

CHAPTER 3

THE FEDERAL GOVERNMENT RESPONSE TO THE *BRINGING THEM HOME* RECOMMENDATIONS

PART 2

3.1 The additional funding provided by the Commonwealth was stated to be in response to recommendations of *Bringing Them Home* which related to oral history, language and culture and access to records.¹ These recommendations were part of reparations, whereby efforts would be made to restore identity; history, language and culture. Talking about the removal process was also seen as beneficial, although some people believe this process is better addressed in a ‘truth and reconciliation tribunal.’² In *Bringing Them Home*, Recommendation 3 addresses the issue of ‘restitution’ as part of reparation, whilst Recommendations 12a, 12b, 22-29, 38a, 39 (and to an extent, 30) address particular components of restitution.

3.2 There has been considerable discussion as to whether these programs were an appropriate response; and whether the allocation of funding to some projects has also created some dissent.

The Oral History Project

3.3 Recommendation 1 of *Bringing Them Home* is the basis of the oral history project. This recommendation had suggested that there be sufficient funding ‘of appropriate indigenous agencies:

To record, preserve and administer access to the testimonies of Indigenous people affected by the forcible removal policies who wish to provide their histories in audio, audio-visual or written form.³

3.4 The program that the government funded was limited to oral history and did not fund any indigenous organisations. To this extent, it makes Recommendation 29b redundant, although other information, such as family records, could be deposited with indigenous organisations. The project was announced as part of the Commonwealth’s response, ‘in recognition of the importance of indigenous people and others telling their stories of family separation’.⁴ It comes part way between reparation and rehabilitation.

1 *Bringing Them Home*, Recommendation 1

2 See below, Chapter 8

3 *Bringing them Home*, Recommendation 1

4 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 630

National Library of Australia

3.5 The allocation of \$1.6 million to the National Library for this project has not met with favour. This appears to be on several grounds:

- lack of consultation;
- inappropriate location;
- inappropriate project; and
- inappropriate project staff.

Lack of consultation

ATSIC

3.6 ATSIC did not refer in its submission to any consultation held with it with respect to the oral history project. It did note that the greater part of the funding allocated overall had been given to mainstream departments, who then passed them on to their existing ‘agencies’.⁵ The National Library was obviously seen to be a mainstream body.

HREOC

3.7 HREOC makes no specific reference to consultation in respect of the oral history project, although its comments on lack of consultation generally may be applicable.⁶ It perceives that Recommendation 1 has been misinterpreted, as the intention was not just to record information:

The experience of the Shoah Foundation and of this Inquiry is that giving testimony, which is extraordinarily painful for most, is often the beginning of the healing process.⁷

National Library

3.8 According to the National Library, the Prime Minister’s department consulted the Library ‘on the feasibility of conducting an oral history project on Indigenous family separation in order to address recommendation 1 of the inquiry report.’⁸ The Library subsequently made a submission to the department which referred solely to indigenous oral histories.⁹ The expansion of the project to include histories from

5 *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 6

6 See *Submission 93*, Human Rights and Equal Opportunity Commission, p. 2189 (Paragraph 2.20)

7 *Submission 93*, Human Rights and Equal Opportunity Commission, p. 2190 (Paragraph 2.25), quoting from *Bringing Them Home*, p. 22. As far as the Government was concerned, an additional objective of the oral history project was that it would be cathartic: *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p.630

8 *Submission 21*, National Library of Australia, p. 397

9 *Submission 21*, National Library of Australia, p. 397

officials and other non-indigenous people was expressed by the department, although the Minister stated that it was he who decided the project should be expanded in this fashion.¹⁰

Location of the project

3.9 Allocating funding to the National Library resulted in opposition to the project, but, according to the Library representatives, this opposition did fade in most instances.¹¹ It is not known if the government consulted any other body such as the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS) to provide a feasibility submission.

3.10 The Commonwealth government has not provided any further funding to assist other agencies or organisations to be involved, although there are several recommendations in *Bringing Them Home* which mentioned the need for funding for research and training materials. The extent to which these recommendations have been met therefore appears to be limited.¹² However, extensive training funding provided by ATSIC to AIATSIS may indirectly assist in that agency being able to undertake additional research.¹³

3.11 Some of the other related *Bringing Them Home* recommendations apply primarily to states and territories, particularly the development and teaching of courses.¹⁴ In respect of Recommendation 1, the first MCATSIA ‘overview’ report noted that:

All jurisdictions have given in-principle support to this recommendation’.¹⁵

3.12 Victoria, for example, stated that it would provide funding to the Koori Oral History Program ‘to record the stories of Koories affected by separation from their family’,¹⁶ and other states have also indicated interest in oral histories. New South Wales, Victoria and Western Australia committed funding to oral history projects which will assist in collating testimonies while Queensland and the Australian Capital

10 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 633

11 *Transcript of evidence*, National Library of Australia, p. 715

12 See below, Paragraphs 3.110-3.111, and state and territory government responses in Chapter 7, Paragraph 7.19

13 *Submission 32C*, Aboriginal and Torres Strait Islander Commission, Attachment B to the Aboriginal and Torres Strait Islander Commission Development Plan for a National Link-up Network, p. 2591

14 See Chapter 7

15 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, First Status Report (1999), *Submission 32B*, Aboriginal and Torres Strait Islander Commission, p.1835

16 *Submission 109* Victorian Government, Minister for Aboriginal Affairs, p. 2930. Nonetheless, it also referred to the importance of education about the past and about indigenous culture

Territory indicated that there was scope for funding testimonies in existing mainstream programs.¹⁷

3.13 The Social Justice Report referred to work done in some of the states and territories in this area. The NSW State Library was to work with government and Aboriginal organisations to establish an oral history strategy.¹⁸ The Community and Personal Histories Section of the Queensland Department of Family Services and Aboriginal and Islander Affairs provides funding of up to \$5,000 to aid the establishment or maintenance of oral history, family or community history projects.¹⁹ The July 1998 response of the Australian Capital Territory government to *Bringing Them Home*, attached to its submission to this inquiry, indicates that a Heritage Grants program would ensure that priority was given to funding Indigenous peoples to record, preserve and administer testimonies of people affected by forcible removal.²⁰

3.14 Unfortunately, this approach appears to mostly copy the limits imposed by the Commonwealth and restrict the process to oral history, whereas the original recommendation refers to other mediums as well. It may be that states and territories will develop additional options. The Northern Territory Archives Service, for example, advised that it was ‘participating in the National Library oral history project by interviewing local people, and assisting with the training in Darwin of interviewers to record others in the Territory.’²¹

3.15 The Committee has heard evidence from many sources that oral history, telling of the past in other ways, preservation of memories, and the provision of safe-keeping places, are essential to the healing process.²²

Project

3.16 Recommendation 1 of *Bringing Them Home* emphasised the involvement of indigenous organisations in the collection of individual ‘histories’ of indigenous people. It suggested this be done in several formats and made further suggestions about facilitating appropriate access to these. Reference was made to those ‘affected’ by the removals, but in the context of *Bringing Them Home*, those affected include separated people, their families, descendants and communities.²³ *Bringing Them Home* did not envisage an oral history which included non-indigenous persons. Consequently, the changes made by the Government to this recommendation changed most of its emphasis.

17 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 661

18 *Social Justice Report 1998*, p. 116

19 *Social Justice Report 1998*, p. 116

20 *Submission 42*, Australian Capital Territory Government, p. 732

21 *Submission 108*, Northern Territory Archives Service, p. 2892

22 See, for example, Paragraphs 3.7, 3.18, 3.20

23 See *Bringing Them Home*, Recommendation 1 and also Recommendation 14

3.17 The established expertise of the Library²⁴ and the fact that it was not an indigenous-specific body may have been seen by the government as beneficial. The objective of collecting other views was perceived by the government as adding additional dimensions to the issue.²⁵

3.18 The purpose of the oral history project, at least in the form recommended by *Bringing Them Home*, was seen to be an element of the healing process. It was said that many issues could only begin to be dealt with when people actually managed to discuss what had occurred to them and what effect it had had on them.²⁶

We feel the significant initiatives must be fully supported in ensuing years; that the importance for Aboriginal people and their community as a whole, for those involved, [is] to be allowed to tell their stories of the tragic past in Australian history. This is supported by our government, but the importance of this history [should] not just being shelved in libraries. We would like to see that built into the schools – that this information is there.²⁷

3.19 The issue of location of material also seemed to be related to the issue of the purpose of oral histories, with one witness suggesting that state and territory government libraries would be a better repository for individual confidential information.²⁸ The extent to which such libraries as opposed to indigenous organisations would also be the most appropriate managers of oral history projects from separated people was not discussed. The location issue reflects to some extent the belief of some groups that their stories may not be dealt with appropriately by ‘indigenous’ organisations.

3.20 It was also suggested that the healing process could be assisted by individual groups being able to tell and keep their stories:

Institutional groups in the Northern Territory would prefer to house their own oral histories together with other memorabilia of significance within their own community trust or keeping place. Involving the interest group in these activities does more to [enable] individuals and groups to deal with past practices and start the healing process.²⁹

24 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 633

25 See *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 633: ‘like many others I also wanted to hear from others involved in the process ... I think it is important that the missionaries and administrators of the time, the police and hospital workers, and the adoptive and foster parents, are also able to tell their stories. For a complete understanding we need to know their motivations and their perceptions as well.’

26 *Transcript of evidence*, Ms B.Cummings, p. 460. *Submission 40*, Western Australian Aboriginal Justice Council, p. 711

27 *Transcript of evidence*, Western Australian Aboriginal Justice Council, p. 363

28 *Transcript of evidence*, Ms. B Cummings, p. 460

29 *Submission 22*, Yirra Bandoo Aboriginal Corporation, p. 406; see also *Submission 63*, Garden Point Association, p. 1213

Personal nature of information

3.21 One witness raised the issue of such stories being personal information³⁰ and therefore subject to individual choice with respect to distribution or access. Insofar as many stories will be very personal, the National Library project would not necessarily be the best location for them. Nonetheless, the decision to be involved in that project is made by the individual, and no person can be compelled to provide information.³¹ Individuals also own the copyright of the transcript, and the Library stated that it was careful with its use of the recording which was its version of the history.³²

3.22 It does not seem to have been envisaged in *Bringing Them Home* that this material would be confidential in the sense of not being available at all. After all, other objectives of the recommendation were to obtain material which would be the basis of further study, research, or school materials; and to guarantee against repetition. In some instances, confidentiality may be appropriate, but an unknown history is of limited benefit to the wider community.

3.23 It may be necessary, therefore, for the funding of other projects, to make a clear distinction between histories which are personal and confidential, and history projects, which may not contain individual stories but which would at least provide some insight into the separations.

Access

3.24 Issues of access to oral histories were also raised by witnesses. Some people were concerned about ease of access, and others expressed concern that privacy would not be respected.

3.25 According to the National Library (and confirmed by the Northern Territory Archives Service),³³ copies of the information will be made available:

It would not only be available in Canberra but also in state institutions and perhaps in large regional libraries. Where people request it, it can be available in community organisations.³⁴

3.26 The National Library considered that it was an appropriate sponsor or agency for the project on the basis that it was the nation's library.³⁵

30 Primarily on the basis that the purpose of the history was to help individuals and not provide information generally

31 *Transcript of evidence*, National Library of Australia, p. 716

32 *Transcript of evidence*, National Library of Australia, p. 718

33 *Submission 108*, Northern Territory Archives Service, p. 2892: 'copies of oral histories relating to the Northern Territory will be held at the Northern Territory Archives Service in Darwin for the local community.'

34 *Transcript of evidence*, National Library of Australia, p. 716

35 *Transcript of evidence*, National Library of Australia, p. 716

Project Staff

3.27 No clear reason was given to this inquiry for preferring the National Library, although, as indicated above, the government may have thought that its expertise was the most appropriate. However, if there had been a belief that there was insufficient indigenous expertise available, this could have been addressed in other ways, by providing appropriate training in the collecting of oral history,³⁶ and ensuring that copies of material collected were made available to the National Library regardless of where they originated.

3.28 The Committee notes that the National Library project has been managed by an indigenous person.³⁷ According to evidence provided by the Library, the project has been successful.³⁸

Conclusions

3.29 The Committee is less concerned about the location of material – given that it should be possible for it to be made available to people generally³⁹ – than it is about the nature of the Government response, which was to include the testimonies of other witnesses to the events of these times.⁴⁰ Recommendation 1 of *Bringing Them Home* stated:

That the Council of Australian Governments ensure the adequate funding of appropriate Indigenous agencies to record, preserve and administer access to the testimonies of Indigenous people affected by the forcible removal policies who wish to provide their histories in audio, audio-visual or written form.

3.30 The Government sought to provide a ‘rounded’ or full view which would ‘help us understand that part of the indigenous experience, and stand as a warning against misguided paternalism’.⁴¹ However, although this appears a concession, it gives the impression of having already prejudged all such information to be of a particular nature (misguided but well-intentioned).

3.31 However, as the objective of the recommendation was to provide a specific view or series of views about the past of *indigenous* people, it was thought that a ‘balanced’ or ‘rounded’ view was unnecessary. There were already many publications and documents available which demonstrated non-indigenous perspectives:

36 This approach could also have involved some of the training recommended in *Bringing Them Home*, Recommendation 28 –scholarships and training for indigenous archivists, historical researchers, etc

37 *Transcript of evidence*, National Library of Australia, p. 719

38 *Transcript of evidence*, National Library of Australia, p. 715

39 Where necessary, versions of stories with identifying material removed could also be produced

40 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 633

41 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p.633

...it would take a great many reports [like *Bringing Them Home*] to counter the effects of two hundred years of glorification of the actions of non-Aboriginal colonists....

The HREOC quite rightly sought to attempt a culturally appropriate means by which to elicit stories from people whose disenfranchisement has prevented them from being adequately heard, if they were heard at all.⁴²

3.32 This collecting of indigenous stories need not have been done within a short time period, and it may in fact have been better commenced some time later: given the painful nature of many of the stories, those telling them may have benefited from delay. One exception to this would be the provision of information by older people, as organisations noted that many of their older members had died.⁴³:

3.33 If a balanced view was seen as necessary in this particular project, this could have been provided by the Library. It was proposed that the collection of oral histories would be published in the proposed book to be produced by the Library as part of the project. However, a number of people would argue that there are already several works by non-indigenous people available:⁴⁴

The government supports practical reconciliation, but it nitpicks on the definition of a generation, supports the supposed benign intent of past practice policy makers, and even gives over a whole appendix to a white patrol officer while, in effect, questioning the memories of those who were affected.⁴⁵

3.34 A further implication arising from the government's change to the project is that this particular oral history would have been distorted without the additional input. However, accuracy of memory, distortions occurring through time, incomplete knowledge of causal factors, misconceptions as to reasons and particular interpretations of the past, are issues that will affect all 'oral' history.

3.35 Collecting information in various media forms from people is only one step in research. The information to some extent is shaped by interview because the objective is to discuss a particular subject. As far as researchers are concerned, it is raw data, not a finished product. It will be assessed against other information and compared with other similar material. The statement made by the Library does not fully reflect this approach.⁴⁶

42 *Submission 105*, Aboriginal Legal Service of Western Australia, p. 2850

43 *Submission 54*, North Australian Stolen Generation Aboriginal Corporation and Central Australian Stolen Generation and Families Aboriginal Corporation, p. 1016

44 See especially *Submission 105*, Aboriginal Legal Service of Western Australia, p. 2850

45 See, for example, *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 3

46 'Systematic evaluation of interviews is being carried out to ensure they meet technical standards but also to assess their research value and whether, as a collection, they are recording the range of points of views

Language and Culture Funding

3.36 Recommendation 12 of Bringing them Home specified:

12(a) That the Commonwealth expand the funding of Indigenous language, culture and history centres to ensure national coverage at regional level.

12(b) That where the Indigenous community so determines, the regional language, culture and history centre be funded to record and maintain local Indigenous languages and to teach those languages, especially to people whose forcible removal deprived them of opportunities to learn and maintain their language and to their descendants.

Funding

3.37 The Government response included the allocation of \$9 million for culture and language programs.⁴⁷ This was not new funding: it was a transfer of money already in the ATSIC budget. This is the most obvious example of re-badging money already in the system, but it is argued that the actual allocation of this funding has resulted in projects that appear not to have met any needs of some groups of separated ‘children’. It is also argued that most of the funding has gone to language programs and very little has been allocated to ‘culture’.⁴⁸

Consultation

3.38 There appears not to have been any specific consultation on the issue of language and culture funding prior to the Government response.⁴⁹ The 1999 update on Commonwealth Initiatives stated that, in developing the project, ATSIC consulted ‘with those indigenous people involved in the provision of indigenous language services’.⁵⁰ The extent to which successful applicants were already working on projects is not stated.

3.39 The involvement of ATSIC Regional offices in the assessment process is useful insofar as they are more aware of local issues and language needs. The extent to which the specific concerns of separated people are addressed in funded projects is doubtful.

and experiences that would be expected in a rounded history (*Submission 21*, National Library of Australia, p. 399)

47 This is known as Language Access Initiatives Program (LAIP) – see Appendix 10

48 See below, Paragraphs 3.47, 3.59

49 Except presumably with the Aboriginal and Torres Strait Islander Commission in respect of the re-allocation of the funding

50 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p 636. The same statement is also made in the Aboriginal and Torres Strait Islander Commission submission, *Submission 32*, p. 521

Projects

3.40 The wording of recommendation 12 (b) suggests the giving of control of any funding to ‘original’ communities, communities from which people were removed. This is acknowledged by ATSIC which states:

The removal of Indigenous ‘Stolen Generations’ people from their families and communities prevented them from acquiring their language and culture and has left them with a loss of identity. Assimilation policies forced many families to move to an alien environment and this also contributed to the decline of the use of remaining language.⁵¹

3.41 ATSIC also stated that its response would be to use the \$9 million over three years ‘for language maintenance and revival activities.’⁵² In oral evidence, emphasis was placed on the needs of communities⁵³ but it was not apparent that this would include communities made up of removed people, or those whose closest links were with fellow former residents of institutions.⁵⁴ Recommendation 12(b) does not acknowledge that many people have not gone back to their communities or have not been accepted by them.⁵⁵

3.42 Should the community decide against any study of its own language, there is little – in theory – that the separated people can do. Some live a considerable distance from their original country and would have limited opportunity to learn language from this community. As well, since many people were sent from different areas, any one institutional family may include people with several different first languages. This makes it difficult to identify the needs of separated people who live in or around the area to which they were removed.

3.43 Reference to ‘community’ decisions is recognised by ATSIC in respect of endangered languages, where the intention is to:

Enhance opportunities for research on indigenous languages which have only a small number of speakers, where intergenerational transmission is poor or non-existent and where there is community support for such work.⁵⁶

3.44 While Recommendation 12 (a) refers to centres for language, culture and history, 12 (b) refers only to language teaching.⁵⁷ There is no specific link in the Recommendations to the need of any community to develop language studies on the

51 *Submission 32*, Aboriginal and Torres Strait Islander Commission, p. 520

52 *Submission 32*, Aboriginal and Torres Strait Islander Commission, p. 520

53 *Transcript of evidence*, Aboriginal and Torres Strait Islander Commission, p. 17

54 *Transcript of evidence*, Jarrah, p. 204

55 See, however, *Transcript of evidence*, Jarrah, p. 207 where reference is made to separated people being unable to become part of a community again because ‘we have not learnt to give ourselves’.

56 www.atsic.gov.au/programs/noticeboard/Language Maintenance

57 See below, Paragraphs 3.46, 3.56-3.57

basis that it was severely affected by removal,⁵⁸ and it is noted that Recommendation 4(3) considers that such communities are those which could also claim compensation as having been so affected. It could be expected that ATSIC would fund either the communities from which a large proportion of people were removed, thus damaging the transmission process, or others willing to learn and help transmit the language. A more detailed study of the successful projects should help identify the extent to which these objectives have been met.

Process

3.45 This funding is under the control of ATSIC, which stated in its submission that the Language Access Initiative Program (LAIP) had provided funding to 51 community-based projects in five priority areas.⁵⁹ As noted above, consultation with indigenous areas appears to have been limited, but there is some local involvement through the selection process of projects. In his submission, the Minister for Aboriginal and Torres Strait Islander Affairs stated:

The LAIP has identified five priority areas for funding: endangered languages, feasibility studies and strategic planning, archive development and management, publications and broadcast and a limited capital assistance component. The highest priority has been given to endangered language projects. This is in recognition of the impact of removal policies of previous governments on the use and transmission of indigenous languages and cultures.⁶⁰

3.46 The relationship between endangered languages and removed populations is not demonstrated, although 50% of funding under the Language Access Initiatives Program will be allocated to endangered languages.⁶¹ In the context of the program, the term 'endangered languages' is used to refer to indigenous languages where there are few surviving speakers and where little or no language is being passed on to children.⁶² Strictly speaking, this could refer to languages which were little affected by at least recent separation practices and policies.

3.47 The 'overall objective' of the initiative includes specific reference to cultural components at two places: increasing community access to cultural information through the development of community based archive projects; and increasing community access to existing language and cultural knowledge by developing material for publication and/or broadcast.⁶³ It was suggested in evidence of one group

58 However, see *Transcript of evidence*, Victorian Aboriginal Legal Service, p. 227

59 *Submission 32*, Aboriginal and Torres Strait Islander Commission, p.521

60 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p.636

61 www.atsic.gov.au/programs/noticeboard/Language_Maintenance

62 www.atsic.gov.au/programs/noticeboard/Language_Maintenance

63 www.atsic.gov.au/programs/noticeboard/Language_Maintenance

that the link between culture and language was not sufficiently close to meet the needs of communities.⁶⁴

Location of Projects

3.48 By the end of 1999, \$5.506 million had been allocated, with the remaining funds to be allocated in 2000/2001. The location of projects is listed at Appendix 10.

Target groups

3.49 The lack of sufficient differentiation between groups of separated people may have contributed to the apparent lack of appropriate programs. Where a person has not lost language or culture, or is in a position to retrieve this, their needs for language/culture programs are different to others. As far as stolen generation groups were concerned, their language and culture loss falls into the following categories. They are people who:

- were away from their community for a long period;
- were with people who spoke other languages and the common language was English;
- were discouraged from speaking the language in any event;
- if they return to their country, they do not know the language and they have difficulty communicating with family who may not be fluent in English;
- are missing a lot of the past history;
- those who were removed considerable distances from their communities may not have had success in returning to the original country; their home is now where they are, and in fact they have accepted there is little point in returning home;
- in some instances, they may be marginalised where they now live because they have no 'land'; and
- they also may be on the land claimed under native title; their identity is sometimes difficult to maintain.

3.50 Some people felt they were already disadvantaged and were then ignored in the allocation of funding: 'our inheritance has been taken from us again.'⁶⁵ Another witness stated that in one area at least the language program money was being used to fund interpreter services for legal and medical reasons: 'This is for people who have English as their second language. They have not developed any programs to meet the needs of us.'⁶⁶ The Committee was not provided with further information on the use

64 See below, Paragraph 3. 55

65 *Submission 63*, Garden Point Association, p. 1207; see also *Transcript of evidence*, Mr Matthew Storey, p. 458

66 *Transcript of evidence*, Retta Dixon Home Aboriginal Corporation, p. 536

of funding for interpreters. It is unlikely that funding to restore or maintain languages would be appropriately directed to interpreting. .

Appropriate language projects

3.51 The key point that emerged with respect to what constituted an appropriate language and culture service was that it would meet identified needs of the specific groups and individuals:

Stolen generation language programs will only have the desired effects if they are generated and controlled by us. Programs such as those that can allow us to develop the resources we need to re-establish our language, to learn our language, to provide access to it for our children and to the wider community as appropriate is our business.⁶⁷

3.52 In this instance, it is possible that several language programs would need to be available in order for the different language groups native to an ‘institutional family’ to be accommodated. Thus, the issue of language programs can lead to complex issues of needs and benefits, many of which may have limited relationship to any return to country or return to a situation that may have previously existed. In such instances, reparation and restitution may take a different form than that envisaged by *Bringing Them Home*,⁶⁸ at least in the short term.

Communities – do they have a language need?

3.53 The issue of effect on communities of the separation or removal policies is not detailed in *Bringing Them Home*. There are two reasons for this. It is difficult to determine which communities were so devastated by removals that language was destroyed; and many of the major dispossessions of land are both old and do not involve the separate removal of children.

3.54 More realistically, many communities have continued despite removal policies and may operate their own language retention programs. The basis of the need for such programs is therefore complex, because it includes a changing and possibly moving population base, as well as the effects of separation:

Most of the languages of the region are known by older members of the community, many of whom have passed on some knowledge of language to younger generations, some of whom are members of the stolen generation. The Centre requires an increased level of funding from ATSIC in order to continue and develop its role of supporting the maintenance and increased use of Yamatji languages.⁶⁹

67 *Submission 63*, Garden Point Association, p. 1216

68 *Bringing Them Home*, pp. 298-300

69 *Submission 17*, Yamatjibarna Baba Maaja Aboriginal Corporation, p. 375

3.55 Another community noted that the issue of language was complex; culture, law and language were interrelated and living:

The answer to cultural preservation is not to sit down and record a story and place it in an archive for someone to find one day, but to give people access to programs where they can pass on their knowledge to the next generation.

Cultural training is a dynamic process, not an academic or archival process.⁷⁰

3.56 The Committee considers that there are two issues concerning community needs for language or language-related services. These are the need for community support and education for people wishing to learn or re-learn their first language on the basis that they were removed; and the need to preserve languages. There is no necessary connection with removals in respect of the second matter, although retention of the language may be important for a number of reasons. However, it is likely that this would come under pre-existing funding and should be separated from *Bringing Them Home* recommendations. With respect to the first issue, there is little evidence which suggests much level of support available to communities and elders to provide a language and culture program.

3.57 At the same time, the extent to which returned people re-learn a language through remaining in the community may need to be further explored. If, for example, the members of the Stolen Generations organisations believed they would not be returning home, their need for their original language/s may be limited. However, if their original communities demonstrated that the loss of these people had severely affected the use of language or the numbers of people available to continue it, this may be a project which could be funded. It would be of little direct benefit to those who had been removed. What may be of benefit, as the Kimberley Stolen Generations Committee noted, would be restitution in another mode: both allowing them their own place,⁷¹ and ensuring that Australian history tells what did happen:

The point is that we must record and be honest about our Australian history and recognise and claim the failures as well as the success of Australia's achievements. We must correct the wrongs, fix the problem and move on in a true reconciliatory manner for the future of our nation. We must teach the past and plan the future.⁷²

3.58 As the Kimberley Aboriginal Law and Culture Centre noted, the issue of culture is as important as that of language, and both can be affected by the separation policies:

70 *Submission 29*, Kimberley Aboriginal Law and Culture Centre, p.467

71 See below, Paragraphs 3.128-3.130

72 *Submission 58*, Kimberley Stolen Generation Committee, p. 1124

The elders of the region are already under significant pressure from within their own communities. They carry on the responsibility of passing on knowledge, and caring for, not only to their own immediate group but also other members of [it] who have been disenfranchised by social forces.

...the people who were not removed from their country need help in understanding the effect past policy has had on the Stolen Generation....

There is a debt due to not only the Stolen Generation but also those who were left behind to guard the Culture and pick up the pieces.⁷³

3.59 The importance of language, culture and history was also demonstrated by another witness who noted the difficulties of returning to one's country and not understanding, needing to learn how things worked and what one's rights and responsibilities were. In such instances, culture is inextricably linked with language, and funding may need to take this into account:

I have had my history denied and stolen on many occasions. That has happened when we are sitting down with our families – and these are the families from the people that were stolen – with whom we have a relationship, when we are going through our processes of day to day things that we do.⁷⁴

For a person of the stolen generation to want to go home to participate in their community as an equal, firstly there has to be an education, a learning process to determine what your responsibilities are in relation to that community. Once those responsibilities are being exercised, you go on to claim your rights.

If people learn about who their family is and do not understand or accept what their responsibilities are, there is conflict.⁷⁵

3.60 There was some opposition in the Northern Territory to the existing language projects on the basis that they did not meet the individual needs of separated people:⁷⁶

My view would be that this money was set aside so that Aboriginal people who were removed by this policy could learn a language. My first language was Gurindji. Now it is English. These other people who are here would like to be able to speak their language, or have their children learn it.⁷⁷

73 *Submission 29*, Kimberley Aboriginal Law and Culture Centre, p. 468

74 *Transcript of evidence*, Northern Land Council, p. 484

75 *Transcript of evidence*, Northern Land Council, p. 485

76 *Transcript of evidence*, Northern Territory Stolen Generation Corporation, p. 457

77 *Transcript of evidence*, Northern Territory Stolen Generation Corporation, p. 459

3.61 While there is no necessary connection with a return to country or culture in such proposals, there is no specific prohibition in the Government response of individual or community choices.

Local organisations

3.62 The contribution of voluntary work in the saving of languages (and in the provision of many other services) may also be underestimated. Having received little specific information on the running of language services, the Committee is unaware of the process by which a language is retrieved, and how it would be passed on when the natural process of transmission had been interrupted. One example of an unfunded effort to preserve language was given to the Committee:

Members of our Larrakia organisation have spent many years working voluntarily with an unpaid linguist with the only speaker of our Larrakia language before she passed on last year. We hold hundreds of hours of audio tapes made at that time all without any financial assistance. With this is 40 hours of detailed kinship relationships, which is fundamental to our language and culture.⁷⁸

3.63 A similar point was made also by the Kimberley Aboriginal Law and Culture Centre.⁷⁹

State and Territory responses to Language and Culture Recommendations

3.64 The MCATSIA status report says that some jurisdictions have identified initiatives responding to or reflecting these recommendations. Initiatives mentioned are:

- In the ACT, liaison by the government with local elders and an expert in Indigenous languages to recover the Ngun(n)awal language and the proposed Indigenous community-managed Cultural Centre
- The NSW government's commitment to record oral histories
- The Victorian government's development of new legislation and program on cultural heritage, establishment of an Aboriginal centre at the new Melbourne Museum and the funding of regional bodies for revival of oral history and/or language
- The WA government's development of an oral history project and establishment of an Indigenous Oral History Program in partnership with language centres.⁸⁰

3.65 In its response of August 1998 to the *Bringing them Home* inquiry, the Northern Territory government stated that its Department of Education currently had

78 *Submission 22*, Yirra Bandoo Aboriginal Corporation, p. 407

79 See *Submission 29*, Kimberley Aboriginal Law and Culture Centre, pp. 467-468

80 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, pp. 662-3

20 formal bi-lingual education programs using 34 Aboriginal languages and dialects and providing Aboriginal languages and cultural support for approximately 3000 students.⁸¹

Historical records; research; family tracing

3.66 Several recommendations were made in *Bringing Them Home* on research, historical records, family tracing, and reunion services. Some of these have been referred to above, in that the government response provided some funding for oral history and some for indexing and copying material held by the National Archives.⁸² It also provided funding for tracing and re-uniting families, the greater part of which has gone to established organisations such as Link-Up.⁸³ A freeze was placed on records destruction, and the National Archives was also given the responsibility for progressing recommendations concerning a National Records Taskforce, access and training.⁸⁴

State and Territory responses to recommendations concerning historical records.

3.67 *Recommendation 21 opposed the destruction of records relating to Indigenous people and to people removed from their families.*

3.68 The MCATSIA status report says that all jurisdictions gave in-principle support to the preservation of records relating to indigenous individuals, families or communities held by government or non government agencies. Specifically:

- New South Wales and Western Australia had developed memoranda of understanding to ensure that their agencies preserve existing records and SA is currently considering the development of one;
- Tasmania had identified and preserved most of its pre-1970 files and was currently identifying a series of post-1970 files;
- Queensland had developed guidelines to protect records; and
- The ACT was to review its records management system.⁸⁵

3.69 The Social Justice Report referred to different aspects of the matter, noting that:

81 *Submission 64*, Northern Territory Government, p. 1234

82 The project involves indexing names and copying Commonwealth records in Canberra, those previously held by Victoria, and the Northern Territory. The Victorian records were provided when Victoria transferred its power to make laws for indigenous persons to the Commonwealth in 1975

83 See above, Chapter 2

84 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 606

85 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 663

- Vic had set a standard for records destruction but not in respect of the separation of Koori children from their families and did not intend to do so.
- NSW set a moratorium on the destruction of records.
- Tasmania stated that the records referred to have not been destroyed and would continue to be protected by the Archives Act.⁸⁶

3.70 In its August 1998 response to *Bringing Them Home*, the Northern Territory government advised that, in the process of overseeing the retention and destruction of Northern Territory government records, the Northern Territory Archives Service considers withholding from destruction, and further retention of, records which may contain information of relevance to Stolen Generation research. It also provides preservation services to non-government agencies.⁸⁷

3.71 In its July 1998 response the ACT government stated it would strengthen the Public Sector Management Standards to ensure the survival of records relating to indigenous individuals, families and communities and that its review of records management would include the need for legislation and additional facilities.⁸⁸

3.72 *Recommendations 22a and 22b: the funding of government record agencies to preserve and index records relating to Indigenous people and to children removed from their families (22a) and for the privacy of individuals to be protected (22b).*

Preservation and indexing of records

3.73 The MCATSIA status report advised that Victoria had developed a summary index to Aboriginal Client Records and Record Disposal Schedules (to enable permanent retention of all records relating to Wards of State and those issued with Intervention Orders). The Public Records Office of Victoria was also researching the organisation of indexes and registers of ward files to improve accessibility.⁸⁹

3.74 In its July 1998 response, the ACT government stated that it did not consider indexing records would improve outcomes but intended to continue monitoring the situation. There was potentially only a small number of such records in the ACT and substantial resources would be required to identify and index them.⁹⁰

3.75 In its August 1998 response, the Northern Territory government stated that preservation of records was undertaken as a matter of course but that resources did not permit full scale indexing of all the records. However, in the List of Records Relevant to Aboriginal Research the Archives Service has referenced series of records in its

86 *Social Justice Report 1998*, p. 126

87 *Submission 64*, Northern Territory Government, pp. 1236-1237

88 *Submission 42*, Australian Capital Territory Government, p. 728

89 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 663

90 *Submission 42*, Australian Capital Territory Government, p. 761

custody which may be relevant to Stolen Generation research. The Registry of Births Deaths and Marriages in the Registrar General's Office (RBDM) includes records relating to Aboriginal people. It also holds the Aboriginal Population Record, a collection of genealogical information about Aboriginal people taken primarily from Census information and dating back to the 1950s.⁹¹

3.76 In its evidence to the Committee, the Northern Territory government suggested that considerable progress had been made in indexing records along the lines utilised by the National Archives.⁹² However, the Committee was subsequently advised that this was not the case, and that, 'while discussions are underway about funding such a project, no project has yet been initiated.'⁹³ This meant that the police records which appeared to be accessible, in fact were not.⁹⁴

3.77 The Karu Aboriginal and Islander Child Care Agency suggested that the Northern Territory government should do more:

There is a difficulty with records in the Territory. The National Archives are doing a wonderful job in indexing because they have allocated moneys for it. The NT government holds a lot of our records in NT archives. They do not have the funds to index those records, and they do not see it as a priority because, as they say, they are not responsible for removals in the Territory. We see it as important to index the police journals, the station files and the individual holdings - photographic collections - that they have.⁹⁵

Privacy of records

3.78 In its August 1998 response to *Bringing Them Home*, the Northern Territory government stated that strict guidelines on storage and access protect the privacy of individuals and restrict the potential for misuse of records. Under the Protocol, persons seeking access must sign an undertaking not to reveal sensitive or personal information about others.⁹⁶ In evidence to the Committee, a witness noted that an 'approved person' could have access to search on behalf of clients, but that otherwise material could be withheld or deleted in some form for privacy reasons.⁹⁷

3.79 In its August 1998 response to *Bringing Them Home*, the ACT government stated that access to its records was subject to the Commonwealth *Privacy Act* 1998

91 *Submission 64*, Northern Territory Government, pp. 1236-1237

92 *Transcript of evidence*, Northern Territory Government, Office of Aboriginal Development, p. 439

93 *Submission 108*, Northern Territory Archives Service, p. 2892

94 *Transcript of evidence*, Northern Territory Government, Office of Aboriginal Development, p. 439

95 *Transcript of evidence*, Karu Aboriginal and Islander Child Care Agency, p. 567

96 *Submission 64*, Northern Territory Government, p. 1237

97 *Transcript of evidence*, Karu Aboriginal and Islander Child Care Agency, pp. 567-568

and was available without restriction only to Family Services workers. Clients must make requests under such legislation as the Adoption Act and the FOI Act.⁹⁸

3.80 *Recommendation 23: each jurisdiction to establish a Joint Records Taskforce made up of representatives of government and non-government record agencies and Indigenous user services, with the particular function of developing common access guidelines to Indigenous records.*

3.81 The Social Justice Report stated that the recommendation for joint records task forces had not been universally adopted.⁹⁹ The MCATSIA status report noted that New South Wales, Tasmania, Western Australia and Victoria had all agreed to establish Records Taskforces. In Queensland, the role of a Records Taskforce was being met through the existing structure of the Community and Personnel Histories Section in the Department of Families, Youth and Community Care. South Australia was considering the development of a taskforce.¹⁰⁰

3.82 According to the Social Justice Report, South Australia and Victoria would involve both non-governmental record-keeping bodies and indigenous representatives while New South Wales had consulted with, and Western Australia would include, non-governmental agencies. In its submission, the Western Australian government stated that its records taskforce had first met in May 1998, and that while it then comprised government agencies only it did expect to include non-government organisations and churches.¹⁰¹ By 2000, non-government bodies had been included and indexes to record collections were to be provided. Family histories are undertaken in the Family Information Records Bureau.¹⁰² The existing official records are being scanned, which will provide some 1,600,000 folios of records for research.

3.83 The Aboriginal Affairs department also undertook oral history projects, family tree projects, and was placing several thousand 'family history cards, and mission and station indexes' onto databases.¹⁰³

3.84 The Tasmanian Taskforce had indigenous representatives. In its July 1998 response to *Bringing Them Home*, the ACT government stated that there were no known church/non government records in the ACT.¹⁰⁴

98 *Submission 42*, Australian Capital Territory Government, p. 761

99 *Social Justice Report 1998*, p. 122

100 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 663

101 *Submission 107*, Western Australian Government Aboriginal Affairs Department, p. 2885

102 *Submission 107*, Western Australian Government Aboriginal Affairs Department, p. 2887

103 *Submission 107*, Western Australian Government Aboriginal Affairs Department, p. 2890

104 *Submission 42*, Australian Capital Territory Government, p. 762

3.85 *Recommendation 24: each government to enter into memoranda of understanding on inter-State inquiries and for the inter-State transfer of records and other information.*

3.86 The MCATSIA status report noted all parties agreed that interstate inquiries and information transfers could be accommodated, although most commented that only copies of documentation could be made available. In its August 1998 response to *Bringing Them Home*, the Northern Territory government noted that the practice of transfer of copies of records inter-State was already in operation.¹⁰⁵

3.87 Memorandums of Understanding were favoured by Northern Territory and South Australia¹⁰⁶ and the ACT¹⁰⁷ in relation to the interstate transfer of information but not, according to the Social Justice Report, by Queensland.¹⁰⁸

3.88 *Recommendation 25: all common access guidelines (see recommendation 23) to incorporate certain guidelines, including one's right, on mere proof of identity, to view and obtain a copy of all information about oneself; no fee to be charged; a maximum processing period, rights of review and appeal against unfavourable decisions; the right to information about support and assistance services, the drafting of the form of advice, the right to determine whether and to what extent information about oneself is to be divulged to a third person.*¹⁰⁹

3.89 The MCATSIA status report said that all parties were considering minimum access standards, to be addressed by their Records Taskforces.¹¹⁰ The Social Justice Report advised that access to personal/family history records was generally free or at minimum cost to indigenous people and available as of right.¹¹¹

3.90 The response of the Northern Territory government to *Bringing Them Home* stated that many of these issues were addressed by the Northern Territory Protocol. Government records are generally closed to the public for 30 years, although the Archives Service, in consultation with, say, the Aboriginal Advisory Group, may close series containing personal and confidential information for longer. However, Stolen Generation researchers and persons, or members of the family of persons, affected by removal/separation policies (as verified by an agency such as Karu) can obtain access during the closed period. Photocopying is provided gratis. The Registry

105 *Submission 64*, Northern Territory Government, p. 1239

106 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 663

107 *Social Justice Report 1998*, p. 121

108 The Social Justice Report comments that it might be observed that the Queensland approach does not take account of ancillary needs, eg, counselling, which might need inter-governmental agreement: *Social Justice Report 1998*, p. 121

109 See also *Submission 32C*, Aboriginal and Torres Strait Islander Commission, Appendix A8 to the KPMG Phase One report, PP. 2487-2488

110 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 663

111 *Social Justice Report 1998*, p. 123

of Births, Deaths and Marriages charged half price for certified copies of certificates. There was provision for appeal to the Principal Archivist against refusal of access. Personal information obtained from the records was not to be published without the written permission of the subject.¹¹² According to the Northern Territory government, in mid 2000:

[the protocol] has not only been developed but it has been operational for a period of nearly three years....Informal representations are made to the principal archivist as needed, on a regular basis. ...

The protocol was designed to flatten any obstacles that were in the way of access by people to these archival records and I believe it has done just that ... So the question of FOI legislation becomes a bit academic when there are no obstacles, that we are aware of, to access at the present time.¹¹³

3.91 The July 1998 response of the Australian Capital Territory government to *Bringing Them Home* stated that people over the age of 18 may have access to their own records and that parents may have access to their children's records under FOI principles. Generally the access processing period was less than one month, review/appeal was available in the AAT/Supreme Court, advice about services was available in the Adoption Information Service, and the advice was provided in conjunction with indigenous workers in Family Services, which liaised with the community.

3.92 Further, the ACT advised that the Adoption Information Service provided all relevant available information and the legislation dealt with the right of people to control the access of others to information about them.¹¹⁴ Free access to ACT-held records¹¹⁵ would be granted to indigenous people seeking to trace their links with families and communities.

3.93 *Recommendation 26: the Northern Territory to have FOI legislation.*

3.94 The Social Justice Report stated that access to records was obtained through the MOU or the Northern Territory Protocol¹¹⁶ to relevant Commonwealth records. As noted above, it is claimed that the Protocol provides effective access to information held by the government so that the Northern Territory Stolen Generations Combined Reference Groups does not identify a need for FOI in relation to their particular interests.¹¹⁷

112 *Submission 64*, Northern Territory Government, pp. 1239-1241

113 *Transcript of evidence*, Northern Territory Government, Office of Aboriginal Development, pp. 439-440

114 *Submission 36*, Australian Capital Territory Government, pp. 762-763

115 *Submission 36*, Australian Capital Territory Government, p. 728

116 *Social Justice Report 1998*, p. 123

117 *Submission 64*, Northern Territory Government, p. 1241

3.95 This seems to be confirmed by the finding by the Social Justice Report that, with the exception of the ACT (which, like the Northern Territory, had no archives legislation) all governments made it clear that there is usually no need to resort to FOI legislation to secure access, since it is provided under adoption, welfare or archives legislation.¹¹⁸

3.96 *Recommendation 28: each jurisdiction to fund the training of Indigenous archivists, genealogists, historical researchers and counsellors.*

3.97 The MCATSIA status report noted that all parties supported the recommendation in principle. The Social Justice Report said that the number of Indigenous archivists/historical researchers varied from more than half (Queensland) to none (Victoria), although the Victorian government pledged \$60,000 over two years for the training of two Koori archivists.¹¹⁹

3.98 Western Australia and the Northern Territory were either studying or planning to study the recommendation's feasibility while South Australia and the Australian Capital Territory were to consider applying for Commonwealth funding.¹²⁰ The July 1998 response of the Australian Capital Territory Government indicated, however, that its application was for a mental health counsellor.¹²¹

3.99 *Recommendations 29a and 29b: the transfer, at the request of indigenous communities, of cultural and historical information about those communities to the relevant Indigenous language, culture and history centres (29a) and for their capacity to serve as repositories to be protected (29b).*

3.100 The MCATSIA status report stated that Queensland would only support the transfer of information if indigenous archivists, genealogists and historical researchers were available.¹²² The response of the Northern Territory government was that it would consider sympathetically any request to provide copies of records relating to people of an Aboriginal community for housing in an appropriate place in that community, having regard to the availability of resources to make copies at the time and the community's plans to protect sensitive information in the records.¹²³ Western Australia and South Australia were at that time referring the matter to their respective Records Taskforces.¹²⁴

118 *Social Justice Report 1998*, pp. 122-123

119 *Social Justice Report 1998*, p. 126

120 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, pp. 663-664

121 *Submission 42*, Australian Capital Territory Government, p. 765.

122 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 664

123 *Submission 64*, Northern Territory Government, p. 1242

124 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 664

3.101 The Australian Capital Territory government stated that the capacity of the cultural centre to serve as a repository was under discussion with the ATSI Consultative Council and the Ngun(n)awal people.¹²⁵

3.102 *Recommendation 27: Each jurisdiction to set up a 'first stop shop' for people seeking information about and referral to government and church records.*

3.103 The government's response states that the intent of the recommendation has been met through the extra funding for Link-Up which will provide a national network of services of this nature.¹²⁶

3.104 The Social Justice Report noted that the concept was 'challenging' because the central records keeping agency (archives office) was best able to give access to records originating from across all government agencies while the indigenous affairs agency may have the expertise and rapport with indigenous communities.

3.105 However, the MCATSIA status report stated that most jurisdictions supported the recommendation, and that such a facility was already operating in Western Australia. New South Wales, Tasmania and Victoria were developing such centres, the first two in government agencies and the third in an indigenous community organisation. Queensland, South Australia and the Australian Capital Territory would place the function in a government agency.¹²⁷ It should be noted that Victoria has gone beyond the terms of the recommendation.

3.106 The response of the Northern Territory government advised that the Archives Service was the designated first point of contact for Stolen Generation researchers unless it was clear that birth, death or marriage records were required (in which case referrals were made to the Registry). The Archives Service had no designated positions but staff attended cross-cultural awareness courses.¹²⁸

3.107 One witness said of archives access in the Northern Territory:

Access to archives has significantly improved. One of the big problems is that, while access to archives at the Darwin repository is excellent, it is still very difficult to get to if you are in Alice Springs.¹²⁹

3.108 General comments in the Social Justice Report were that:

- The Queensland system of access through the Community and Personal Histories Section in the Department of Family Services and Aboriginal and Islander Affairs was established in 1992 in response to recommendation 53 of

125 *Submission 42*, Australian Capital Territory Government, p. 765

126 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 632

127 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, pp. 663-664

128 *Submission 64*, Northern Territory Government, p. 1241

129 *Transcript of evidence*, Mr Matthew Storey, p. 461

the RCIADIC and is seen as the most progressive in Australia. It is well-staffed, in terms of both total numbers and the number of Indigenous people.

- Western Australia had previously had two parallel access systems, which had been replaced in mid 1998 by the Family Information Tracing Bureau, to which \$400,000 was assigned for 1998/99, as well as \$400,000 for enhancement of keeping and management of relevant records and \$440,000 pledged for recurrent funding.
- The arrangement in South Australia appears to be grossly under-resourced.
- An apparent gap in the system in the Northern Territory is access to non-governmental records.¹³⁰

3.109 This point still seemed to be true in mid 2000, as the Committee was advised by the government representatives that they had limited information about co-ordination of record holdings and access. Some records were held by churches, but details did not appear to be known to the government.¹³¹ The government also advised that, while they would undertake co-ordination, no one had asked them to. This seems to be a somewhat non-proactive approach, given that stolen generation organisations have had to undertake a substantial amount of work themselves with very few resources.¹³²

3.110 Funding of language, culture and history centres (Recommendation 12) is presumably covered by language/culture funding. However, it seems that funding has been provided by ATSIC from the family re-union funds to the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS).¹³³ Grants have been made for AIATSIS to provide both training for Link Up workers and 'staff and resources in the Family History Unit to assist Link-Up clients with additional family tracing support.'¹³⁴

3.111 Recommendations relating to research on the effects of removal practices are deemed to be covered by the funding provided for counsellors and regional health centres, as well as other pre-existing funding.¹³⁵ training and education recommendations are seen as primarily states matters.¹³⁶

130 *Social Justice Report 1998*, pp. 123-126

131 *Transcript of evidence*, Northern Territory Government, Office of Aboriginal Development, p. 439

132 See also Chapter 5

133 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 635

134 *Submission 32C*, Aboriginal and Torres Strait Islander Commission, Attachment B3 to the KPMG Phase 1 Report, p. 2570

135 *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, p. 607. In the table which outlines the status of recommendations, the recommendation is listed against the grant for counsellors and regional centres, the latter being funded for 'training, research, clinical support'

136 See Chapter 7

Is there a need for different service structures?

3.112 The provision of funds to mainstream organisations and agencies for implementation of programs was seen as having some disadvantages. These include:

- Distance;
- Need for greater co-operation;
- Limited if any community or individual input;
- Lack of involvement or identification with the project;
- Dependence on organisations and agencies that may have another agenda.

Distance

3.113 Many of the services which have been funded through the government response are based in regional areas with some links to more remote services. Concern was expressed at the policy of having only one Commonwealth-funded Link-Up or equivalent service in each State and Territory, especially when this was likely to be established in or near the capital city. Although the link-up services are eventually to provide a national program, and there is no barrier to state governments funding additional services, some organisations believed that this arrangement would not meet their needs. They saw the physical presence of an organisation as important, particularly because of a need for personal interaction in respect of reunion.¹³⁷

... why have a state based structure based in Perth, when there are people living out in the regions who need a facility in their regional area? People are calling for their file and other documents and support services to be made available to people in the area in which they live.¹³⁸

3.114 In its consideration of the original Link-Up service in New South Wales, KPMG noted that its limited work with regional areas was a drawback.

The principal weakness in service delivery is that very limited outreach services can be provided. The current capability does not meet the level of operations intended for the initial outreach service to identify demand.¹³⁹

3.115 This would suggest that regional and remote service provision is difficult for a single service to provide, and that properly-staffed outreach organisations, which can also help provide a more personal service, may be more effective.

3.116 This does not mean however that there is no connection or interaction between Link-Up and other organisations. Evidence was given of the existence of

137 See *Submission 66*, Yilli Rreung Regional Council, pp. 1440-1441

138 *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 629

139 *Submission 32C*, Aboriginal and Torres Strait Islander Commission, p. 2533. At the time, the New South Wales service was based in Lawson, in the Blue Mountains

informal mechanisms for the exchange of information and referrals.¹⁴⁰ It may be that such links can be further developed.

Need for greater co-operation

3.117 While the proliferation of small and underfunded services should be avoided where possible, this may only be achieved by organisations developing better links between all relevant parties. Where some groups felt discriminated against they needed to have others act as an intermediary – this was not always convenient.¹⁴¹

3.118 Some groups also felt that better-resourced organisations did not understand their needs and hence could not really help them effectively. For example, although Land Councils might offer a trip to country in order to help out an unfunded organisation, they were not resourced to operate a Link-Up service, and they did not attempt to do so.¹⁴² One solution to such matters might be a broker who works for several groups, purchasing required services, which could include adding elements to make the services match the needs of individuals. Several small organisations in the Northern Territory, for instance, wanted a community worker to negotiate on their behalf or a person to help them design programs.¹⁴³ This type of solution limits the fragmentation that can occur when multiple organisations with limited resources want to provide extensive services to relatively few people.

Limited community input

3.119 Limited consultation¹⁴⁴ and then what was perceived as indifference to proposals submitted for funding was clearly upsetting for some organisations and groups.

It was our understanding that an advisory committee would be established
...

It is my understanding that moneys for the counselling service are to provide not only professional counselling but also programs within that so that the different institutional groups can look at ways that are appropriate to them as part of their healing, and it is through not having representation on these boards that it lacks that part of it.¹⁴⁵

140 See *Transcript of evidence*, Central Land Council, p. 485

141 *Transcript of evidence*, Central Land Council, pp. 477, 485

142 *Transcript of evidence*, Northern Land Council, pp. 484-485

143 See *Transcript of evidence*, Mr Matthew Storey, p. 469; *Transcript of evidence*, Ms B Cummings, p. 473; *Transcript of evidence*, Garden Point Association, p. 505

144 See also below, Chapter 5 and above, Chapter 2, on consultation issues

145 *Transcript of evidence*, Yirra Badoo Aboriginal Corporation, p. 519

3.120 It was apparent, with respect to all services and not just those concerned with family tracing and research, that there was a need for involvement and direct input, and for this to be taken seriously.

When we were workshopping the Senate inquiry, a lot of the people that were there suggested that the best way to deal with our counselling and our business is to find the solutions within ourselves; that, if we are going to have counselling, rather than an individual go to the counselling we should have counselling that is able to be facilitated by the group so that when people come out of counselling they are able to have the support of the group.¹⁴⁶

Lack of involvement

3.121 As is noted in the government response, reunion and being able to find out some information about the past and family is an important part of finding an identity. However, there are other aspects to individual and family linking which may not be accommodated by major national projects. The Yirra Bandoo organisation pointed out that practical action is often a constructive means of dealing with the past:

... institutional groups should be resourced to be involved in the preservation of government and mission records within their own institutional community trust and keeping places. Assisting institutional groups with this responsibility provides a means to re-gain a positive identity as a people and provides the means for people to handle their pain and past. Activities like this are being recognised within stolen generation groups as being far more effective than professional counselling.¹⁴⁷

3.122 A number of other organisations and individuals have also made similar comments, emphasising that much of the process involved in overcoming the effects of the past is an individual experience, but it is not a passive one. It requires the individual to take steps which may have substantial consequences, and it can be at great personal emotional cost.¹⁴⁸ It is also something in which there is much learning to be done, and probably much to be undone:

...it is one thing to say to somebody, 'Look, here is \$1,000 for you to assist you to go back to your community – go for it.' It is another thing for that person to actually be confronted face to face with, in many cases, not so much an alien but a different set of values.¹⁴⁹

146 *Transcript of evidence*, Garden Point Association, p. 503

147 *Submission 22*, Yirra Bandoo Aboriginal Corporation, p. 408; see also *Transcript of evidence*, Yirra Bandoo Aboriginal Corporation, p. 522

148 See *Transcript of evidence*, Retta Dixon Home Aboriginal Corporation, p. 535. *Transcript of evidence*, Ms Hill-Wall, pp. 411-415; *Submission 103*, Ms Lorraine Peeters, pp. 2309-2311

149 *Transcript of evidence*, Northern Land Council, p. 484

3.123 This personal effort is one step. The second, emphasised by many witnesses, was the value of genuine support from a knowledgeable person or persons. It is for this reason that the smaller groups sought to have their own support groups, whether these be institutional family or others.¹⁵⁰ In some instances, witnesses noted that although they might be able to help an individual to some extent, they would not be of any use with respect to issues in the person's own country, given that it may be different to their own and even if it were not, they were not as familiar with their original country: 'For myself, to take one of my own people back, is like taking a complete stranger.'¹⁵¹

3.124 For this reason, there has been much emphasis on organisations with specific knowledge and experience. It is important not to take this too far, and to say that no one else can understand anything, as some aspects of the experience can be identified with by others. However, it does appear important for there to be the flexibility available for organisations to be able to put finishing touches to what might be generic services. In some cases, they may well be able to offer specific services themselves, with sufficient training and funding.

Land Issues

3.125 Although the issue of access to land was referred to often in *Bringing Them Home*, it is not the subject of any recommendation, except in rather indirect terms. Recommendation 3 refers to 'measures of restitution'. Recommendation 4 refers to 'descendants of those forcibly removed who, as a result, have been deprived of community ties, culture and language, and links with and entitlements to their traditional land.' Recommendation 14 refers to monetary compensation on the basis of 'loss of native title rights' and 'loss of cultural rights and fulfilment'. Recommendation 42 refers to a social justice package which might presumably consider issues of access to land (although it is primarily for families and children).

3.126 These recommendations do not directly deal with the issue of land. They do not raise the issue of whether an individual may have lost such a right for other reasons.¹⁵² Even if this stricture did not apply, the access to native title is still a complex matter. With multiple claimants to some areas; there is no guarantee that 'had nothing changed' an individual would have well defined rights.

Indigenous Land Fund

3.127 The Indigenous Land Corporation¹⁵³ has the capacity to purchase land 'to enable indigenous people to enjoy economic, environmental, cultural and social

150 *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 627

151 *Transcript of evidence*, Croker Island Association, p. 511

152 That is, on the basis of being born outside the tribal structure

153 Established in 1995 pursuant to an amendment to the *Aboriginal and Torres Strait Islander Commission Act 1989*

benefits’,¹⁵⁴ under the National Indigenous Land Strategy. The land must have significance on the grounds of traditional, historical or contemporary attachment, and ‘it is entirely possible for members of the stolen generation to benefit’ in respect of contemporary attachment. It is therefore possible for the Corporation to fund the purchase of land which has contemporary meaning to those who were removed, providing there is no unresolved native title issue. However, this view was not shared by the Karu Aboriginal Child Care Agency:

In terms of social justice, the indigenous land corporation does not take into account those who have been forcibly removed who are unable to locate family or country. These people do not meet the Indigenous Land Corporation criteria. This issue should also be considered for those who have been affected by past policies and are unable to return.¹⁵⁵

3.128 A number of stolen generation organisations, in acknowledging that they would be unable to return to their original country, stated that they would be helped by the provision of land in the country to which they had been removed:

Restoration of a person’s place in the society they were stolen is a difficult issue to address and is a very personal and individual matter...

An avenue needs to be provided whereby these people can be accommodated in their new homeland. Allocation of land can assist the Stolen Generations to have a sense of place, a sense of home in their new territory. This could go a long way in helping the Stolen Generation people to restore their emotional and social well-being ...

All they need is to have a place of their own, where they can go to support each other both emotionally and socially. A centre that can cater to their needs, a centre that can be a catalyst to their cause, a place that can provide solace during their journey of self-discovery.¹⁵⁶

3.129 Other institutional groups may also wish to make a claim to some place of their own.

...not only have we been dispossessed from our own country and our own people but we do not have the rights to go back to the island that a lot of the children believe was their home as children. I suppose through the *Bringing*

154 The Committee acknowledges the assistance of the Chief Executive Officer of the Indigenous Land Council (ILC) through provision of information on the functions of the ILC and the objectives of the National Indigenous Land Strategy

155 *Submission 50*, Karu Aboriginal Child Care Agency, p. 978. The Committee, however, was advised by the CEO of the Indigenous Land Corporation that ‘the ILC is currently negotiating with stolen generation groups in Darwin with a view to meeting their land needs.’

156 *Submission 58*, Kimberley Stolen Generation Committee, pp. 1116-1117; see also *Transcript of evidence*, Kimberley Stolen Generation Committee, p. 627

them home report that we are trying to get ourselves back together again as a group and see where we can go to from here ...¹⁵⁷

3.130 A further use for any centres that were established would be as a place in which to assist with reunions and tracing, and negotiate for services required.¹⁵⁸ The Committee notes the great importance to organisations of a place of their own and believes that in many instances this could be provided as an integral part of the healing process. However, the extent to which the Land Fund is able to assist with such purchases would need to be discussed in detail.

The Land Councils

3.131 Land Councils in most States and Territories (New South Wales is an exception) do not purchase land. The Land Councils in the Northern Territory have a wide range of roles, which include looking after the interests of different groups of Aboriginal people, including traditional owners. The Committee received varying evidence with respect to the role of the Northern (NLC) and Central (CLC) Land Councils in dealing with stolen generation matters:

The Northern Land Council and all the land councils have never been there to support us because they have always dealt with people that are affiliated with the land. We, as children, were denied that, so we cannot be put under the Northern Land Council's coffers.¹⁵⁹

3.132 The NLC and CLC stated that they supported the needs of the stolen generations people, especially in controlling the resources allocated in response to *Bringing Them Home*.¹⁶⁰ The CLC advised that it had provided resources¹⁶¹ and helped establish the Central Australian Stolen Generation and Families Aboriginal Corporation. It had also assisted people in accessing genealogical information and 'has acted as a mediator in approaching other agencies who hold genealogical information.'¹⁶²

3.133 Evidence concerning access to other types of landholdings suggested that existing legislation limited access to land for separated people:

As a member of the land council, I feel that the legislation, the way the land council has been set up and the operations of the land council have created,

157 *Transcript of evidence*, Croker Island Association, p. 509

158 *Submission 58*, Kimberley Stolen Generation Committee, pp. 1118-1119; see also *Submission 79*, Jarrah, p. 1631

159 *Transcript of evidence*, Croker Island Association, p. 517

160 *Transcript of evidence*, Central Land Council, p. 477

161 In terms of legal advice, administrative support, holding meetings etc, *Transcript of evidence*, Central Land Council, p. 477

162 *Transcript of evidence*, Central Land Council, pp. 477, 482-483; see also *Transcript of evidence*, Yirra Bandoo Aboriginal Corporation, pp. 520-521

to a degree, an element of haves and have-nots in the Aboriginal community in terms of being able to identify with our true history and relationship to the lands of this country.¹⁶³

3.134 The Committee believes that access to land, and in some instances to a communal place, would be an important part of the restitution process. It is not clear that the Northern Territory Land Rights Act specifically excludes separated people from access to traditional land;¹⁶⁴ it appears to be more the case that, with respect to all such claims, there are many factors that have to be considered: are there competing claims; can the person establish a genealogical link; is there an acceptance of the individual as a member of the group (which may depend on having been through various ceremonies).

3.135 One witness also suggested that separated people were at a disadvantage not so much because of the law itself but because the land councils interpreted the meaning of ‘traditional owner’ in a particular fashion, which could result in unfair exclusion.¹⁶⁵ Another witness stated that a community might decide not to recognise one’s claims for reasons that were not ‘traditional’

I have gone home and I have gone back to my country and I have lived out there, but at such a heavy price to me and my family. The fact of the matter is that we are not considered black or considered Aboriginal because we do not have language and we do not have culture. We are excluded from being considered as rightful owners of country, whether it is from our mother or our father ...

The anthropologists and lawyers within the land council are a law unto themselves. They make the decision. They do not listen to Aboriginal people. They have told me that, yes, they recognise me but it is generally accepted that my two cousins who come from my aunty are considered senior – I think by age, not by anything else, because I know that there have been a lot of people that have received traditional land through their patrilineal line as top T[raditional]O[wner].¹⁶⁶

Conclusion

3.136 Many issues have been raised and discussed which have identified ongoing problems of access to services which are appropriate. With respect to land, the Committee notes that land issues are important and complex, and have the capacity to divide groups even further. Because it was far from clear if it was legislation itself or different interpretations of it which resulted in disputes between stolen generation

163 *Transcript of evidence*, Northern Land Council, p. 478

164 See *Transcript of evidence*, Croker Island Association, p. 512

165 *Transcript of evidence*, Yirra Bandoo Aboriginal Corporation, p. 521

166 *Transcript of evidence*, Retta Dixon Home Aboriginal Corporation, p. 536

people and others, the Committee believes such matters need to be discussed in detail by experts in conjunction with representatives of the parties.

Recommendation

Recommendation 2

The Committee **recommends** that the Commonwealth convene a Summit meeting twelve months from the date of the federal government's response to this inquiry to co-ordinate and address the issues and recommendations identified in this report.

