

ENIAR's Submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Stolen Generation Bill 2008

1. This submission is made by the London-based European Network for Indigenous Australian Rights (ENIAR), a volunteer, awareness-raising organisation. ENIAR does not represent Indigenous people but aims to support them in working towards respect, recognition and equality.
2. ENIAR strongly supports Senator Andrew Bartlett's reintroduction of the Bill and the broader concept of a scheme to compensate and support the Stolen Generations and their families.
3. However, the Bill fails to recognise the special circumstances of members of the Stolen Generations who were removed from Australia by foster parents, adoptive parents or institutions, and who continue to reside outside Australia, and their descendants. We note that Recommendations 31a, b and c of the *Bringing Them Home* report concern members of the Stolen Generations who were taken from Australia and continue to reside overseas, often without Australian citizenship
4. We suggest that the Bill provide for special consideration regarding applications for awards and support schemes to members of the Stolen Generations outside Australia. In particular, we suggest that attention be paid to the following:
 - a. People of Aboriginal and Torres Strait Islander descent should be eligible for payments (assuming they fulfil the eligibility criteria) despite not being Australian citizens;
 - b. Clause 6(2): Special provision should be made for hearing of oral evidence from applicants outside Australia;
 - c. Clause 22(2): Provision should be made for healing centres and related services in locations outside Australia where there are identified members of the Stolen Generations.
5. We further suggest that provision be made for funding for research and publicity inside and outside Australia to identify members of the Stolen Generations of Aboriginal and Torres Strait Islander peoples removed from Australia and currently residing outside Australia, and the descendants of such persons.
6. ENIAR understands that the most accepted reference is to Stolen Generations (plural) given the length of time over which children were removed. We therefore note the discrepancy between the plural and the title of the Bill (Stolen Generation Compensation Bill 2008).
7. ENIAR does not believe that an award under the proposed scheme should impact on an individual's common law rights to pursue additional damages in court if they so wish. This should be specified in the Bill. It would also then be appropriate to amend clause 4(3) to provide that any payment already made to a person as a result of a successful civil action or under other similar state government legislation would be considered when determining the award under this national scheme.
8. The above comments are made without prejudice to the size of the proposed ex gratia payments in the Bill which seem very small considering the harm inflicted. The size of payments and compromises regarding the proposed scheme¹ will no doubt be considered by Stolen Generations representatives in light of what applicants would consider appropriate and the probability of receiving payment sooner rather than later.

European Network for Indigenous Australian Rights 8 April 2008

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¹ For example, the 7 year limitation period, when *Bringing Them Home* recommends no limitation period on a compensation scheme.