

SENATE INQUIRY:

“COMMONWEALTH CONTRIBUTION TO FORMER FORCED ADOPTION POLICIES AND PRACTICES”

I Debra Wellfare am a citizen of the Commonwealth of Australia resident in New South Wales. As a citizen of the Commonwealth of Australia I have an inalienable right to protection under the Australian Constitution and the Common Law of the country.

As an Australian citizen, the Commonwealth affords me protection from the unlawful and harmful actions that threaten my life, liberty and justice from those who would deny me these rights, within and without, the borders of Australia.

My sister, Dian Wellfare, gave birth to a son on 22<sup>nd</sup> August 1968 at 3.56am, at the Women’s Hospital Crown Street Hospital. He was her only child and my first born nephew. She was 16 years old and I was 10. It was an event that should have filled our family with joy but instead left an aching loss that never subsided. It was to become a pivotal moment in relentless heartache.

Most women approach childbirth with a combination of excitement, joy and apprehension. It is one of the most physically and emotionally profound experiences of their lives . They are surrounded and supported by their loved ones. They expect and deserve compassionate, professional and non-discriminatory nursing and medical care.

My sister instead was drugged with barbiturates, denied any and all contact with her newborn son, was transferred to another hospital without her consent and knowledge, was falsely imprisoned there by the continued administration of sedatives and her baby was kidnapped by the State of New South Wales.

I want to tell her story and the impact it had for our family. Her son’s original family.

Dian cannot tell her own story of cruel and inhumane treatment because she passed away in April 2008.

This is Dian’s story.

Between March and June 1968, my sister attended the Women’s Hospital (Crown Street) where she was interviewed by a social worker (employed) . Dian strongly expressed her desire and intention to keep her baby. This was reiterated during her subsequent second and third interview. At no time before the birth of her son did she ever agree to relinquish her child. At no time before or following the birth did she agree to the adoption of her child. She was never advised that she would be forbidden to see her own child from the moment of his birth.

On the 21<sup>st</sup> August 1968 Dian commenced labour during her last antenatal visit and admitted herself to hospital. She was ushered into a prep room by a passing nurse and was never asked to sign any hospital admission form consenting to any operation, medication, or procedure.

During the course of labour she “was sedated with Doriden and Chloral hydrate but was given no analgesics until 2.20am (her baby born at 3.56am) so she felt all the pain of the contractions but was

unable to wake up apart from being startled into semi-consciousness with each contraction". During what she imagined was the second stage of labour, she was shackled by both wrists and feet with green calico booties and cloth strips rendering her unable to participate in the delivery process.

During the course of the delivery of her son a pillow was placed over her face, chin and neck. When she attempted to see her baby she was pushed back onto the delivery table by her shoulder. She was not permitted to see or hold her child after the delivery despite her requests to do so. She was not told the gender of her newborn infant. Her child was born at 3.56am on 22<sup>nd</sup> August, 1968.

Approximately three hours after the birth, she again requested to see and hold her baby. Instead she was then sedated with a drug and her request was not granted. She was sedated with the barbiturate Pentobarbital, and without her consent she was administered Stilboestrol, a lactation suppressant which continued to be administered every 3 hours during her 6 days of hospital confinement. The dose of this medication was given at three times the recommended level.

At some time between 7 am and 11am on 22<sup>nd</sup> August 1968, after what hospital notes described as a 'complicated delivery' she was transferred from the Women's Hospital (Crown Street) to the Lady Wakehurst Hospital at Waverley. Her son was not transferred with her. Her son was 4-7 hours old. Without her consent or knowledge she was detained for 6 days and further sedated with the barbiturate pentobarbital and administered stilboestrol at 20mg 3 x daily to suppress lactation.

During the entire duration of her post natal confinement her baby had remained hidden from her at the Women's Hospital (Crown Street) denying her any possibility of contact with her newborn child. Sworn statements, provided later during Dian's court case, by a head social worker attest to the routine hospital policy of preventing the mother from ever seeing her baby and transporting the mother to Lady Wakehurst as part of its unauthorised hospital adoption procedure.

This despicable and orchestrated abuse and exploitation of young women would in itself, and especially in their drugged state, been extremely disorientating and would have compounded their isolation and helpless physical and psychological position. This isolation and disempowerment would reduce the risk of others witnessing this criminal act. I have no doubt in my own mind this action was performed for that specific reason.

Dian wrote in her claim the Defendant "circumvented the law of breaching hospital regulations which forbid the removal of a baby from any hospital without its mothers permission, by removing the mother instead" and "the Department of Health was not a licensed adoption agency or authorised under any statutory legislation to act as a agent for any adoption agency or interfere with the relationship a mother and child". But it did.

Still an in-patient and under the influence of a sedative medication, the barbiturate Pentobarbital and out "of her mind with grief at being forbidden to see my own baby" she was visited by a departmental officer. Dian stated she could take the baby home to her mothers. However, the officer ignored her pleas and insisted that she would have to sign the adoption papers. The Officer of the Department of Welfare replied "if you do not sign the form your baby will be made a Ward of

the State and if you love your child you wouldn't wish that fate upon him". It was the first time she was told of his gender. She had a son.

Dian was coerced and intimidated into signing The Request to Make Arrangements for the Adoption of a Child on 27<sup>th</sup> August 1968. She was under extreme duress. She was very afraid. She wrote "the departmental officer held the clip-board to which the request form was attached and did not allow me to take hold of it. All of the wording above the space for my signature was obscured from sight by the way the other papers were positioned. I received no explanation of the consequences of adoption. At no time was I made aware of the known risk of psychiatric injury or grievous future regret I would sustain by never seeing the baby I gave birth to or by the permanent loss of my child even though the authorities were aware in 1968 of the know risk of grievous future regret associated with relinquishing a child for adoption".

Dian was induced to sign a legal document to attest to being the mother of the child named on the adoption consent and the record of birth solely on anecdotal information provided by the employee of the Department of Health. Legal documents which, did not comply with the adoption of Childrens Act 1965 legislation, for which she had no legal knowledge or education regarding and was in fact a minor signing a legal document.

Dian stated in her claim that the Defendant (State of New South Wales) "authorized the arrangement between the Department of Child welfare and the Department of Health to deprive her of her own child for the purpose of supplying the Defendants adoption branch with her child".

Almost immediately after Dian signed the adoption forms she went into shock. She had no memory of how she got home from the hospital nor much of the following year of her life.

For the greater part of the next 22 years of her life she suppressed the memory of my pregnancy and the delivery of her baby. Remembering would have been far too painful.

In April 1991, the adoption laws changed, and she applied for the amended birth certificate and wrote to the adoptive parents of her son. She had owned and managed a successful skin care salon but began to not be able to concentrate or perform tasks at work and left the responsibility to her employees. After an agonising wait she finally received a letter from the adoptive parents. It was a brutal letter, one of massive rejection and vilification. She was deemed a non-person even by the strangers who were given her baby son. The child she had never seen. She commenced seeing a counsellor. "At the time I felt suicidal".

In 1992 she requested the medical records relating to the birth of her son. She had a need to make him real. She attended the Post-adoption Resource Centre.

In 1993 after obtaining her medical records and undertaking further research she was finally cognizant, of the appalling abuse and betrayal of her human rights. In an attempt to seek justice she commenced an action against the State of New South Wales (the Defendant). She made an application for an extension of time under the limitations act 1969. Her claim ('W' v New South Wales in 1996-7) was in negligence for both breaches of common law and breaches of fiduciary duty for negligence, breach of duty of care and breaches of fiduciary duty committed by the hospital

staff. In February 1994 the Public Interest Advocacy Centre sent her for psychiatric evaluation by Dr [redacted], a well respected psychiatrist, who diagnosed her as suffering from a latent psychiatric injury as a result of Nervous Shock caused solely by the way in which her son was taken.

In 1995, she and a small group of women with similar shared experiences of adoption loss established the group Origins. This organisation would be instrumental in exposing the truth behind the exploitation and suffering of thousands of women, their children and the men also affected by this diabolical practice.

In 1997, she was advised by the Public Interest Advocacy Centre that her application had failed. Dian's claim for an extension of time was refused. She lost her action along with two appeals. The court found that there would be significant prejudice suffered by the State of New South Wales by the delay by the plaintiff in starting her proceeding. The fact that she was denied any access to her records until 1991 appeared irrelevant. As a lay person the irony of this is confounding. The only prejudice and suffering I could identify was that experienced by my sister.

To add insult to injury, Dian reported that "to his great relief the then manager for the department of Community Services, [redacted] could hardly contain himself on Friday 13<sup>th</sup> December 1996, when he had approached me at a Committee on Adoption meeting held on the premises of Barnados with the news that my claim had failed before my solicitors had been able to advise me of the negative outcome. Dian had been a member of the Committee on Adoption and Permanent Care (formerly known as the Standing Committee on Adoption) which met monthly, during the period between 1994 and early 2001. Apparently the same members who had drafted the widely distributed Health Commissions 1982 policy warning "hospital staff that they were at risk of litigation if they did not cease the practice of preventing unmarried mothers from seeing their babies before they signed an adoption consent" were still members of this committee during Dian's membership representing her support. Those members remained silent "when I discarded the hospital from my common law claim on the basis that it had not breached its duty of care towards me as I had been treated in accordance with its then hospital procedure in its treatment of unmarried mothers". They remained silent in their collusion, "knowing these procedures to be harmful and illegal and having every opportunity to look me straight in the eyes each month at every meeting and advise me that the Courts findings were untrue the entire committee remained silent". Dian's sense of betrayal must have been profound.

Dian was unable to accept that the defendants actions that had prevented her from ever seeing her own baby and transporting her to another location without her baby and without her consent, and which caused her severe long term psychiatric injury could be remotely legal let alone 'appropriate' as deemed by the court. So on October 21 1997, she called for a NSW Parliamentary Inquiry on Channel 2 Lateline programme into those same hospital practices to determine if they were illegal and/or unethical. She worked tirelessly 'to make sense of the history and crimes of adoption'.

The Inquiry commenced on August 27 1998 with its final report titled 'Releasing the Past' being published on December 8 2000.

In early 2001, after reading the Parliamentary Inquiry's final report she finally had proof that the defendant's hospital practices had not only been negligent and a breach of duty but had also been illegal and constituted the unauthorized taking of a child.

Dian's original claim had been for the hospitals wrongful removal of her child at the moment of birth, hiding him from her and transporting her to another location. All of which culminated in the coercion to induce her to sign the adoption consent.

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In her case 'W' v The State of New South Wales 1996-97, the Court had deemed those hospital practices to be "appropriate", that is, she had been treated in accordance with the unlawful adoption practices to which all unmarried were subjected. Dian did not discover that the Defendant's hospital practice was illegal and constituted negligence and breaches of statutory duty and the NSW Crimes Act until after the Parliamentary Inquiry Report was published.

All four Justices presiding over her previous application for an extension of time ('W' v State of New South Wales in 1996-7) had discarded Dian's common law claim against the hospital on the basis that it was "routine adoption procedure" and subsequently ignored the availability of all still living witnesses and documentation related to the first defendant. Consequently, Dian was unable to find a solicitor willing to take up her claim in negligence for the next three year period despite the Defendant's hospital practice finally being proven to be unlawful on 8<sup>th</sup> December 2000 by the NSW Parliamentary Inquiry.

But my sister had a tenacious spirit. Their apathy gave her the resolve to again seek justice through the court. She commenced proceeding with the Supreme Court. For the next two years Dian worked tirelessly to study the laws that were broken so she could argue her case against the state for fraud.

In December 2006, hidden in a deserted court building away from the view of the public and court reporters, Dian single-handedly presented her legal arguments in The Supreme Court of NSW. Once again their cowardly response was again to deny her justice.

Her claim was that "the Defendant (the State of New South Wales) committed fraud, breached its duty of care, statutory duty, fiduciary duty and the Crimes Act when it failed to take reasonable steps to protect her mental and emotional health by subjecting her to cruel and inhumane, degrading and illegal procedure which interrupted the birthing process between her baby and herself by taking her newly born child while she was giving birth to him, and while she was still affected by the anaesthetic drugs. Her own newborn infant was immediately hidden from her and she was forbidden to see the child to which she had given birth".

"The Defendant was not looking after her best interests when it subjected her to its discriminatory hospital procedure which was introduced solely for the purpose of interrupting the bonding process of ensuring that the adoption consent was signed".

Dian had not signed any hospital admission forms upon admission to the Women's Hospital (Crown Street) in 1968 to authorise any procedure to be performed upon her. She claimed, they acted with indifference to her rights by failing to check that she had authorized her permission before subjecting her (and deliberately concealing her right to bring a claim in trespass to the person when it failed to advise her that she had not signed) to an episiotomy operation and administered the stupefying medication Pentobarbital to keep me sedated. Administered Doriden, Chloral Hydrate, and Pethilorfan during and subsequent to the birth of her child, and suppressed my lactation with carcinogenic estrogens (Stilboestrol). They subjected her to its discriminatory hospital procedures that were contrary to normal delivery procedures. They did not obtain her authorization or consent to be separated from her newly born child by being relocated by ambulance to Lady Wakehurst.

Dian's claim was the Defendant was fully conscious that it was acting illegally by contravening her common law parental rights, the Crimes Act, and the Adoption Statute when it prevented her from seeing and having any contact with her own baby while she was still her child's sole legal guardian. That in fact it was a display of contumelious disregard for her common law rights and a wilful commitment of fraud.

Dian was induced to sign blank documents which were tampered with at a later date. Dian asserted that the State of New South Wales had full knowledge that it was acting illegally by contravening the Adoption Statute and therefore its statutory duty to the her for the purpose of preventing bonding between the mother and child for the purpose of ensuring that the she would sign the adoption consent.

Dian also maintained that the State of New South Wales, through its successive governments continued to conceal the fraud being inflicted upon her by failing to advise her that she had a right of action against the state even though it was reminded time and time again over the subsequent years that its adoption practices in its treatment of unmarried mothers had been in breach of their common law parental rights.

Dian continued to assert that the the Defendent, including the present government continued to "commit fraud during the course of my application for an extension of time under the Limitations Act 1969 when it remained silent while the Court, in 1996 discarded my common law claim against the hospital on the grounds that as I had been treated in accordance with the then routine hospital procedures therefore the hospital (main defendant) did not breach its duty of care towards me, even though it was in full knowledge of the fact that its routine hospital procedures had not been 'appropriate' as claimed by \_\_\_\_\_, but had been illegal in every respect".

Her claim stated that the Defendant knew she was being denied natural justice and procedural fairness by not having her 1993 application for extension of time presided over by an unbiased and disinterested judge. "The defendant was fully aware that the Master presiding over her claim had been employed for many years, prior to being appointed to the Supreme Court, as the Barrister at

Law with one of the Government Departments she was bringing an action against, namely, the Adoption's Branch of the Department of Child Welfare".

Dian claimed in her case the Defendant (the State of New South Wales) deliberately concealed the fraud by remaining silent while her common law claim against the Health department was dismissed and "refused her application to appeal to the Lower Court's decisions on the grounds that I could not succeed in a claim in equity because I had not been a state ward".

Dian wrote "no-one presiding over my claim questioned the legality of a practice that would forbid a mother from even seeing her own child before she had even surrendered her parental rights by signing a consent to adoption, but simply accepted that the same laws that applied to all other citizens of Australia somehow did not apply to me. The court treated my legal rights with the same contemptuous and discriminatory indifference as the Defendant had at the time of my son's birth by ignoring the fact that I actually had parental rights irrespective of my age or marital status".

This was despite Dian having in her possession the Parliamentary Committees findings which acknowledged that the defendant's routine hospital procedure was illegal, the 1982 Health Commission Policy Circular on Adoption file no. 1081 which acknowledged the hospital procedures illegal and the law reform Commission's report 69 which in **1992** acknowledged the Defendants hospital procedures were illegal.

As Dian's sister it was agonising to witness the misogynistic cruelty inflicted upon her as a helpless and disempowered adolescent repeated by a patriarchal collusion by the court system.

Dian was famous for something she said many years ago, "in order for adoption to be successful you must first destroy the mother". That attitude continued throughout her fight for justice by court system.

Dian was gravely disappointed with the Parliamentary Inquiry Final Report in which the "Committee deliberately attempted to dissuade the mothers who were victims of the defendants adoption practices from commencing legal action by offering false information provided by PIAC which used my corrupted claim as example in point. The committee had deliberately concealed my right of action and the right of others to bring any claims by failing to include the viable courses of action we could pursue. it took it upon themselves to decide they would 'not encourage legal action' as to do so would only 'add to the agony'."

My sister, Dian Wellfare, has been described as a champion, a warrior, a lioness. She was known as 'Motherluv' on her forum for the infinite compassion, support and love she demonstrated to all those traumatised by forced adoptions. She continued to fight for herself and others despite being dehumanised and betrayed by a system, in collusion with its employees and agents, that held nothing but contempt for her and her newborn baby only hours old, and their human rights.

My beautiful, courageous, creative and intelligent sister lost her valiant battle for justice and her own life in 2008.

Her fight was not in vain as it exposed the truth of one of the greatest violations of women in this country. I have heard so many stories by others who suffered from such appalling and contemptuous treatment. Dian supported others to find the courage to speak of those crimes committed against them and to demand accountability. Her knowledge of adoption changed the attitude of people not only in Australia but throughout the world.

Dian's son was stolen from our family his original family. Not one family member ever had the opportunity to see or hold our first born grandson, our first born nephew and cousin. He never knew the love and loss we felt as a family. My sister never held her newborn only son and would never hold a newborn child for the remainder of her life. Every family function was monopolised by the struggle for acknowledgement, redress and justice.

I travelled this journey with my sister and witnessed the aftermath of the brutal misogynistic treatment by the hospital...and later by the court system . My sister was drugged, falsely imprisoned, kept in a stupefied state and had her baby stolen. To date the legal and court system has condoned these crimes committed against her. My sister and so many others have lived their lives in a state of inconsolable grief from a shocking crime committed against them. What an incomprehensible waste of human worth and potential.

At Dian's funeral a dear friend wrote "her energy was breathtaking and her determination and courage was dynamic, she had the capacity to lead mothers into battle to regain their dignity and reclaim their integrity".

My sister wrote "to explain how adoption regulations and the law were contravened on such a massive scale is, I believe firstly, because the unmarried mother has been seen as being so insignificant as a human being, no-one bothered comply with the law, protect her rights, or even stopped to consider that she might even have rights, and

Secondly, although the Australian government introduced regulations into the Child Welfare Act 17 based on English law designed to enable a mother to keep her child, it simultaneously turned a blind eye, while the adoption industry followed the American code of adoption practice which consisted of punishing the mother by taking her child at birth, thus effectively contravening its own legislation". The duplication of this criminal behaviour throughout the states of Australia throughout the 1960's, 1970's and 1980'S stands as testament to the knowledge the Commonwealth government had of this widespread practice.

I trust this committee to find the courage my sister possessed, in exposing the complete truth of those complicit in the suffering of the victims of forced adoptions.



As a citizen of the Commonwealth of Australia, Dian Wellfare, was expected to be protected from such cruel abuse. The Commonwealth of Australia should be ashamed it did not intervene to put an end to such practices and this Senate Inquiry is long overdue. If Dian was alive she would have written:

**I, Dian Wellfare am a citizen of the Commonwealth of Australia resident in New South Wales. As a Citizen of the Commonwealth of Australia I have an inalienable right to protection under the Australian Constitution and the Common Law of the country.**

**As an Australian citizen, the Commonwealth affords me protection from the unlawful and harmful actions that threaten my life liberty and justice from those who would deny me these rights, within and without, the borders of Australia.**

Yours faithfully,

Debra Wellfare

30<sup>th</sup> March 2011