

Stolen Generations Victoria Ltd



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To:

Senate Legal and Constitutional Affairs Committee
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**Submission to the Inquiry into the Stolen Generations
Compensation Bill 2008**

To the Committee,

Stolen Generations Victoria welcomes the opportunity to contribute to the Senate Legal and Constitutional Affairs Committee's inquiry into the Stolen Generation Compensation Bill 2008.

As you would be aware, the Human Rights and Equal Opportunities Committee Report on the National Inquiry Into the Separation of Aboriginal and Torres Strait Islander children from their families – Bringing Them Home made a total of 54 recommendations, of which only a small number have been fully implemented in the last ten years since that report was handed to government on the 26 May 1997.

The findings of this report, and the references made in Prime Minister Kevin Rudd's apology on February 13 2008, can leave no doubt about the devastation these past government policies have had on Aboriginal and Torres Strait Islander communities across Australia. The impacts of these policies have not only affected those that were stolen, but their families, their communities and the subsequent generations of Stolen Generations members.

While the long awaited apology went some way in regard to acknowledging the pain and suffering experienced by many hundreds

of Aboriginal children and their families, as outlined in the Bringing Them Home Report, there is still much to be done.

The important recommendation regarding Reparations, including monetary compensation must now be met if government is to fulfill its obligations to the Aboriginal and Torres Strait Islander communities and for a new and fairer path to be shared by all Australians together.

As this Committee is no doubt aware, precedents have been set in some jurisdictions, where monetary compensation has been paid to both those that were stolen and children of deceased stolen generations members. There has also been the legal precedent set with the Treverrow case in South Australia which has costs on many fronts, not just the apparent financial cost to the State but the emotional cost to Mr Treverrow and those who support him. Stolen Generations Victoria Ltd, believes that our members have been through enough pain and suffering and should not have to endure any more years of emotional turmoil to receive financial compensation for the significant damage done as a result of past government policies.

The Inquiry concluded that forcible removal was an act of genocide contrary to the Convention on Genocide ratified by Australia in 1949. The Convention on Genocide specifically includes "forcibly transferring children of a group to another group with the intention of destroying the group. Compensation is routinely paid by Governments when a wrong has been committed or where unjust policies inflict unnecessary trauma. (Ie, the case of Cornelia Rau, victims of crime, returned soldiers etc.) The attempted destruction of Aboriginal and Torres Strait Islander peoples was far more systematic, long lasting and cruel than any other committed against people in Australia's history, and these acts were committed against Aboriginal and Torres Strait Islander people by the authority of government.

To that end Stolen Generations Victoria commends the introduction of the Stolen Generations Bill 2008 but makes the following observations:

Eligibility Criteria

Stolen Generations Victoria questions the rationale for the cut off date of 31 December 1975. SGV has members who were removed from their families and suffered from not growing up in their community and with their culture after this date. We note that ten applicants were deemed ineligible in Tasmania due to this cut off date.

SGV notes the working under 5 (2)(a) is not that recommended in Bringing Them Home and we strongly advocate that the wording be changed to that used in Recommendation 18 "removed from his or her family during childhood by compulsion, duress or undue influence"

Amount of the ex gratia payment:

Stolen Generations Victoria is interested in learning the rationale for determination of \$20,000 and \$3,000 per year of institutionalization. We are also keen to know the definition of institutionalization as some of our members were adopted into families however still experienced disconnection from their culture and community and untold numbers were sexually and physically abused in these homes.

SGV recognizes that it is difficult to determine what is a reasonable dollar figure for all the pain and suffering member's experienced but we note that the Tasmanian legislation led to amounts of approximately \$58,000 for Category 1 and 2 members and \$5,000 for Category 3 members.

SGV notes the Canadian government are reportedly considering amounts equal to approximately \$47,000 AUD.

SGV believes that Compensation to members should be made under the Heads of Damage as outlined in Recommendation 14 of the Bringing Them Home Report. If the Stolen Generations Bill was to adopt this recommendation then the compensation payment would need to reflect amounts under all ten heads of damage which is not reflected in the formula currently proposed.

Procedural Issues

Stolen Generations Victoria notes that the procedures describe in the Bill do not reflect those recommended in Recommendation 17 of the Bringing Them Home Report. We suggest that consideration be given to amending the Bill to include all seven procedural principles outlined in Bringing Them Home.

Additional Support

Stolen Generations Victoria commends the inclusion of additional supports in the Bill but would like to know the levels of funding that might be committed for both Healing Centre's and Services and the Funeral Trust Fund. It is very important that consideration be given to Healing Centre's being a "bricks and mortar" rather than virtual centre which is often how the term Healing Centre is used. Sustainable services and infrastructure must also be part of this funding.

For further information please contact:

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"Restoring to us what is rightfully ours"