State and Territory governments have not funded them to provide tracing and reunion services.

In some jurisdictions, a Link-Up type service is provided from within a government agency. This is currently the case in South Australia (through the Department of Human Services) and temporarily at least, in Tasmania (through the officer currently employed in the Department of Health and Community Affairs). Debates as to whether it is appropriate to provide such services from within government rather than independent of it are being pursued with vigour in both South Australia and Western Australia.

In our meeting with the Western Australia Government it was made clear that from the Government's point of view there was much to commend locating such a service within government; not least of the attractions was that it would avoid duplication of services. Further, it was argued, the responsibility to provide such a service falls to government. Alternatively, the view was put to the Government that the service was expressly intended to be community and not government based for the fundamental reason that government - no matter how differently it functions today - was the very agent of the separation policies that led to individuals seeking Link-Up type services. For such individuals, a government agency may still be seen as too confronting an institution to deal with directly. The very success of the non-governmental New South Wales and Queensland models appear amply to support the need for, and effectiveness of, their role as independent intermediaries.

Health care; counselling, well-being, parenting skills: Recommendations 33-37, 42

The obvious and significant health implications for those affected by past separation practices and policies forms the basis for the National Inquiry's recommendations on health care. Physical and mental health questions arise both directly from the immediate and long-term effects of separation and indirectly from the subsequent actions taken to trace family and community. The health care difficulties are not clearly defined nor are their effects fully understood. As a result, the present and ongoing health problems are potentially enormous.

Governments' responses to the National Inquiry's recommendations may be significantly aided by the existing and planned framework for Indigenous health care, particularly at the federal and inter-governmental level, but also at the individual level of some States and Territories. Most importantly, the Commonwealth has now concluded Aboriginal and Torres Strait Islander Health Framework Agreements with every State and Territory.¹¹¹ The aim of the Agreements is 'to achieve a health system that is more accessible and responsive to the needs of Aboriginal and Torres Strait Islander peoples, as well as more appropriate services, better linkages between health services and measurable outcomes'.¹¹² The Agreements also envisage:

joint planning processes which allow for full and formal Aboriginal and Torres Strait Islander participation in decision-making and determination of priorities;

improved cooperation and coordination of current service delivery, both Aboriginal and Torres Strait Islander specific services and mainstream services, by all spheres of Government; and

increased clarity in the roles and responsibilities of the key stakeholders.

¹¹¹ The last of which was concluded with the Northern Territory in April 1998. The process of securing all 8 agreements took approximately 2 years. Typically, each agreement is between the State/Territory Minister for Health, the Commonwealth Minister for Health, Chairperson of ATSIC and the Chairperson of the peak Indigenous community health care body.

¹¹² 'Wellbeing Action Plan', see following footnote; p.1.

The Agreements provide the structural framework through which the Commonwealth's 'Aboriginal and Torres Strait Islander Emotional and Social Wellbeing Action Plan'¹¹³ (the Plan) is being implemented across the country. The particular significance of the Plan is that it is the vehicle for implementing the Commonwealth Government's specific health-related responses to the National Inquiry's Recommendations.¹¹⁴ What is more, as the Plan was devised, and is being implemented, in consultation with the National Aboriginal Community Controlled Health Organisation (NACCHO), it provides a base upon which the need for further research as outlined in National Inquiry **Recommendation 32** of can be met.

The Commonwealth's responses to the National Inquiry's recommendations on health care focus on **Recommendation 33** and are targeted largely at Indigenous mental health. General health issues, it seems, are picked up within the related broader policy goals of the Commonwealth which it declares are to "address directly the effects of severe socio-economic disadvantage suffered by Indigenous people through improved outcomes in health, housing, education and employment".¹¹⁵ Further, Dr Wooldridge, in a statement accompanying the 1998 Federal Budget, pronounced that 'Indigenous health is a major priority, not only for the Government, but for the nation'.¹¹⁶

In fact, the part of the Commonwealth Government's response targeted at Indigenous health issues constitutes by far the largest portion of the total response. At \$39.15 million over four years,¹¹⁷ it comprises significantly more than half of the total budget. This amount is distributed across three principal initiatives:

- (i) engagement and training of 50 new counsellors 'to assist those affected by past policies and for those going through the reunion process' (\$16 million);¹¹⁸
- (ii) expansion of 'network of regional centres for emotional and social well being, giving counsellors professional support and assistance',¹¹⁹ with the addition of 3 centres (planned, one each, for New South Wales, Queensland and Western Australia) to the 11 existing centres (\$17.25 million); and
- (iii) 'further development of indigenous family support and parenting programs funded through the Health and Family Services Portfolio' (\$5.9 million).¹²⁰

The 50 additional counsellors are to be distributed (on a pro rata basis) across the 11 (+3) regional centres of the Commonwealth Department of Health and Family Services established, or to be established, throughout the States and Territories under the 'Wellbeing Action Plan'. On the ground, the regional centres exist and operate either in their own right or within pre-existing State or community controlled Indigenous health centres. Necessarily, therefore, the first two initiatives listed above will be implemented, and will operate, jointly. It is the understanding of the project team that each regional centre will be responsible for training and support of the new counsellors to be placed with them. It is expected that much of the training will be sub-contracted to appropriate local educational institutions.

¹¹³ Launched in October 1996 by the Commonwealth Minister for Health, Dr Michael Wooldridge. The 'Wellbeing Action Plan' has a budget of \$20 million spread over four years. The 'Wellbeing Action Plan' is itself a direct product of the *Ways Forward* report 1995 (Vols 1 & 2) on Aboriginal and Torres Strait Islander Mental Health, prepared by Raphael, B and Swan, P.

¹¹⁴ Commonwealth response, p.8.

¹¹⁵ Commonwealth response, p.2.

¹¹⁶ Minister for Health and Family Services, Media Release, 12 May 1998, p.6.

¹¹⁷ See further, Senator Herron's Budget Statement, 12 May 1998, p.107.

¹¹⁸ Commonwealth response, p.4.

¹¹⁹ Commonwealth response, p.4.

¹²⁰ Commonwealth response, p.8.

Under the 'Wellbeing Action Plan', the development of Indigenous family support and parenting programs was already underway; the additional funding indicated above will, the project team understands, supplement that work in the specific respect of gathering empirical data on the ongoing effects of separation on families.

Each of these initiatives the Minister has undertaken to ensure his key advisory body on Indigenous health matters - the Aboriginal and Torres Strait Islander Health Council – is involved in monitoring their implementation and in advising the Minister accordingly.¹²¹ Dr Wooldridge has also indicated that the Office for Aboriginal and Torres Strait Islander Health Services (OATSIHS) in his Department 'has been discussing an implementation strategy with the NACCHO', as well as working with, as noted above, both ATSIC and NACCHO on the expansion of Link-Up services.¹²² Further, it is understood that the OATSIHS is currently meeting and discussing with Link-Ups and like organisations across the country the placement of the 50 new counsellors; in particular about the prospects for their placement within, or their availability to, such bodies.

In the States and Territories, it is difficult to identify specific health initiatives adopted in direct response to the National Inquiry's recommendations. There appear to be two reasons for this. One is that such 'new' initiatives are placed within existing policy frameworks (usually drawn up in consultation with the appropriate local peak Indigenous organisations), as well as the Commonwealth/State and Territory Agreements. What, in other words, was already in train, is now, or soon may be, modified to address particular issues raised by the National Inquiry's report. This is not necessarily a criticism - especially as the overall objects of the State or Territory Agreements (including community consultation and control) commonly correspond with those of the National Inquiry's recommendations, and the integration of new initiatives with pre-existing ones is often most effective. But this does make it difficult to distinguish the new from the existing.¹²³

The second is that State and Territory governments have been unwilling or unable to make any significant commitments to health care reform following the National Inquiry's recommendations, until they are clearer about the details of the Commonwealth's commitment of \$39.15 million to health issues in its response. In particular, precisely where, how much and by way of what administrative mechanisms, would the funding be expended in each jurisdiction are matters of concern. This much was repeatedly made clear to the project team throughout its meetings with governments.

The Project Team understands that while the specific Commonwealth, State and Territory health care responses to the National Inquiry's recommendations are not scheduled for discussion at the next meeting of the Ministerial Council on Health, it is on the agenda of the next meeting of the inter-governmental, officer level meeting of Community Services Administrators. Consideration has also been given to convening a joint Ministerial Council meeting of health ministers and community services ministers (where the portfolios are separated) to discuss these issues.

The State and Territory health services forums provided for under each Commonwealth/State and Territory Framework Agreement are all scheduled to discuss the various health related initiatives that bear on the *Bringing Them Home* report's findings. These forums, which meet on average every three months, comprise Commonwealth and State or Territory health department representatives, ATSIC representatives and representatives from local Indigenous health care organisations. It is anticipated that these meetings will provide the opportunity to discuss in detail the mechanics of the Commonwealth Government's health care initiatives; any foreshadowed local initiatives; how best to ensure that local and Commonwealth actions complement each other; and what problems exist or can be foreseen.

¹²¹ Dr Wooldridge; correspondence (with Sir Ronald Wilson), 12 May 1998; Commission file.

¹²² Dr Wooldridge; correspondence (with Sir Ronald Wilson), 12 May 1998; Commission file.

¹²³ The ACT Government, in its response, does however attempt to make this distinction, at pp.5-9.

Such meetings may lead to a greater understanding of their respective initiatives (especially of the Commonwealth's), and could form the foundation for more coordinated, and therefore more efficient and effective, implementation strategies.

Education and training; schools, professional bodies, and community: Recommendations 8, 9

The *Bringing Them Home* report raised the question of education in the history and consequences of the separation policies and practices within the context of guaranteeing against repetition.¹²⁴ Such education, it is believed, if instituted at all levels from school through tertiary institutions and professional bodies, to the wider community, would ensure a better understanding and appreciation of the nature of the past practices and thereby protect against their repetition through design, neglect or ignorance.

No specific initiatives in this regard have been instituted by the Commonwealth Government as it is of the view (not disputed by the States and Territories) that the relevant recommendations are primarily the responsibility of the States and Territories.¹²⁵ It is pertinent to note, however, one national initiative that has broader community education goals. The nationwide Stolen Children's Support Fund was established as a trust on 25 August 1997. The trustees are Peter Nugent MP (Liberal), Senator Margaret Reynolds (Labour), Senator Vicki Bourne (Democrats), and Professor Marcia Langton. Its objects are essentially educational and support the broad educational aims of the National Inquiry's recommendations. At present it has a relatively small funding base (approximately \$12,000). On 26 May 1998, the Prime Minister announced that donations to the fund are tax deductible.¹²⁶

In schools

At the State and Territory level certain specific actions have been taken in direct response to the recommendations of the National Inquiry. The most conspicuous and significant of these have been the decisions in New South Wales, Western Australia, South Australia and the ACT¹²⁷ to provide every school with packages of material relating to stolen generations issues, including copies of the 30-page Community Guide of the *Bringing Them Home* report and the *Bringing Them Home* video. In Queensland, the Community Guide has been placed on 'the Education Queensland website *Murri Thusi* for access by schools and other community members'.¹²⁸

The bulk of existing or planned initiatives in each jurisdiction that are relevant to the recommendations are systemic, in that they presently constitute or will constitute parts of broad policy platforms and operational strategies. Certainly, in school education, each State and Territory has a specific Aboriginal and Torres Strait Islander education policy within its general education policy.¹²⁹ It was made clear to the project team in each of the meetings with governments that it would be through these existing broad policy outlines or consultation arrangements (as in the ACT)¹³⁰ that any future specific initiatives responding to the National Inquiry's recommendations would be executed. Some education departments have ensured (as in Tasmania)¹³¹ or recommended (as in Queensland)¹³² that schools include the history of separation policies and practices in appropriate subjects in curricula.

¹²⁴ At pp.294-5.

¹²⁵ Commonwealth Response, 'Summary' table, p.12.

¹²⁶ Media Statement.

¹²⁷ The provision of the material indicated has been foreshadowed in the ACT Government response at p.30; it has already occurred in the other jurisdictions cited.

¹²⁸ Response, p.4.

¹²⁹ Typically, such policies address the twin questions of how 'to promote educational achievements of Aboriginal students' and, '[t]o educate all students about Aboriginal Australia'; these are the words of the New South Wales Department of School Education's Aboriginal Education Policy.

¹³⁰ Response, p.19.

¹³¹ Response, p.13.

At present, Indigenous culture or history courses in public schools are compulsory only in New South Wales, South Australia and Tasmania;¹³³ they are elective courses elsewhere. However, as was pointed out in our meetings with governments, such Indigenous specific courses are not the only vehicle through which the history and continuing effects of forcible removal of Indigenous children from their families might be taught. The standard Australian history course ought properly to include such material.

An important part of the process of incorporating these matters in school curricula is the extent to which there is a coordinated national approach. At the broadest level, *Indigenous Education Agreements* (1997-9) have been concluded between the Commonwealth and all state and territory governments under the Indigenous Education Strategic Initiatives Program. The broad objectives set by these Agreements provide the framework within which the specific goals of **Recommendation 8** of the National Inquiry report could be achieved. At the particular level of developing a nationwide, compulsory Indigenous studies course, there was some suggestion earlier this year that the matter might be pursued both at inter-governmental officer level and Ministerial Council level, but at the time of writing no such action has been taken.

Of relevant professionals and public servants

There has been no national or coordinated inter-governmental initiative on including stolen generations information in courses. At the State and Territory level initiatives have been sporadic and particular. For example, the Victorian Government response outlines cultural awareness training courses in various forms for police; criminal justice personnel; judges and correctional services personnel.¹³⁴ The Tasmanian Government response refers to a 'range of training opportunities provided within the public service ... which seek to provide cross-cultural awareness';¹³⁵ it was indicated to us in our meeting with the Northern Territory Government that similar induction and continuing training exists in the Northern Territory. The Queensland Government response refers to general public service training on cultural awareness; training for front-line child protection and youth justice workers ('Family Services Officers') in the Department of Families, Youth and Community Care in relevant matters including the history and effects of forcible removal; and, the current development of appropriate cultural modules for teacher training courses.¹³⁶ In the ACT, Youth Justice staff receive training on Aboriginal culture and the effects of forcible removal, and cross-cultural communication workshops are made available to Family Services staff.¹³⁷ The Australian Federal Police's cultural awareness training includes consideration of the effects of the forcible removal of Aboriginal and Torres Strait Islander children.¹³⁸

Typically, governments consider the inclusion of appropriate courses in University education and the training provided by professional bodies to be a matter for these institutions (if not the Commonwealth) to determine for themselves,¹³⁹ and would, in any event, likely require further consultation and consideration.¹⁴⁰

¹³² Response, p.4.

¹³³ Response, p.15: 'Aboriginal Studies' is a compulsory unit of the learning area 'Studies of Society and the Environment' in Tasmania.

¹³⁴ Response, p.14.

¹³⁵ Response, p.15.

¹³⁶ Response, p.5.

¹³⁷ Response, p.30.

¹³⁸ ACT Government response, p.30.

¹³⁹ See, for example, the responses of the Queensland and Victorian Governments p.5 and p.14, respectively.

¹⁴⁰ See, for example, the Tasmanian Government response, p.3.

Issues of contemporary separation: Recommendations 42-54

All of the recommendations made by the National Inquiry have a contemporary focus to greater or lesser extents, but none more so than those which relate to continuing and/or contemporary separation of Indigenous babies, Indigenous children and Indigenous young people from their families or communities.

Recommendations 42 to 52 of the National Inquiry report relate to both the deep societal questions of Indigenous self-determination and social justice, and the minutiae of laws, regulations and policies governing families, adoption and child welfare, and juvenile justice. The deep and the detailed go hand in hand. Neither set of questions is more important than the other. The challenge is how to ensure that their integrated relationship is understood and issues they raise are addressed as effectively as possible. It was not, and is not, denied that specific relevant initiatives have been taken, as referred to below and as discussed in Chapters 20 to 26 of the *Bringing Them Home* report. However, it was the very fact that they have been taken largely in isolation, without clear reference and linkages to other initiatives in the same jurisdiction let alone reference to corresponding initiatives in other jurisdictions, that forms the basis for the recommendations in this area.

It was the need for co-ordinated and integrated response that led to the recommendations with such a strong focus on national legislation, or at least inter-governmental cooperation. At base, it was considered that where nationwide strategies for the twin goals of self-determination and social justice for Indigenous people could be set, the problems associated with the gross over-representation of Indigenous people in matters of child welfare and juvenile justice would begin to be addressed and concerns over contemporary separations correspondingly allayed.

Self-determination and social justice

At the broad level, the view adopted by the National Inquiry was that the most appropriate and the most effective means by which to establish a stable and lasting framework for achieving greater self-determination and social justice was by national framework legislation and national standards legislation.

However, as is detailed earlier, there is no immediate or even long-term prospect of such national legislation being introduced. There is no consensus among Australian governments to act in such a concerted manner. As so much of the leadership responsibility for such an initiative falls to the Commonwealth Government, without its active support - or worse, in the face of its opposition to the idea¹⁴¹ - the initiative will not eventuate.

Incorporation of Genocide Convention: Recommendation 10

The enactment of legislation by the Commonwealth to give effect to the Genocide Convention, as suggested in **Recommendation 10** of the National Inquiry, would constitute an important part of official recognition and acceptance in Australia of the fact that the separation policies of the past are over and will not be repeated. There are not now, nor have there been, any sound reasons not to enact such legislation following Australia's ratification of the Genocide Convention in 1948. Indeed, such legislation would appear to be required to comply with constitutional convention in Australia, which dictates that ratification only occurs once domestic law is brought into line with the requirements of the international instrument being entered into.

In its response, the only reason provided by the Commonwealth Government for its decision not to enact such legislation amounts to a *non sequitor*. Its proposition that in the *Kruger* case¹⁴² 'the High Court rejected assertions that the Northern Territory law authorised genocide'¹⁴³ fails to address the

¹⁴¹ Commonwealth response, p.10.

¹⁴² *Kruger v Commonwealth* (1997) 71 ALJR 991.

¹⁴³ Summary Table appended to response.

rationale behind the recommendation. The point at issue in the recommendation is not whether past laws governing the forcible removal of Indigenous children from their families authorised or even effected genocide, but rather that the enactment of legislation outlawing genocide or any genocidal action in Australia would help ensure that such an abhorrent phenomenon would not occur today or in the future, whether or not one accepts that it occurred in the past.

Child welfare and juvenile justice: Recommendations 44-53

The recommendations relating to Indigenous child welfare and juvenile justice fall within the broad ambit of the National Inquiry's call for national framework legislation and they constitute the basis of the suggested national standards legislation. In light of this, such responses of governments to these recommendations as there are suffer fundamentally from the lack of support for such a nationwide approach. In particular, the rejection of the base recommendation for the institution of national standards legislation - namely **Recommendation 44**, which calls upon COAG to negotiate with relevant national Indigenous peak bodies (including SNAICC and NAILSS) on such legislation - has been fatal.

There has not been a complete absence of inter-governmental coordination in response to the National Inquiry's recommendations in these areas. On Indigenous welfare issues in general (including child welfare) the next scheduled inter-governmental meeting of Community Services Administrators is to address the question of coordination and cooperation (as discussed earlier under 'health care'). Furthermore, on Indigenous criminal justice issues, including juvenile justice, it is understood that they were to be the subject of discussion at the MCATSIA meeting scheduled for 17 July 1998. At this meeting the Northern Territory Government was to present a thematic review it had prepared of the implementation of RCADIC recommendations in the Northern Territory. It was also expected that the Western Australia Government would present its response to the *Bringing Them Home* recommendations at the same meeting. However, this level of cooperation, welcome though it may be, falls far short of that required to negotiate, let alone implement, national standards.

Nevertheless, the matters of concern in some of the eight 'Standards' provided for in **Recommendations 46 to 53** have already been, or are soon to be, addressed. In some cases the standard has been obtained more or less through a conscious collective effort by governments - as, for example, with the implementation of the Aboriginal (or Indigenous) Child Placement Principle ('Standard 6' - **Rec. 51**), which provides conditions for placing Indigenous children through fostering, adoption or care and protection orders, and which now operates in every jurisdiction whether through legislative requirement (as in New South Wales, the Northern Territory, South Australia, Tasmania and Victoria)¹⁴⁴ or at the level of policy (as in the ACT and Queensland)¹⁴⁵

In other cases, broad compliance is claimed by governments through developing systemic changes to law, policy or practice. This appears to be the position in the juvenile justice issues raised by **Recommendation 53** which advocates the universal adoption of a set of 15 rules that comprise 'Standard 8'. These rules, which range from initial encounters with police and conditions of arrest, through cautioning, representation and interrogation, to bail issues, sentencing and diversionary schemes, are a mixture of rules that apply generally to Indigenous and non-Indigenous juveniles alike (eg arrest conditions, interrogation procedures and diversionary strategies), and others that are Indigenous specific (eg Indigenous representation and certain detentions conditions). Though not strictly acting in concert, the Commonwealth, States and Territories have been reforming juvenile

¹⁴⁴ For details, see *Bringing Them Home*, pp.439-448; except for Tasmania which has now incorporated the ACPP in the *Children, Young Persons and their Families Act 1997*, s.9. The draft response of the New South Wales Government foreshadows a desire to extend the current scope of the ACPP to cover all placements of Indigenous children and not just those following a court order, and to articulate more clearly the circumstances in which discretion is exercised not to apply the ACPP.

¹⁴⁵ *Bringing Them Home*, pp.439-448. The ACT Government indicates in its Response that it 'proposes that the principle be enshrined verbatim in the [Children Services] Act'; p.8. A review of the operation of the ACPP in New South Wales which includes comparative analyses of the operation of the principle in all Australian jurisdictions and overseas was conducted recently by the New South Wales Law Reform Commission, 'The Aboriginal Child Placement Principle', Research Paper No.7 (March 1997).

justice laws along similar lines for more than a decade as they apply to all children, and particularly Indigenous juveniles, since the RCADIC report in 1991. Broadly speaking, governments claim to have in place laws or policies addressing the main issues highlighted in the 15 rules.¹⁴⁶

There are, however, at least two conspicuous exceptions to this general position - namely the mandatory sentencing provisions operating in the Northern Territory and Western Australia. These do not conform to the conditions set out in rules 1 (arrest as last resort), 13 (non-custodial sentences), 14 (sentencing factors) and 15 (where custodial sentences are considered necessary, for the shortest possible time). Details of how these initiatives are working in general and what their impact has been on Indigenous children in particular, is scarce. Both Governments have, however, recently undertaken evaluations of their respective schemes; in both cases the results have yet to be made public. That having been said, the Western Australian Ministry of Justice informed the project team that according to its own records, 'between 10 February 1997 and 14 May 1998 a total of 61 juvenile offenders were sentenced under the three strikes legislation, of which 46 or 75% were Aboriginal'.¹⁴⁷

In yet another context, pre-existing standards or subsequent initiatives satisfying the Recommendations have been made separately by governments. Thus for 'Standard 5' set out in **Recommendation 50**, while separate representation in court for Indigenous children is not generally compulsory in the areas of family law, care and protection, and juvenile justice, it may be likely that, through the application of policy or the exercise of discretion, separate representation is provided or made available in such cases.¹⁴⁸ The Victorian Government raised the question of whether representation as used in the text of the recommendation was to be confined to legal representation; if not, it envisaged that such representation would have to be made subject to the leave of the court.¹⁴⁹

More particularly, the Queensland Government has indicated in its response that it will develop a 'Statement of Standards for Aboriginal and Torres Strait Islander Child Protection', 'which reflects the Recommendations of the Inquiry and which is consistent with current legislation and policy. The proposed statement of standards will be negotiated with relevant indigenous organisations'.¹⁵⁰

The ACT Government announced in its response that it will be establishing an Aboriginal Advisory Justice Committee (AJAC) which will provide the necessary partnership for the development of strategic plans and agreements on Aboriginal criminal justice issues.¹⁵¹

Monitoring of Implementation of Government responses: Recommendation 2

The effective monitoring of the implementation of government initiatives contained in their respective responses entails two essential elements. The first concerns the putting in place of mechanisms that will permit implementation to be monitored; those that have been established or are planned for by the governments, and are known to the project team, are detailed below.

¹⁴⁶ See responses of the Governments of Tasmania (p.39) (now bolstered by the enactment of the *Youth Justice Act 1997*); Victoria (pp.49-50), Queensland (p.14) and the ACT (p.8); and the draft response of the New South Wales Government. See further, Chapter 24 of *Bringing Them Home*, and the individual submissions of the governments to the National Inquiry. For a recent analysis of the status of Indigenous criminal justice, including juvenile justice, across Australia in the context of an evaluation of the implementation of the RCADIC recommendations, see Cunneen, C. and McDonald, D., *Keeping Aboriginal and Torres Strait Islander People out of Custody*, 1997.

¹⁴⁷ Correspondence, 31 July 1998; Commission file. The Ministry of Justice added, '[i]t needs to be noted that some of these young offenders have been sentenced to community based sanctions and some juveniles have been sentenced on more than one occasion.'

¹⁴⁸ See, for example, Victorian Government Response, p.47. For an overview of the status of representation provisions in all Australian jurisdictions in respect of civil, family and care and protection matters, see Australian Law Reform Commission and HREOC, *Seen and Heard: Priority for Children in the Legal Process*, ALRC Report No.84, 1997, Chapter 13.

¹⁴⁹ Response, p.46.

¹⁵⁰ At p.14.

¹⁵¹ Response, p.6.

The second and more fundamental element concerns the nature of implementation - what it is (and who decides what it is), how it is measured, and how different interpretations are dealt with. The significance of these questions has been made evident, if not fully appreciated, through the chastening experience of the difficulties encountered in monitoring the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCADIC).¹⁵² There are no easy answers to these questions, but it is incumbent upon governments to understand the importance of the issues they raise when they are instituting monitoring processes in implementing the *Bringing Them Home* recommendations, if such implementation is to be effective.

No mechanics of monitoring exist at the broad national or inter- governmental level. What is more, there appears to be no prospect of such a nationwide initiative, as the leadership role that would have to be played by the Commonwealth Government for such an object is not yet evident,¹⁵³ despite assurances that MCATSIA will be providing inter-governmental coordination and monitoring mechanisms as required.¹⁵⁴

In certain specific areas of concern, however, there has been more movement. In the area of health care, for instance, as noted earlier, the Commonwealth Health Minister has made clear his willingness to involve the Aboriginal and Torres Strait Islander Health Council, which advises the Minister, in the implementation of the Government's responses, alongside its broad monitoring role.¹⁵⁵

The Victorian Government has proposed a three-way means of monitoring:

- (i) a series of 11 State-wide regional reference groups are to be established under the auspices of the Department of Human Services Koori Improvement Services Strategy (to be initiated in mid 1998), which will provide feedback to the Department on the implementation of agreed community servicing plans;¹⁵⁶
- (ii) an Inter-Departmental Committee to be established to assist Aboriginal Affairs in monitoring implementation; and,
- (iii) an undertaking that as part of the projected annual report on initiatives and outcomes in Aboriginal affairs that the Government will deliver to Parliament there will be a report back on issues raised by the National Inquiry.

The Tasmanian Government indicated in its response¹⁵⁷ that the Office of Aboriginal Affairs, through the Minister for Aboriginal Affairs, provide a report reviewing the progress of the implementation of initiatives by September 1998.

And finally, the Queensland Government has made clear that it sees the Indigenous Advisory Council as having 'an ongoing role in advising and monitoring progress on issues raised in *Bringing Them Home*'.¹⁵⁸

¹⁵² See discussion in Aboriginal and Torres Strait Islander Social Justice Commissioner's Fourth report, 1996, p.viii and pp.257-68.

¹⁵³ See Commonwealth Government response, p.10.

¹⁵⁴ Correspondence from Office of the Minister for Aboriginal and Torres Strait Islander Affairs, 3 March 1998; Commission file.

¹⁵⁵ Correspondence from the Commonwealth Minister for Health and Family Services, Dr Wooldridge to Sir Ronald Wilson, 12 May 1998; Commission file.

¹⁵⁶ Victorian Government response, p.5.

¹⁵⁷ 'Overview' of the Premier, Mr Tony Rundle MHA, p.4.

¹⁵⁸ Response, p.3.

Outlook

Collectively, the National Inquiry's recommendations are concerned to protect and promote the human rights of those people affected by the policies and practices of the separation of Indigenous children from their families. To meet this goal, or indeed, even to strive towards it, requires national coordination and leadership. Under a federal system of government such as we have in Australia, these needs are ever present and exist across a wide spectrum of areas. The need for a nationwide concerted effort in the areas covered by the National Inquiry is emphasised by the complexity of the separation or division of responsibilities. While, for instance, responsibilities for education and health are shared between the Commonwealth, States and Territories, responsibility for record-keeping and access resides separately with each jurisdiction; that for juvenile justice and welfare lies with the States and Territories, and the Commonwealth has 'special' responsibility for Indigenous people under s 51(26) of the Constitution (the races power), as well as for Australia's international human rights obligations by way of its Executive power to ratify treaties and its power to 'incorporate' them into domestic law under s 51(29) of the Constitution.

An especially powerful message to be drawn from this is that without inter-governmental cooperation, information exchange and coordination, the States and Territories, in particular, will be left uncertain as to how to co-ordinate their responses with those of the Commonwealth in order to maximise effect and efficiency. Consequently, as related in this report time and time again, 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.

In the end, for the lack of adequate national and cross-government cooperation, we might not only lose those initiatives that wholly or largely depend on such concerted action, we might devalue many well-intended initiatives as are outlined in the text of this Report, that have been taken by individual governments. That would surely be a tragedy as well as an injustice.

Appendix 1: Letters to the Editor

I write this letter to those who have chosen not to say 'I'm sorry' to us Indigenous Australians.

After watching all the media news on the night of May 26, and all you 'Australians' ... simply refusing to say 'I'm Sorry', I felt ashamed to be an Australian and I would like to clarify the 'Sorry' issue as I understand it.

Indigenous people who have been the victims of the practice of forced removal of children, including myself, do not seek individual apologies or an expression of personal guilt or responsibility from the average Australian for this recent inhumane practice.

What we seek is an expression of sorrow - an admission of sympathy and regret that Australians were subjected to arguably the worst kind of horror and genocidal activity by other Australians.

To illustrate my point I would like to ask the average Australian what they would say if they had the opportunity to meet with Walter Mikak or other victims of the Port Arthur tragedy.

Like myself, I would imagine that they might say something like: 'I'm sorry for your loss' - an expression of sympathy and communication about how such an event affects them.

By saying 'I'm sorry' to someone who has known sorrow or pain, we do not necessarily take on a personal responsibility for events. Rather, we express that, as humans, we regret that other humans are hurt.

Contrary to the belief that all injustices were inflicted 200 years ago in our deep, dark history on ancestors long gone; the pain and suffering of the stolen generation lives on today and will continue for some time to come.

Our wounds heal slowly and, in fact, are continually re-opened when the leader of our country consistently refuses to validate our suffering and admit to any sorrow for the crime against humanity.

Mr Howard does not seem to have a problem expressing national sorrow, concern or condolences when other tragedies happen in Australia and around the world.

I'm also sure that he would be the first one to take the high moral ground and condemn any country that would steal babies on the basis of race, in a bid to achieve some kind of perverse ethnic cleansing.

It is a continuing source of pain that he cannot say that he is sorry that people in Australia suffered so.

When I was eight years old, I witnessed government men, accompanied by police, enter my school and take away my cousins, who were living in my home and, according to our traditional kinship structures, were my brother and sister.

We had no warning of this and no subsequent justification by officials, and I did not see my cousin again for 15 years.

I ran home to tell my father and the memory of Aunty's (Mother's) wailing will forever be in my memory.

The horror continued, for in the same week, officials came to our home and took my other baby cousin from her cot. We were not to see her for another eight years, until she was returned physically scarred from abuse as well as suffering untold emotional torture.

After her abduction my parents took to hiding the rest of the kids in the house, not unlike the kids during the Nazi holocaust. We did not understand why we couldn't go to school or go outside.

Despite my expertise, I, like many Indigenous people, do not see Sorry Day as a chance to get a pound of flesh or beat non-Indigenous people up with guilt.

I see it as an opportunity for our nation to finally show maturity and integrity in expressing regret, sorrow and a commitment to empathy and harmony in the future.

Like ANZAC Day, National Sorry Day is about recognising and validating pain and sorrow, as well as condemning inhumane and racist practices - lest we forget.

Russell Logan, 'Sorry Day response is a national shame', Letter to the editor, *The Illawarra Mercury*, 13 June 1998

Russell Logan (*Mercury* June 13), in describing National Sorry Day from an indigenous Australian perspective, expresses with courage and dignity his hope for a reconciled, harmonious future.

That Mr Logan, who has suffered at first hand the horror of unjust, discriminatory government policies, should feel compelled to share his experience, his expectations of National Sorry Day and his hopes for all Australians, serves to demonstrate his genuine commitment to national unity ...

The practice of separating Aboriginal children from their families, simply on the basis of race, continued into the 1970s.

Five of my own children represent to me what I would have lost if they had been snatched away. This is not ancient history, the pain is there today.

I cannot imagine any Australian not being able to feel sorrow that children and their families were forcibly denied the right to each other's love and to live within their community.

Nobody is asked to accept blame or to feel guilt for acts they did not commit but to acknowledge the hurt suffered by fellow Australians through racist government policies.

John Howard should lead the way by nationally recognising these hurts and credibly committing his government to the reconciliation of this nation.

Lest we forget, indeed, Mr Logan.

Anne Marsh, 'Personal suffering and reconciliation', Letter to the editor, *The Illawarra Mercury*, 2 July 1998, p. 18

When trying to understand how the Holocaust could ever have happened, I have often asked, 'How could they - those officers who were fathers themselves?' How, as, weeping, I read of the atrocities against Australia's Aborigines, I ask again, 'How could they - these women who were, in many cases, mothers? If they were Christians, what happened to 'do unto others'?'

It is now clear that the line which afforded some comfort - 'They thought it was for the best' - has no basis. So far it seems the Aboriginal people have been denied the benefit of a proper grieving process - with discussion, and contrition. In the grieving process for life's well-recognised tragedies - rape, murder, wrongful arrest, cot death, still birth - discussion and public acknowledgement are crucial to the healing process.

The least that must be done, as a start, is a national day of mourning and apology where newer Australians embrace original Australians and admit the wrong. It may be painful for us - but, so what?

Holly Kerr Forsyth, 'Poor fellow my country', Letter to the editor, *The Sydney Morning Herald*, 30 May 1997, p. 20

As a member of the Cattlemen's Union negotiating team to the Cape York Land Use Agreement I felt a personal sense of achievement when we received a national award at the recent Australian Reconciliation Convention in Melbourne.

Our efforts to achieve stability and harmony at the community level in a negotiated outcome on land use involving pastoralists, Aborigines and environmental groups were recognised as a practical step towards reconciliation in Cape York.

Any hype and glory attached to the award was tempered by the reality of the discussion at my table during the awards dinner when several people of Aboriginal descent spoke with frankness and feeling of having been separated from their families at a very young age by force or deception and subjected to a life of brutality, confusion, indifference and prejudice.

To dispel any false illusion these people were not from some remote island or community but lived, worked and raised their families within our so-called modern, multicultural, urban society.

Painful separations, lost families and identities, heartbreak, broken relationships, alcohol abuse and jail could only instil a sense of deep regret in all Australians.

I also learned of decades of struggle, disappointment and frustration by these people in their efforts to reunite their families. The joy of their few successes was evident.

However, stories of lost applications, suppressed information, deceit and bureaucratic mishandling left me wondering if a national apology and compensation were the real issues.

If we do not already have a positive program of national reunification for this so-called lost generation, Prime Minister Howard, then you have a moral responsibility to put one in place immediately, whether you feel sorry or not.

I remain appalled.

David Kempton, 'At the least, we should reunite our lost generation', Letter to the editor, *The Australian*, 10 June 1997, p. 14

I am in full support of a formal apology to the Aboriginal peoples of Australia from the government for the stolen children Report. I believe an apology is part of the healing process for the truth to be told, acknowledged and accepted as part of Australian history. Compensation will play an important role in the overall physical and emotional healing.

People need to be reminded that Australian history is not about football, meat pies, kangaroos and Holden cars.

We need to stand and acknowledge all events - good and bad. Australian collectively need to redress the imbalances that exist in this country where Aboriginal and Torres Strait Islanders are involved, not to mention South Sea Islanders.

The common catchcry is 'why should we be held accountable for past policies and governments?'

Reality check everybody - low health status, life expectancy rates, huge unemployment levels, poor academic performances, deaths in custody, to name a few issues for Aboriginal and Torres Strait Islanders which did not develop overnight.

Jenny Timor, 'Support for an apology', *The Daily Mercury* (Mackay), 11 June 1997

I am a white mother of two. I live in a nice, comfortable, middle-class suburb. I have the luxury of being able to stay at home to look after my children. I can't begin to imagine the pain that I, my family and my children would feel if someone were to take my children away.

I have heard Australian after Australian speak with bitterness, anger and condemnation of the stories contained in the Report.

I am sad that there appears to be so little compassion and understanding. I don't know the answers to this issue, but I do know that if we are all to live together as Australians we must understand that this happened and that many of our fellow Australians lived with, and continue to live with, unimaginable anguish at the loss of their children, their parents, their grandchildren, their brothers and sisters, nieces, nephews and friends.

I don't believe that we should feel guilty. We should express sorrow and compassion for fellow Australians who have suffered the loss of their families. Saying sorry is not saying that you are guilty and it is not committing us to anything.

For the sake of us all, and for our country, I sincerely hope and pray that we can all display some real humanity to those in need of healing words.

Janine Symons, 'We must say sorry', *The West Australian*, 17 June 1997, p. 13

Reconciliation needs to be based on truth, and to allege total evil intent in this issue is not the truth, as many Aborigines themselves admit. But because the consequences were so often (not always) disastrous, and some were treated appallingly by their carers, the deepest of apologies are also in order, symbolic of national repentance. And beyond that let's determine to do better in our relationships, not only with our Aboriginal friends but with all others who have made Australia their home.

Lesley K. Hicks, 'Aboriginal issues 'survey'', Letter to the editor, *The Sydney Morning Herald*, 20 June 1997, p. 18

I played no role in the program to take Aboriginal children from their parents and try to educate them in the ways of the Europeans. I'm not sure I was aware. I don't believe I can be in any way held responsible, nor should I be directly or indirectly blamed for the folly of past generations. But that doesn't mean I'm not sorry. I openly apologise for the behaviour of my ancestors for this appalling and shameful miscalculation.

Rex Jory, 'Why I'm saying sorry', *The Advertiser*, 17 June 1997, p. 13

To the first Australians.

I write these words hesitantly, for they may not be what you want to hear. Yet I am hopeful that you will receive them as they are meant. ...

We have taken your lands, scattered your tribes, sundered your families, mocked your beliefs and denied your humanity. All this was done and we apologise profoundly for it.

Yet please hear us when we say that at times there was also good intent, for many among our white forebears held to the 18th century ideal of the noble savage who could and should be raised to some higher state by the imposition of a template of perceived European virtue. This they sought to do without malice but in misguided benevolence, in error but with all sincerity.

We now recognise that, while their aims were honourable, their means were wrong and the ends were tragic. We understand and regret the hell that was visited upon you.

Even in our own country, much of what you endured and continue to endure was the exercise of unmitigated evil, as the Report of the Human Rights and Equal Opportunity Commission has shown with its grievous catalogue of human bondage, violence and sexual abuse. For this we also apologise and ask your forgiveness for the unforgivable.

Mike Carlton, 'The words that the PM couldn't say', *The Sydney Morning Herald*, 31 May 1997, p. 34

I hope it doesn't sound condescending to say that readers' letters are the lifeblood of a newspaper. They bring us to earth with a thump. For all my lofty prescriptions for the ills of the world, my biggest mail bag came after a frothy piece I wrote about Cahill's famous caramel sauce.

Until now, that is. All week I have been deluged with generous letters about last Saturday's column on the Stolen Children. Thank you all.

Mike Carlton, 'A red-letter week', *The Sydney Morning Herald*, 7 June 1997, p. 34

It's not so hard to apologise. Isn't that what we teach our children all the time? The ability to apologise is a sign of emotional maturity and we need that maturity in Australia today...

But on behalf of many Australians, in a spirit of reconciliation and owning and learning from our real history, I take this opportunity to apologise for the past policy of stealing Aboriginal children from their parents.

I apologise for the pain and trauma inflicted on an entire generation of indigenous Australians and their families. I apologise for the way in which this injustice has been ignored in the past and I apologise for the way in which some are sliding around it in the present.

Cheryl Kernot, then leader of the Democrats, quoted in *The Australian*, 27 May 1997, p. 1

For those things that we are responsible for I apologise, as Leader of the Australian Labor Party. This is a terrible, terrible record. ...

Why should not the Aboriginal people of this nation be accorded equality? Why not? Why not let the Aboriginal people of this nation have the same experience and the same access? When, for malicious reasons or non-malicious reasons, deep personal damage is done to you, you have recourse. Why not? Why should that not happen? Why are they not people who are at least equal to us in the opportunities that are available to them?

This is not an easy process to contemplate. I was going to read some of these cases, but I cannot. I was up pretty late going through it - and this would have been a better speech if I had not.

Mr Speaker, you cannot walk away from them. This chamber cannot walk away from them. This government cannot walk away from them.

Kim Beazley, Leader of the Opposition, extract from debate in House of Representatives, 28 May 1997, p. 4275, ABORIGINALS: STOLEN CHILDREN

I am sorry and apologise for the actions of the Government of Australia which tore Aboriginal children from their parents.

I am sorry and apologise for the mandate which was given to the Government of Australia, by the people of Australia, which legalised this kidnapping.

I am sorry and apologise for the actions of the history writers and educators who see fit to exclude any reference of depth to the culture, background, language and existence of the numerous tribes of Aboriginal people who lived in this country before the white man came.

I am sorry and apologise, and have a sense of guilt, for my own ignorance and lack of motivation to learn more about the ways and philosophy of the Aboriginal people.

I am sorry and apologise for the missionaries who put such emphasis on covering the nakedness of the Aborigines and brainwashing them with an alien theology, because their nakedness tempted the white man beyond his ability to resist and because the Aboriginal beliefs were not even explored but assumed to be of no worth. As it was also assumed that God had not known Australia existed until the white man brought him here.

I support the right of people to have freedom of speech but I am ashamed and apologise for the crass bigotry and ignorance that is spewed forth by people more intent on appealing to uncivilised prejudice than to peaceful coexistence in a world that is already too small.

K. Lin Clayton, 'Well, I'm sorry and I apologise', Letter to the editor, *The Canberra Times*, 30 May 1997, p. 12

To all indigenous people in Australia I, on behalf of my ancestors and all white people in Australia, would like to sincerely apologise, first for ripping at your roots by stealing children in order to 'civilise' them and also for everything and anything else that you or your ancestors have suffered at the hands of whites. ...There are plenty of Australians who share my view and I want our voice to be heard too.

Kathy Martin, Letter to the editor, *The West Australian*, 4 June 1997, p. 12

... I want to apologise deeply to the Aboriginal community for what happened to their children at that time.

I am partly to blame for I saw what was happening in the 1950s and '60s and did nothing about it. I sat on my hands. I was taken in by the propaganda of the time, that showed happy Aboriginal children at bedtime climbing the mansion stairs to the sumptuous bedrooms of assimilation. If I had looked more closely, I would have seen desperately unhappy, fearful kids marching and exercising to the white man's metronome.

Oh, we meant well, but what would we have done if truckloads of black people had arrived and forcefully kidnapped our offspring and took them away?

What we did was akin to genocide.

Tony Olliver, 'Partly to blame', Letter to the editor, *The Advertiser*, 9 June 1997, p. 8

When I was growing up at home with my (white) family my mothers taught me what it meant to apologise. She told me, 'sorry means you regret what you did to another. And it means 'I promise never to do it again'.' While my mother was teaching me these lessons aboriginal children were being removed from their families in a systematic and cruel way. I did not know this until recently and it is a matter of deep regret to me and shame.

I am very sorry for what we, as the people of Australia have done in breaking up families and the whole sense of belonging of aboriginal people. In saying this, I give you my undertaking that I will be alert and will work to see such inhumanity will not occur again. This is my promise. I do not know what can be done about the enormous and unbearable grief which has been caused by these past practices. I'm sorry for that too.

Rosemary Grant, in Margaret Reynolds (ed.), *On the occasion of National Sorry Day, 26 May 1998: A collection of personal letters and extracts from Parliamentary Debates presented to the Indigenous Peoples of Australia*, 1998, p. 12

As an avid, sometimes despairing, reader of letters to the editor I feel obliged to comment about the opinions expressed concerning the Sorry Book.

I signed the Sorry Book willingly and without reservation. The schoolchildren who initiated the Sorry Notes, which later developed into the Sorry Book, did so because they wanted to express their grief and sorrow.

They, as children, cried out for Aboriginal children and parents who were forcibly parted, some never live to see each other again.

The children who wrote the original notes put their sorrow into words, simply and with directness and courage of an innocent belief in what is right. Children, unlike many adults, are not afraid to look into another person's eyes.

The children did not seek to blame. They did not say 'don't blame me, I didn't do it'. They just wanted to express their sorrow. They did not quibble over the various meanings given to the words 'sorrow' and 'sorry'.

We treasure our own children. The loss of a child for any reason is a shattering experience no matter your race or colour.

I am grateful and humbled that it was the compassion of children that enabled me to also express sorrow.

Garry Ryan, Letter to the Editor, *Northern Daily Leader* (Tamworth), 26 May 1998, p. 6

Appendix 2: Selected Inventory of Apologies and National Sorry Day Events

The Bathurst community said 'sorry' yesterday, in a communal gathering leading the way in the reconciliation process.

Politicians, church leaders, community members and the local Aboriginal community gathered in Peace Park yesterday for 'Sorry Day', organised by local members of the Council for Aboriginal Reconciliation.

***The Western Advocate* (Bathurst), 25 August 1997**

The trade union movement yesterday formally apologised to Aboriginal and Torres Strait Islanders for the removal of their children.

The President of the ACTU, Ms Jennie George, yesterday told the movement's congress in Brisbane that all fair-minded and compassionate people would have been moved by the findings of the recent Stolen Generations inquiry.

Addressing the former head of the Aboriginal and Torres Strait Islander Commission, Ms Lois O' Donoghue, Ms George said: 'Please hear us when we express to you our deep sorrow for the actions of those who caused your people such harm. On behalf of this congress, please accept our formal apologies for the wrongs that were done to your people. We are truly, truly sorry'.

***The Age*, 5 September 1997**

Bankstown Council has apologised to more than 1700 local Aborigines for the past treatment of their people. Councillor Richard McLaughlin put forward the motion that council acknowledge and apologise for 'past State and Federal policies affecting the separation of Aboriginal and Torres Strait Islander children from their families'.

***Bankstown Express*, 30 September 1997**

Warrawong Public School principal, Sash Manojlovic, has apologised on behalf of his school for past injustices imposed upon Aborigines. The unprecedented apology, made during Universal Children's Day yesterday, has surprised some parents and the Aboriginal community. 'I say sorry for the horrendous practice of separating children from their parents, forcing them to live and grow in isolation', Mr Manojlovic wrote in a school newsletter.

***The Illawarra Mercury*, 23 October 1997**

The Federation of Parents and Citizens' Associations of New South Wales, extends to all Aboriginal and Torres Strait Islander peoples an unqualified apology for the Federation's compliance in the official

policies of assimilation which held sway in Australia for decades. This apology was unanimously supported, in principle, by the Federation's July 1997 Annual Conference.

Federation of Parents and Citizens Associations of New South Wales, Media Release, 18 November 1997

The Australian Council of Social Service (ACOSS) and our undersigned members deeply regret the damage caused by the forcible separation of Aboriginal and Torres Strait Islander children from their families. ...

It is only through the commitment of all government and non-government organisations to make reparation and the support of the wider community that non-indigenous and indigenous Australians can heal the wounds of the past and create a solid foundation for a shared future. Without such a commitment, the reconciliation process, embarked upon with such hope, will be rendered meaningless.

Australian Council of Social Service, Statement of Apology and Commitment, November 1997

Computer consultant, Anthony Shipley, yesterday gave a petition to Fremantle MHR Carmen Lawrence, urging the Government to apologise to the generation of Aboriginal children taken from their parents and placed in foster care. The petition contains the electronic 'signatures' of 5461 Internet users who put their names to the campaign. (At time of publication, there were more than 11,000 names to the apology.)

***The West Australian*, 9 February 1998**

Eurobodalla's 'sorry book' was launched in Mogo last week. Suggested by the Eurobodalla Walking Together Group, the book was handmade by Mick Ivory & handpainted by South Coast Koori artist, Colin Davis, himself a member of the stolen generation.

***The Illawarra Mercury*, 12 February 1998**

At a gathering of more than 4,000 people in Musgrave Park, the Lord Mayor of Brisbane, Jim Soorley, used the ritual of handing the keys of the City of Brisbane to Elder Herb Bligh to symbolise that Indigenous people are welcome in the City. He expressed the sorrow of the people of Brisbane for the pain and suffering caused by past injustices and of their determination to work together for reconciliation and healing.

ANTaR (Australians for Native Title and Reconciliation) Newsletter No. 3, March 1998

The Dubbo Reconciliation Group launched a sorry book in Dubbo today and will be presented to a delegation representing Indigenous Australians on national 'Sorry Day' on May 26.

***The Daily Liberal (Dubbo)*, 12 March 1998**

The President of the Vietnamese Community in Victoria, Thanh Van Le, and the President of the Republic of Vietnam RSL sub-branch, Victoria, in a letter to the Editor, stated 'we understand about the loss of home, family and cultural values, and we too would like to express our deep sorrow to all Indigenous Australians for their suffering and offer our support for genuine reconciliation'.

***The Age*, 3 April 1998**

A historic commitment honouring the partnership between Newcastle City Council and the region's Aboriginal and Torres Strait Islander people was signed last night.

The document, which represented a commitment from the Council the principles of reconciliation, acknowledged the suffering of Australia's Indigenous people. It was signed during an Aboriginal dance performance on the stairs of City Hall last night.

The reconciliation process concluded with a ceremonial knocking at the City Hall doors. The group was greeted by the Lord Mayor of Newcastle, Cr. Heys, who wore his ceremonial chain and robes. Cr. Heys said the document recognised the community's effort to see the past clearly 'I do not find it hard to say sorry for particular sins perpetrated by my culture, including the stolen generation issue,' he said. 'We have a clear responsibility as a nation to see the past clearly, such that we can see our way clearly ahead, and this is what this commitment is about.'

The Newcastle Herald, 15 April 1998

The University of Canberra's graduation ceremonies this week will be marked by a formal apology to Indigenous Australians.

Yesterday, Chancellor Wendy McCarthy, drew the attention of the first group of 1800 students to graduate over the next two days to the fact that they were standing on 'Ngunawal land'. Ms McCarthy said such a tribute to traditional owners was 'part of the reconciliation process, which the University supports'.

The University Council has prepared a document, to be circulated across the University this week, which apologises for the wrongs that have been done to Aborigines.

The Canberra Times, 23 April 1998

The small town of Cootamundra (population 6,500) said sorry this weekend to the hundreds of stolen Aboriginal daughters who were brought from all over NSW to the 'training home' on the hill.

In an RSL hall bedecked with painted paper hands, the Mayor of Cootamundra Shire Council, Councillor Paul Braybrooks, handed a 'Sorry Book' to one of the home's former residents, Mrs Patsy Miller, who wept. ...

'I read some of the Sorry Book. Some of the words people have written have amazed me. All these years, I never realised they felt like that,' she said. If she thought the people of Cootamundra had known what was going on in the home, she would not have been able to forgive. Now, she believes they did not know.

The Sydney Morning Herald, 18 May 1998

The New South Wales Police Commissioner, Peter Ryan, officially apologised on 23 May 1998 to members of the stolen generation and all Indigenous people for 'the prominent role the police played in enforcing past unjust laws'.

'Police over a long time were the public face of the Government as the agents of the Government, police caused unimaginable pain and anguish to Aboriginal and Torres Strait Islander communities, families and particularly mothers and children by the forcible removal of children,' Mr Ryan said.

Sydney Morning Herald, 23 May 1998

The YWCA of Australia pledges to work closely with our Indigenous brothers and sisters to redress these wrongs, acknowledging that we cannot change the past, only lessen the pain and suffering. Our organisation commits to reconciliation and to ensuring the voices of Aboriginal and Torres Strait Islanders are heard. We want to hear your stories, share your sorrow and work towards a brighter future for Australia.

To all of our Indigenous sisters and brothers, we sincerely apologise and hope that you can find it in your hearts to forgive us as members of a nation that stole your children and devastated your lives.

YWCA of Australia, quoted in Walking Together, Council for Aboriginal Reconciliation, July 1998

The Australian Vice-Chancellors Committee seeks to respond and be part of the wish of the majority of Australians to participate in the creation of a confident and harmonious nation where

- We acknowledge Aboriginal and Torres Strait Islander people as the original inhabitants of this continent and we recognise their loss of land, children, languages, health and kin.
- We believe that Australia will only become a mature nation if the past is acknowledged, the present understood and the future confidently based on the co-existence of rights.

Vice-Chancellors are committed to providing higher education pathways for Indigenous students and contributing to the process of reconciliation as leaders of education institutions which share with the Australian community the cultures, languages, history and contemporary experiences of Australia's Indigenous people.

Australian Vice-Chancellors Committee, quoted in *Walking Together*, Council for Aboriginal Reconciliation, July 1998

Thousands of Australians have attended ‘Sorry Day’ gatherings at more than 300 venues around the country, formally apologising for the creation of assimilationist policies inflicted on Indigenous peoples.

The Canberra ceremony attended by some Labor politicians, saw many of the 1000 strong audience weep at the testimonies.

In Sydney, a civic reception at Government House marked the handing over of 1000 ‘Sorry Books’ by New South Wales Governor Gordon Samuels to stolen generations survivors Nancy de Vries and Wendy Hermeston.

In Melbourne, following a welcome song by Archie Roach and Ruby Hunter, an interfaith service was held at St Paul’s Anglican Cathedral. At the end of the service the bells of city churches were rung in a synchronised pattern to mark the beginning of the journey home for the stolen generations, and a commemoration of the lives of those Indigenous Australians who never returned home.

In Brisbane, Link-Up [Qld] in conjunction with the Brisbane City Council held a ceremony in the city centre, Suncorp Park, where members of the stolen generations from Cherbourg and the Torres Straits told their moving stories. Brisbane Lord Mayor Soorley formally apologised for past government practices on behalf of the Brisbane City Council.

In Adelaide, city councils including Adelaide, Marian, Port Adelaide-Enfield, Salisbury and Tea Tree Gully held ceremonies which incorporated the presentation of Sorry Books to local Elders. At a reception at Adelaide Town Hall, more than 60 Indigenous representatives heard Dr Lowitja O’ Donoghue outline the policies and effects of child removal and her own experiences as one of the stolen children.

In Launceston, a ceremony at the Aboriginal Elders Council of Tasmania saw the presentation of Sorry Books to Elders, a member of the stolen generations, and two Aboriginal youth. Local Elder Alma Stackhouse, from Flinders Island, spoke to the audience about removal practices in Tasmania, where about 200 children were taken from their families.

In Darwin, at a ceremony at Parliament House, Sorry Books were handed to Elders in front of 300 people who broke out into impromptu song at the end of the ceremony. The Books were presented in a coolamon to symbolise an empty cradle.

In Alice Springs, organisers were very pleased with a turn-out of 300 people at the council chamber lawns where there was a flag raising and the handing over of ‘Sorry Books’ to traditional owners.

In Perth, Sorry Day was commemorated in the forecourt of Parliament House which included apologies from government and churches. Sorry Books were presented after a minute’s silence and the singing of the ‘Sorry Song’ by the 150-strong Co-existence Choir.

The Koori Mail, June 3 1998

Appendix 3: Text of Sorry Day Statement

‘Acknowledgement, Unity, Commitment’

A national ‘Sorry Day’ is being observed on 26 May, 1998, exactly one year after the tabling in Federal Parliament of the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.

The report, *Bringing Them Home*, reveals the extent of forced removal, which went on for 150 years into the early 1970s and its consequences in terms of broken families, shattered physical and mental health, loss of languages, cultures and connection to traditional land, loss of parenting skills and the enormous distress still being experienced by many of its victims today.

The Report recommended that a Sorry Day be held - a day when all Australians can express their sorrow for the whole tragic episode, and celebrate the beginning of a new understanding. Many of the stolen generations told the Inquiry that they would value this. Unlike the widespread Aboriginal use of the term 'sorry business' to denote death, they see a Sorry Day as a means of restoring hope to people in despair.

The National Indigenous Working Group on Stolen Generations has invited non-Indigenous people to join them in a National Sorry Day. They encourage the wider Australian community to remember and commemorate those affected by removal, so that the nation can continue the process of healing together. Aboriginal and Torres Strait Islander people will participate in a day dedicated to the memory of loved ones who never came home, or who are still finding their way home.

Many non-Indigenous Australians, having learnt the history of forced removal, wish to apologise for the practice and State Parliaments, churches and organisations have done so in recent months. This has been greatly appreciated because apology means understanding, a willingness to enter into the suffering and a commitment to help overcome its debilitating effects.

Sorry Day offers every community the chance to shape a ceremony which, by the frankness of its acknowledgement of past wrongs towards the stolen generations and by the sincerity of its commitment to overcome racism, unites the community. Such a ceremony cannot be prescribed. It must come from the hearts of local people, Indigenous and non-Indigenous.

'Sorry books' are being distributed which give everyone the chance to say sorry in their own words. Civic or political leaders could hand these books to Elders of Aboriginal and Torres Strait Islander communities.

It is hoped the ceremonies will be accompanied by displays, cultural presentations, theatrical and other events developed together by the local Indigenous and non-Indigenous communities. These activities bring history to life, expressing the pain and also the resilience of those who were removed.

Sorry Day will be an important step on the road which all Australians are 'walking together'. This commemoration can help restore the dignity stripped from those affected by removal and offers those who carried out the policy - and their successors - a chance to move beyond denial and guilt. It could shape a far more creative partnership between Indigenous and non-Indigenous Australians, with immense benefit to both.

Extract from the Minutes of the National Indigenous Working Group on the Stolen Generations – Planning Meeting, 19 January 1998.

Appendix 4: Summary of Governments' Responses to Recommendations of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families

This table provides a collective overview of the responses made by governments to the Inquiry's recommendations. Analysis of government responses together with details of individual government initiatives, where they are known, are provided in the body of the Implementation Report.

No.	Recommendation	Status of Governments' Responses and Implementation
1.	Recording Testimonies	No COAG determination. \$1.6 million over 4 years from the Commonwealth to the National Library to run an oral history project. States and Territories back national approach; minimal States and Territories action, though individual funding available in Qld.
2a.	Procedure for Implementation - COAG working party	Not implemented.
2b.	Procedure for Implementation - est. Audit Unit in HREOC	Not implemented.
2c.	Procedure for Implementation - ATSIC funding of peak Indigenous organisations.	Not implemented.
2d.	Procedure for Implementation - reporting obligations to Audit Unit	Not implemented.
3.	Components of Reparations	Need to apologise accepted by most Governments; no support for monetary compensation – 'watching brief' adopted in respect of ongoing litigation.
4.	Claimants - reparation for those who suffered	As above.
5a.	Acknowledgment and Apology: Parliaments	By all except Commonwealth and Northern Territory.
5b.	Acknowledgment and Apology: Police Forces	Only in NSW.
6.	Acknowledgment and Apology: Churches and Others	All churches have done so; indeterminate in respect of relevant NGOs.
7a.	Commemoration - 'Sorry Day'	Marked on 26 May 1998; undecided whether to be annual.

7b.	Commemoration - local and regional	In progress; many examples before on and after Sorry Day.
8a.	School Education - compulsory courses on history of stolen generations	Indigenous issues courses are compulsory only in NSW, SA, and Tasmania.
8b.	School Education – AIATSIS	Not implemented.
9a.	Professional Training - professional bodies	No national action; considered best left to peak bodies themselves.
9b.	Professional Training - under-graduates	Already instituted in some jurisdictions; for tertiary institutions to decide.
10.	Implementation of Genocide Convention	Not implemented. Commonwealth claims no genocide occurred, therefore no need to implement the Convention.
11.	Assistance to Return to Country	Not directly implemented. Limited indirect implementation under Recs 12(a) and (b) below.
12a.	Language, Culture and History Centres - national	Commonwealth: \$9 million over 4 years to be provided through ATSIC (no 'new' money provided).
12b.	Language, Culture and History Centres - local	Few State and Territory initiatives; reliance on Commonwealth.
13.	Indigenous Identification by Link-Ups and ACCAs	It is already generally the case that such organisations are empowered to certify Indigenous descent. However, verifying claims is very resource-intensive and not the primary function of these bodies.
14.	Heads of Damage	No monetary compensation provided by any Government.
15.	National Compensation Fund	Not implemented.
16a.	National Compensation Fund Board - establishment	Not implemented.
16b.	National Compensation Fund Board – composition	Not implemented.
17.	Procedural Principles	Not implemented.
18.	Minimum Lump Sum	Not implemented.
19.	Proof of Particular Harm	Not implemented.
20.	Civil Claims	A number of civil claims are currently being pursued in the NSW and Federal Court. Litigation is being contemplated in WA.
21.	Destruction of Records	Varies across jurisdictions; most agree

	Prohibited	to some limitation.
22a.	Record Preservation - indexing	\$2 million over 4 years provided by the Commonwealth to NAA; patchy provision in the States and Territories.
22b.	Record Preservation - finding aids	Commonwealth: as above; provided in Qld, Vic & NT.
23.	Joint Records Taskforces	Instituted in most jurisdictions.
24.	Interstate Enquiries	No formal implementation; apparently informal exchanges operate.
25.	Minimum Access Standards	Not implemented; but certain standards in place in some jurisdictions (e.g. Qld & NT); no fees or minimal fees across jurisdictions.
26.	FOI Legislation in the N.T.	Not implemented. No plans to do so.
27.	Indigenous Family Information Service	'First stop shop' not generally instituted; there is often a (sometimes unavoidable) need to direct applicants elsewhere.
28.	Training	Specifically provided for in Vic.; recognised as a need in Qld.
29a.	Indigenous Repositories	Not implemented; though Vic and Qld have sound links with NGO repositories and/or provide record keeping services to NGOs.
29b.	Indigenous Repositories	Not implemented.
30a.	Establishment of Family Tracing and Reunion Services	Not implemented at the local level envisaged. Where they exist, Link-Up organisations perform this role at State and Territory level (eg NSW & Qld).
30b.	Establishment of Family Tracing and Reunion Services - functions	Partial implementation. Some of the 14 functions listed are undertaken by Link-Ups; funding in all cases is inadequate to provide all or even most of these functions.
31a.	Return of those Removed Overseas - special visa	Commonwealth claims already provided for.
31b.	Return of those Removed Overseas - citizenship	Commonwealth claims already provided for.
31c.	Return of those Removed Overseas - enactment of Commonwealth legislation	Commonwealth legislation enacted : <i>International Transfer of Prisoners Act 1997.</i>
32.	Research	Commonwealth provision of \$5.9 million to Department of Health and Family Services - research underway.

33a.	Indigenous Well-Being Model	Sentiment supported; indeterminate action taken by all governments.
33b.	Indigenous Well-Being Model - funding to Indigenous community-based services	Indeterminate, but certainly not <i>all</i> funding so directed. It is yet unclear precisely how the Commonwealth's new regional health centres will be structured and where the 50 new health counsellors will be located.
33c.	Indigenous Well-Being Model - specialist mental health services	Expansion of Commonwealth regional health centres (from 11 to 14: 3 new centres in NSW, Qld & WA - \$17.25million over 4 years; 50 new counsellors to be engaged by Commonwealth (\$16 million over 4 years).
34a.	Health Professional Training	Not implemented.
34b.	Health Professional Training	Not implemented, though some such training provided in individual instns and courses.
35.	Mental Health Worker Training	Indeterminate.
36.	Parenting Skills	Not implemented through COAG; Commonwealth Department of Health is funding research into Aboriginal parenting models.
37.	Prisoner Services	Not implemented through COAG.
38a.	Private Collections	Not implemented, though some transfers have occurred (eg Victoria) as well as access being otherwise provided through St or T provisions (eg NSW).
38b.	Private Collections	Partial implementation: governments providing assistance to private bodies to different degrees and in various forms.
38c.	Private Collections	Sporadic implementation.
39.	Application of minimum Standards and Common Guidelines	Not implemented
40a.	Counselling Services - Churches and NGOs	Not implemented except indirectly in so far as access (and therefore subsequent counselling, if available) is obtained through public procedures.
40b.	Counselling Services - Churches and NGOs	Uncertain of extent.
41.	Land Holdings	Not implemented.
42.	Social Justice	Procedure to develop social justice package not implemented. Pursing implementation RCADIC Recommendations ongoing.

43a.	Self-Determination - national framework legislation	Not implemented. Actively rejected by Commonwealth, Qld & Vic.
43b.	Self-Determination - national framework legislation, principles	Not implemented.
43c.	Self-Determination - negotiations on transfer of authority	In place in certain programs across jurisdictions.
44.	National Standards for Indigenous Children	Not implemented. Actively rejected by Commonwealth, Qld & Vic.
45a.	National Standards for Indigenous Children Under State, Territory or Shared Jurisdiction	Not implemented.
45b.	National Standards for Indigenous Children Under State, Territory or shared Jurisdiction	Not implemented.
46a.	Standard 1: Best Interest of the Child Factors	Not implemented; though principle is applied in Australian family law.
46b.	Standard 1: Best Interest of the Child Factors - criteria	Not directly implemented. The criteria indicated, however, are contained within the ACPD which, to varying degrees, is implemented in each jurisdiction.
47.	Standard 2: When Best Interests are Paramount	Not directly implemented, though the various child welfare and care and protection laws and policies across Australia address the issue to different extents.
48.	Standard 3: When Other Factors Apply	Not directly implemented. The mandatory sentencing laws in WA and NT contradict this Recommendation.
49.	Standard 4: Involvement of Accredited Indigenous Organisations	Not implemented. Though obligatory involvement not instituted, optional and/or discretionary provision usually made.
50.	Standard 5: Judicial Decision-Making - representation in court	Not implemented. Though legal representation of Indigenous children in family, care and protection and juvenile justice often provided or made available.
51a.	Standard 6: Indigenous Child Placement Principle	Statutory in NSW, NT, SA, Tas, & Vic; in policy in ACT & Qld.
51b.	Standard 6: Indigenous Child Placement Principle	As above; excepting minor differences, broadly implemented across all jurisdictions.
51c.	Standard 6: Indigenous Child Placement Principle	As above; excepting minor differences, broadly implemented across all

		jurisdictions.
51d.	Standard 6: Indigenous Child Placement Principle	As above; excepting minor differences, broadly implemented across all jurisdictions.
51e.	Standard 6: Indigenous Child Placement Principle	As above; excepting minor differences, broadly implemented across all jurisdictions.
52.	Standard 7: Adoption a Last Resort	Broadly implemented.
53a.	Standard 8: Juvenile Justice	Not implemented.
53b.	Standard 8: Juvenile Justice Rules	Many considered already to be in place within individual jurisdictions. Query mandatory sentencing laws in NT & WA.
54.	Family Law	Not implemented.