

**Submission to the Senate Community Affairs Committee Inquiry
Commonwealth contribution to former forced adoption policies and practices**

by

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Background

Jigsaw was established in Australia and New Zealand in 1976 and was incorporated in Queensland in 1988. We have assisted over 17,000 people in their search for their biological heritage and many more who were not actively engaged in the process of searching or seeking reunion. Jigsaw Queensland services include:

- Emotional support by phone or email
- Monthly Support Group meetings for birth mothers, adoptees and an open group for all those affected by adoption.
- Providing Information to assist with individuals with their own search
- Referral to professionals and other agencies

Jigsaw Queensland is a non-profit, member-based organisation relying on trained volunteer helpers to provide a range of services to all those affected by adoption. We rely on membership and donations from individuals, business and government to achieve our objectives and to help us provide ongoing services to our members and the community at large.

Matters relating to the terms of reference.

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

Jigsaw Queensland understands 'forced adoption' to mean an adoption arranged and formalised without the informed consent of the birth parents, in particular the birth mother. As such, forced adoption may be the outcome of illegal activity or undue duress placed on birth parents by social workers, doctors, nurses and, it must be acknowledged, family relatives. Such undue duress undermines the personal autonomy at the heart of truly informed consent.

Jigsaw Queensland is cognisant of the fact that under the federal system of government adoption policy and practice has been a matter for state governments. As such, we see that the direct role of the Commonwealth Government in any forced adoption practice has been minimal. Indirectly, however, the participation of the Commonwealth through the office of the Attorney-General in the formulation of model adoption laws in the 1960s, while attempting to ameliorate past harms,

reinforced the prevailing social stigma attached to unmarried mothers and so-called illegitimacy.

Despite common misconceptions, the majority of unmarried mothers in the period of peak adoption in Australia kept their babies—the key factor being family support. Those who did not receive this familial support were often subjected to great pressure from their own families and professionals, on whom they were often entirely dependent during a time of great vulnerability.

The lack of secure financial support available to single parents before the Child Care Act 1972 was another indirect contribution of the Commonwealth to the pressures faced by unwed mothers in the period of peak adoption. However, the continuing decline in adoptions after that date indicates that it was only one factor impacting on adoption practice in Australia.

It is rare to find a birthmother who did not find the pressures from families and professionals difficult to stand up to at the time. Their feelings of helplessness were often compounded by their birthing experiences, as pressure was put upon them to make decisions while under the influence of medications and within very narrow time frames, often unaware of the 30 days allowed for revocation of consent. Many of these mothers came to feel that their consent was neither informed nor freely given. They certainly do not feel that they were in any way esteemed in the process.

Much of the grief and loss associated with past adoption practices seems to have resulted from the overzealous application of adoption welfare theories, current at the time, that had been widely accepted, both nationally and internationally, but which had not been subjected to robust critical analysis and independent research by today's standards. Judging from the lack of knowledge of adoption issues even among well-trained health care professionals of today, the training of health care professionals on these matters in the past must have been abysmal. In the absence of secure evidence-based knowledge, adoption theory and practice came to be dominated by personal conviction masquerading as professional authority.

While some may see in these inadequate professional practices the hint of a conspiracy to punish unwed mothers for their immorality and reward prospective adopters, in reality the immediate needs of both birthmothers and prospective adopters were not well catered for, with both parties left to simply 'get on with it'. Under the thrall of 'clean break theory', birthmothers, adopters and the children were seen as benefitting from a brisk and paternalistic process. In reality, practices based on these so-called theories were harsh and uncompromising. Keeping birthmothers from holding, or even seeing their child seemed to be routine practice in the period of peak adoption, both in Australia and overseas, and added greatly to the sense of grief and loss experienced by many birthmothers, who sensed they were being 'used' to obtain a baby for 'real families', thereby creating on-going self-esteem issues.

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

It is clear that there is great diversity in the experiences of birthmothers and that their personal fates varied according to the era and from state to state. Nevertheless, in each state, particularly in the period of peak adoptions, both routine practices and the behaviour of individual professionals may have diminished the capacity for adoption consent to be informed and freely given. This has been widely acknowledged. Already, some birthmothers have successfully obtained apologies from professions and institutions for past practices.

What role is there for the Commonwealth in addressing the shortcomings of the past?

Perhaps the first step forward is for the Commonwealth to acknowledge and address the root cause of these past coercive practices and, on behalf of the whole community, express its regret and sorrow that as a society we shunned the unwed mother, ignored birth fathers, and branded children as illegitimate. It would be an important step towards acknowledging our collective responsibility and encouraging cooperation across the states and territories and the professions in offering some redress.

The Commonwealth has a particular role to play in encouraging national professional bodies to continue acknowledging inadequate past practices and to improve knowledge within those professions of the impacts of adoption on their clients.

The issue of redress in particular cases, however, is a vexed one.

Wherever possible, victims of alleged unlawful actions should seek legal redress. However, this will not always be possible. It would be useful to carefully distinguish between legal, ethical and therapeutic responses. In family matters, many aspects of redressing the past necessarily lie beyond the reach of the law. Whatever the level of past coercion, for example, invalidation of adoption would be an extreme measure with profound and unpredictable effects on all those concerned. In Jigsaw Queensland's experience, unilateral action by one party is rarely beneficial and the path forward involves mutual recognition and respect on behalf of all the parties concerned.

Given the past and continuing involvement of state governments in adoption, there could be a vital role for the Commonwealth in providing independent mediation and conciliation to address grievances. Rather than being adversarial this process should be based on community justice models and entered into freely by all parties.

The Commonwealth can also play a role in ensuring that a proportion of the funding provided to the states goes to providing adequate post-adoption services, so that the personal impacts of past adoption practices are adequately addressed. More importantly, the Commonwealth could ensure that those involved in the delivery of its own health, education and community services are thoroughly informed on the lifelong impact of adoption issues and how they might relate to clients using their services.

Jigsaw Queensland is sure that many other good ideas will be put forward during the inquiry and we recommend that the Commonwealth create and support a national advisory body on adoption past and present, to include the current advisory committee on intercountry adoption and new advisory committees on past adoption and current

post-adoption needs.

We thank you for the opportunity to contribute to the current inquiry.

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