

CHAPTER 9

CONCLUSIONS AGAINST THE TERMS OF REFERENCE

Consistency of the Government's response with the aims of the Council for Aboriginal Reconciliation

9.1 The fifth issue on which the Committee was to inquire and report was the impact of the Government's response to recommendations of *Bringing Them Home*, with particular reference to the consistency of this response with the aims of the Council for Aboriginal Reconciliation.

9.2 The Strategic Plan¹ for the Reconciliation Council sets out the Council's priorities, focussing on three key aims ('goals') to advance reconciliation in its final term. They are:

Goal 1: Documents of Reconciliation

Achieve recognition and respect for the unique position of Aboriginal and Torres Strait Islander peoples as the Indigenous peoples of Australia through a national document of reconciliation and by acknowledgment within the Australian Constitution.

Goal 2: Partnerships in Reconciliation

Gain the commitment of governments, business, peak organisations, and community groups to form partnerships which will achieve social and economic equality for Aboriginal and Torres Strait Islander peoples.

Goal 3: The People's Movement for Reconciliation

Encourage and support the people's movement for reconciliation to achieve justice and equity for all Australians, to embrace the unique place of Indigenous peoples in the life of the nation and to ensure that the work of reconciliation continues beyond the life of the Council.

9.3 The South Australian Bringing Them Home Working Group stated:

The mean spiritedness of the Government's response to *Bringing them home* continues the shameful approach to Indigenous Australians through Australian history. The Government's response does not effectively accept fundamental aspirations of the Council for Aboriginal Reconciliation (CAR), to improve race relations, to foster commitment to address Indigenous Australians' social disadvantages, to value Aboriginal and

1 Under the *Council for Aboriginal Reconciliation Act* 1991, the Council's Strategic Plan for 1998-2000 was approved by the Minister on 8 May and tabled in both Houses of the Parliament on 13 May 2000

Torres Strait Islander heritage; and provide justice and equity for all (as per the Council's Vision).

The Government has failed to provide a national apology to the Stolen Generations.

On all of these counts the Government's response appears designed to undermine moves towards reconciliation. The Government's response to *Bringing them home* is clearly **not** about advancing reconciliation. The Government steadfastly refuses to take a leadership role in reconciliation.

Australians have recently witnessed further indication of this Government's approach to reconciliation issues, with the Prime Minister indicating that reconciliation is not achievable within the term of CAR, seeming to imply that therefore we shall leave it off the current policy agenda.²

9.4 Similarly, the Defenders of Native Title stated:

It is our belief that the Government's response (or indeed lack of response) to some of the recommendations is inconsistent with the aims of the Council for Aboriginal Reconciliation and detrimental in many instances to the hopes, aspirations and needs of the stolen generation. This lack of genuine commitment negates the positive achievements of the last ten years of bipartisan support for reconciliation and the importance of pursuing social justice for Indigenous Australians.

Defenders believes that a successful Government response to the report demands that the Stolen Generation issues are understood and addressed in the context of broader Indigenous rights and needs. These rights and needs would include those addressed by the aims of the Council for Aboriginal Reconciliation, and other land and social justice issues such as the Government's 1998 amendments to the Native Title Act 1993 and the Cultural Heritage Amendment Bill 1999. By undermining the rights of Indigenous peoples in any of these areas, the Government automatically undermines the adequacy of their response to the *Bringing them home* report.³

Council for Aboriginal Reconciliation - Goal 1

9.5 Goal 1 has two parts. The first part – a national document of reconciliation – has an obvious link with the recommendations for acknowledgment and apology in relation to forcible removal by parliaments, churches and other non-government agencies and police. It also has links with a broader spirit of reconciliation between equals, to be achieved through a community acknowledgment of the past and understanding of the need for repairing past damage.

2 *Submission 80*, South Australian Bringing Them Home Working Group, pp 1646-1647

3 *Submission 57*, Defenders of Native Title, p. 1111

9.6 In considering the extent of the consistency of the Government's response to *Bringing Them Home* with the aims of the Council for Aboriginal Reconciliation, we must remember that the Council is concerned with the relationship of Aboriginals and non-Aboriginals in general while *Bringing Them Home* was concerned with specific aspects of that relationship. However, the Government's response, and indeed, the responses of some other bodies, suggest that, specifics aside, there is a lack of reconciliatory spirit.

9.7 It seems to the Committee that a giant step towards winning the goodwill of the Aboriginal and Torres Strait Islander people necessary to achieve this goal would be taken if the Commonwealth and Northern Territory parliaments (and to a lesser extent, police forces other than that of New South Wales) apologised for their role in the past policies and practice of forcible removal. It should also be noted that the draft Declaration Towards Reconciliation produced by the Council specifically refers to one part of the nation apologising and expressing its sorrow and sincere regret for the injustices of the past.

9.8 However, a forced or reluctant apology is of little value. It is also of little value if it is not supplemented by attitudes and policies which reflect an awareness of the past and of the extent to which the past still shapes the future. In many instances, this appeared lacking in the Government's response and, less directly, through the limited amount of change that had occurred. A few examples suffice:

- The failure to develop an effective monitoring and evaluation system is an obvious example of an inability to provide effective leadership, or evidence of disinterest in demonstrating changes that may be occurring;
- Where governments themselves have little apparent interest, it is not surprising that government departments and agencies appear to have set their own agenda, which often can only result in capture by some organisations or indifference to supposed target groups. If there is an interest in reconciliation, or even in value for money, better control of relevant parties seems essential;
- The abysmal lack of accurate and up to date information, readily available and in a user-friendly format, demonstrates at the least how little governments and their agencies understand the interest in the community. Many organisations stated they knew nothing, had been told nothing, did not what if anything had been funded, and could not see why some projects were funded and others were not;
- The Committee acknowledges the value of ATSIC's internet site, and suggests that given the issues of location and distance in Australia, that a whole of government (including state and local government) site be established to provide information on progress. Where organisations have difficulty in getting access, it should not be impossible for material to be printed off and sent to them by email or hard copy. In short, an efficient and objective clearing-house is required;

- Information needs to be better phrased, less bureaucratic, and actually provide information about services – why they were funded, what they are doing, and how it affects possible users; and
- While national legislation relating to the situation of indigenous children and young people may not be essential, it is crucial that there be more awareness of the role of the past in creating problems in the present; there can be no reconciliation when the integrity of many communities is on very shaky foundations.

9.9 On the positive side, one symbolic step which the Government now appears to be about to take is the enactment of domestic anti-genocide legislation. Although the government has argued strongly that it was not necessary for Australia to have such legislation, it appears that it has changed its mind as a result of the need for both the proposed International Criminal Court and Australian domestic courts to have jurisdiction over genocide offences.⁴

9.10 The second part – the acknowledgment of the unique position of Aboriginal and Torres Strait Islander people as the indigenous people of Australia within the Constitution – was addressed more indirectly in *Bringing Them Home*. However, many of the recommendations in the report sought to ensure some acknowledgment of the ways in which this unique position had been damaged. They also sought to set out ways in which some restoration could be made, insofar as this is possible.

Council for Aboriginal Reconciliation - Goal 2

9.11 It appears to the Committee that Goal 2 has three aspects that are relevant to *Bringing Them Home*. The first is that of partnerships involving indigenous people, which reflect the ideas of indigenous well-being models and training and, to some extent, of indigenous self-determination in *Bringing Them Home*. The second, which is also relevant to the general impact of the Government's response, is that of partnerships of governments and other mainstream organisations in approaching 'national' issues involving indigenous people across the whole country. The third aspect is that of that of social and economic equality, which reflects the ideas of a social justice package for indigenous families and children and the well being of indigenous communities.

9.12 Regarding the matter of partnerships involving indigenous people, the Committee has referred to the statement in the MCATSIA report that all jurisdictions provided or were preparing to provide indigenous-specific parenting and well-being programs.⁵ In many jurisdictions indigenous community organisations are or will be involved in the delivery of services.⁶ Indigenous people are involved in the design of

4 See above, Chapter 7, Paragraphs 7.9 – 7.18

5 See above, Chapter 2, Paragraph 2.80

6 See, for examples, Chapter 2, Paragraphs 2.80, 2.141, 2.148 and Chapter 6, Paragraph 6.34

some programs.⁷ In many jurisdictions, indigenous organisations were consulted in connection with the making of reports to MCATSIA.⁸ It seems to the Committee that governments are generally making strong efforts to respect indigenous attitudes and culture and to involve indigenous people. However, in one area, that of dissemination of information, there is much to be desired. The Committee has expressed the view that it would be helpful to all parties, the indigenous community generally, and to 'stolen generation' organisations in particular, for clear and detailed information on the progress of implementation to be provided on at least a 6-monthly basis but that, so far, there is little evident appreciation of this essential fact.⁹

9.13 Regarding the matter of partnerships between governments and other mainstream organisations, the Committee has been disappointed by the low level of support shown to the inquiry by the states.¹⁰ This is symptomatic of the failure of Australian governments to form an ongoing partnership to deal with Stolen Generation issues. The extent to which governments and organisations including churches could form much stronger partnerships in this area has already been indicated.¹¹ For example, the Committee has expressed its belief that the lack of organisation by the Commonwealth and a failure to give clear guidance to MCATSIA has made it less than successful.¹² The Committee noted that MCATSIA and its working groups do not appear to meet often enough or produce outcomes quickly enough to progress important issues¹³ and that there seems little interest by state and territory governments in the actual mechanics of monitoring and co-ordination.¹⁴

9.14 Governments have been divided in their attitude to national framework¹⁵ and national standards¹⁶ legislation, with the Commonwealth standing on the sidelines.¹⁷ However, it appears that a majority of jurisdictions would countenance some arrangement, whether legislation or guidelines or other, dealing with standards in relation to the treatment of children.¹⁸ It may be appropriate to mention at this point that the absent factor in the process of partnership has been a leader. However, there are signs that the Commonwealth may be about to change and take its rightful role in leading the country's effort to deal with this major national issue. Earlier this year,

7 See, for example, Chapter 2, Paragraph 2.80

8 See *Submission 36*, Minister for Aboriginal and Torres Strait Islander Affairs, Appendix 4, p 654

9 See Chapter 5, Paragraph 5.33

10 See Chapter 1, Paragraphs 1.6-1.8

11 See Chapter 5, Paragraphs 5.79-5.104

12 See Chapter 5, Paragraph 5.17

13 See Chapter 5, Paragraph 5.19

14 See Chapter 5, Paragraph 5.20

15 See Chapter 6, Paragraph 6.42

16 See Chapter 6, Paragraph 6.46

17 See Chapter 6, Paragraph 6.6

18 See Chapter 6, Paragraphs 6.46-6.48

the Prime Minister agreed with the Chief Minister of the Northern Territory for the age of adulthood for criminal purposes in the Northern Territory to be raised from 17 to 18, to comply with the requirements of Convention on the Rights of the Child (although the issue of mandatory sentencing has not been satisfactorily resolved). The Attorney-General also wrote to the Victorian and Queensland Attorneys-General on the same issue.¹⁹

9.15 The Committee has also pointed out that there appear to have been effective partnerships in particular areas, such as archives, where the Council of Federal, State and Territory Archives and the Australian Society of Archivists have been active (although lack of funding may become a problem).²⁰ Commonwealth and state and territory Departments of Health, along with NACCHO and ATSIC, have consulted on the *Bringing Them Home* recommendations on regional centres and counsellor positions.²¹ Reference was also made to the cooperation between OATSIH in the Commonwealth Department of Health and Aged Care and organisations including churches and indigenous organisations.²²

9.16 Having said that, it seems to the Committee that one of the complaints made by stolen generation organisations may well be justified. This is that they, as a specific group within the wider indigenous community, were not always adequately represented by mainstream indigenous organisations which were consulted by departments.²³ A similar issue is whether stolen generation members or the indigenous community in general were the beneficiaries of programs supposedly responding to stolen generation-specific recommendations in the *Bringing Them Home* report.²⁴

9.17 Also of relevance to this particular goal is the issue of leadership. As was demonstrated throughout this report, co-ordination and partnerships on different levels require leadership. The National Sorry Day Committee stated:

Indigenous Australians are not yet persuaded that the wider community cares greatly about them. Despite the acknowledgment by the Prime Minister that the treatment of Indigenous Australians is Australia's greatest shame, a sense of superiority still lingers in the mainstream, with attempts to deny the harm done. Government leadership can do much towards more just and respectful relationship[s]. The healing we seek will require careful honest listening to Indigenous grievances, and negotiation of mutually accepted settlements. If we do this, we believe we will see immense

19 See Chapter 6, Paragraphs 6.73-6.78

20 See Chapter 5, Paragraph 5.50

21 See Chapter 5, Paragraph 5.58

22 See Chapter 5, Paragraphs 5.60-5.61

23 See Chapter 2, Paragraphs 2.41-2.42, and Chapter 5, Paragraphs 5.72-5.73

24 See Chapter 1, Paragraphs 1.65, 1.70; Chapter 2, Paragraphs 2.43-2.44, 2.76-2.79

improvements in the well-being and harmony of our society, Indigenous and non-Indigenous.²⁵

9.18 There was much feeling throughout the submissions and evidence received, for the need to address social justice. One submission stated that many indigenous people have objected to the reconciliation movement, as reconciliation is not possible without justice.²⁶ The Committee heard that reconciliation could only be addressed by considering what causes the need for reconciliation:

The injustice, racism and inequalities that have caused the need for reconciliation keep being perpetrated. When the causes of an unreconciled society are addressed, it may be logical and appropriate to turn our energies in this direction.²⁷

Council for Aboriginal Reconciliation - Goal 3

9.19 The Federal government appears to have done little to promote Goal 3. However, the Committee has indicated the efforts made by states and territories to incorporate aspects of indigenous culture and the story of forcible removal into educational curricula and to provide cultural awareness training for all government employees in contact with indigenous clients.²⁸

General Impact of Government's response

9.20 There are many problems with the extent and nature of the response by the Commonwealth and others. The problems themselves reflect an under funded and badly directed response. They also indicate the great difficulty involved in providing fair access to required services to communities affected by a substantial weight of past and present problems. However, it is not only indigenous communities which are affected by factors of this nature. Funding departments, indigenous groups and service providers are also caught, both by current approaches and policies as well as by old issues.

9.21 The Federal government's response to *Bringing Them Home* is arguably misdirected, in so far as it addresses issues which relate to the indigenous community in general; rather than to the stolen generations. However, the Committee has noted that *Bringing Them Home* both noted that all indigenous people were affected by the policies and practices of the past²⁹ and that many of its recommendations fail to

25 *Submission 25*, National Sorry Day Committee, pp. 428-429

26 *Submission 8*, Journey of Healing Canberra, p. 52

27 *Submission 11*, Retta Dixon Home Aboriginal Corporation, p. 190

28 See Chapter 7, Paragraphs 7.19-7.72

29 See Chapter 1, Paragraph 1.64

identify precise targets.³⁰ To this extent, it set excessively broad parameters which may have led to many services missing removed people altogether.

9.22 This is a serious matter which the Committee has considered at several chapters of its report. While acknowledging systemic problems and issues which require a holistic approach, the Committee believes that those people who were forcibly removed, and their families, were most directly affected and are most in need of reconciliation.

9.23 Programs directed at Aboriginal welfare in general do or should cater for the needs of the Aboriginal community in general. Even where the government has sought to deal with those specific needs, its approach has not been systematic enough to target them properly, eg., the analysis undertaken by the Department of Health and Aged Care to assist it and others establish where to place counsellors had regard at best to the age group from which members of the stolen generation were taken, rather than to those who were actually taken.³¹

Target groups

9.24 The Committee found that there was a silence on some sensitive issues except by those most affected by them: the extent to which colour and race affected past and present self perception and the attitudes of others. This matter is discussed in Chapter 1 especially.³² Other related factors, such as the effect of separation on land issues, had been discussed in *Bringing Them Home*. All have the potential to continue distressing division, anger and conflict over available resources of all types.

The social phenomenon of reconciliation that is encompassing Australia at the moment – and I state this with great trepidation – can never be achieved between two different groups of people, particularly between the indigenous peoples, unless there is true reconciliation within the Aboriginal community. That reconciliation has to come from within. Reconciliation among Aboriginal people is not a matter of who is more stolen than the other; that is like saying somebody is more pregnant than someone else. If you are stolen, or if you are a descendant of a stolen person, that is your history, but there has to be a reconciliation between the Aboriginal peoples of Australia.³³

9.25 The Committee believes that there must be a greater resolution of issues of this nature before there can be reconciliation. There was also obvious tension between organisations, sometimes between ATSIC and others, or state indigenous affairs departments and organisations in the community. If these differences are sufficiently

30 See Chapter 1, Paragraphs 1.55-1.56 and 1.64-1.65

31 See Chapter 2, Paragraph 2.60

32 See, for example, Chapter 1, Paragraphs 1.75-1.80

33 *Transcript of Evidence*, Northern Land Council, p. 479

serious to affect long term plans which should benefit all, then they do need resolution at least to a level of cooperation.

Generic or special services

9.26 A major consideration for governments is whether services should be provided to meet broad or special needs. With respect to the indigenous population, a number of productive and effective services have been developed, such as primary care health centres, the mental health program, and numerous infrastructure, employment and other services. These may be tailored to meet specific circumstances.

9.27 Although the Committee appreciates that funding and services may most effectively be allocated to larger and established centres, this will not meet needs in all cases. With respect to funding for counselling and related services (not specifically attached to Link Up programs) there appeared to be some merit in allocating this to the regional centres. However, there seems to be no reason why a specific amount of money could not have been quarantined for 'stolen generation' organisations and individuals. The fact that the government or the relevant agreement bodies felt that counselling was important appears to have been translated into counselling being important for everyone. Be that as it may, there was a specific need for some groups which appears to have been clearly identified.

9.28 Again, the Committee is aware of the potential problems of fragmenting funding and the difficulties organisations have with obtaining funding to keep operating. This is a constant problem and may demonstrate that insufficient attention is being paid to a problem or that the problem is so large that substantial funding is required for a long time to meet it. Nonetheless, this is still not an adequate excuse for specific organisations being left out. They should at least be in a position to purchase services from an appropriate provider, which may require additional funding for a time to determine what is 'appropriate' and how, within known constraints, needs can be met.

9.29 The Committee believes that similar approaches may also need to be taken with respect to the parenting and family support programs. Limited parenting and socialisation in the past, and the major problem of current removals demonstrate that family support and parenting is much needed. It is possible, however, that the needs of older parents, directly affected by separation, are quite different from those of younger people. Possibly their needs may also be met by counselling rather than by 'parenting'. Again, they should be able to purchase a required service by having access to funding quarantined.

National Summit

9.30 The Committee has made relatively few recommendations. The reason for this is that the Committee is mindful of the comment by many that there had been insufficient consultation on a range of issues, including both the recommendations of *Bringing Them Home*, and on the implementation of programs arising from the response of the Commonwealth and those of the states, territories and to some extent,

other organisations. Those which it has made are matters to be discussed at a meeting which the Committee believes must be held in order to address issues which are limiting the capacity of all to move forward.

Recommendation

Recommendation 10

The Committee **recommends** that as soon as practicable after the tabling of this report, appropriate consultations should be held with representatives of the Stolen Generation and their organisations, including ATSIC, with a view to finalising an agenda for the proposed National Summit.

Senator Jim McKiernan

Chair