

General Purpose Standing Committee No. 3

Reparations for the Stolen Generations in New South Wales

Unfinished business

Ordered to be printed 23 June 2016

Summary of key issues

Between the late 1800s and 1970s, thousands of Aboriginal children were forcibly removed from their families and communities by the New South Wales Aborigines Welfare Board or the Aborigines Protection Board. Some children were placed in government controlled training homes, or non-government or religious institutions, whereas others were fostered or adopted into white families.

The experiences of those who were removed was documented in detail by the Human Rights and Equal Opportunity Commission (now known as the Australian Human Rights Commission) in the 1997 *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children* (commonly known as the *Bringing them home* inquiry and report).

The *Bringing them home* report was a turning point in Australia's history. It recommended that all those affected by the government's forcible removal policies be provided with financial and non-financial reparations, including an apology and monetary compensation. Unfortunately though, despite almost 20 years passing since the *Bringing them home* report was released, it is clear that there remains much 'unfinished business' in terms of providing reparations to Stolen Generation survivors and their families in New South Wales, as highlighted below in the summary of key issues raised during this inquiry.

A voice for survivors

“It is important that the NSW government is active in its attempt to address this legacy of trauma and begin the process of healing and reconciliation for the members of the Stolen Generations in NSW”.²

One of the overarching themes of the inquiry was the need for Stolen Generation survivors to have a greater voice and input into decisions and policies that affect them, particularly in relation to how their needs are addressed by government and what reparations are provided.

As there is no formal structure in New South Wales for this to occur, the committee has recommended that a Stolen Generations Advisory Committee be established, whose role will be to advise the Premier and Minister for Aboriginal Affairs on Stolen Generations issues, including on the development and implementation of reparations for those affected by forcible removals.

Recommendation 1

That the Premier of New South Wales and Minister for Aboriginal Affairs establish a Stolen Generations Advisory Committee, comprised of a majority of Aboriginal representatives including members of the Stolen Generations, with responsibility for:

- advising the Premier and Minister for Aboriginal Affairs on any matters related to the Stolen Generations
 - monitoring and reviewing the implementation of recommendations in this report, with a progress report to be tabled by the Premier in Parliament every two years.
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² Submission 18, New South Wales Reconciliation Council, p 2.

Financial reparation

“ ... to have proper recognition you have to have some form of compensation, because a wrong has been done to these people ... Unless there is proper recognition of what has been done, people really cannot begin to heal properly”.³

Stolen Generation survivors have a right to financial reparation for what they have experienced as a result of being forcibly removed from their family, without survivors having to take challenging, costly and time consuming civil action through the courts.

While some survivors have been able to obtain compensation through the government’s current settlement of civil claims forming part of a group action initiated by Carroll & O’Dea Lawyers, all Stolen Generation survivors in New South Wales would be able to benefit from the establishment of an administrative based financial reparation scheme, similar to those which have been provided in Tasmania and South Australia. Such a scheme would enable survivors to apply for a monetary payment from the state government – a payment that would acknowledge the devastating impacts caused to those who were forcibly removed from their family.

An administrative based financial reparation scheme will be easily accessible, informal and efficient, and can operate in a way that does not re-traumatise survivors. It could also be implemented quickly, which is one of its key benefits, considering many survivors are ageing and/or in poor health.

While the committee acknowledges that no amount of money could ever fully compensate survivors for the trauma they have experienced as a result of being taken away from their family, the implementation of this scheme would be a recognition of the government’s genuine commitment to providing reparation to Stolen Generation survivors, which is why it was one of the key recommendations of this inquiry.

Recommendation 2

That the NSW Government establish a reparations scheme for Stolen Generation survivors, in accordance with the principles of self-determination and doing no further harm, with the scheme to:

- be developed in close consultation with Stolen Generation survivors
- complement the current group action involving Stolen Generation survivors
- provide appropriate communal and individual responses, including a personal letter of apology from the Premier and Minister for Aboriginal Affairs
- include a right of appeal
- consider learnings from the South Australian and Tasmanian reparation schemes.

³ Submission 17, NSW Aboriginal Land Council, p 13.

Healing

An ongoing need of Stolen Generation survivors is the need to heal. As a result of being taken away from their family, individuals were also disconnected from their community and culture. The impact of this has been devastating for all those involved, causing significant grief, loss and trauma, much of which continues to this day and has been passed down through generations.

“Let’s be a family. Let’s unite and get rid of all this hate which was the past and let’s all heal together”

Uncle Manuel Ebsworth
7 December 2015.

While the journey to heal can be a long road, healing programs and initiatives and reunions can play a significant role in supporting survivors and their families and communities. In particular, collective healing programs – programs where people can heal together – are important, especially for those who were in government training homes, such as the Kinchela Boys’ Home and Cootamundra Girls’ Home.

Recommendation 3

That the NSW Government provide funding for collective healing initiatives, programs, forums and community centres, to support and assist Stolen Generation survivors and their families and communities, with contributions sought from relevant churches, religious bodies and other organisations and institutions that were involved in past forcible removal policies and practices.

Healing centres are also valuable. Such centres provide a dedicated, safe place where people can go to heal, with integrated support and community involvement. In recommendation 8, the committee has requested that the New South Wales Government collaborate with and provide support, both financial and non-financial, to the Coota Girls Corporation, Kinchela Boys’ Home Aboriginal Corporation and the Children of the Bomaderry Aboriginal Children’s Home Incorporated, to establish healing centres for the benefit of individuals formerly institutionalised in those homes and their families and communities.

Restoring culture, language and identity

“ ... it is a part of our identity; it is a part of our soul. Language is a part of culture, culture is a part of language – the two are married. If we do not know where we come from, we do not know where we are going. It is like a tree without roots; it won’t grow”.⁴

Members of the Stolen Generations have lost their identity, culture and connection to Country. Many do not know where they belong, who their family is or where they come from. This loss has been passed down through the generations, contributing to the intergenerational trauma that exists in Aboriginal families and communities today.

Tracing family and history is a critical component of restoring identity and culture. It is important that Stolen Generation survivors are able to reconnect with family members, where possible, and easily access records about their personal history, if they exist.

⁴ Evidence, Ms Rhonda Ashby, Gamilaraay/Yuwaalaraay/Yuwaalayaay Language and Culture Nest, 18 February 2016, pp 29 and 33.

While the quest to find family can have different outcomes for survivors, such as graveside reunions, it is only fair that members of the Stolen Generations and their family members be provided with assistance in terms of tracing their family and history and holding reunions, as provided by recommendations 25 and 27.

Overcoming disadvantage

The impact of the government's past forced removal practices and policies has not only led to deep feelings of loss, resentment and trauma within Indigenous families and communities, but has left many without a sense of identity and some without the skills to effectively parent their own children. It has also contributed to entrenched disadvantage, particularly in terms of education, employment, housing, health and justice.

While finding solutions to overcome this disadvantage may be difficult, there are measures that can help to address the loss of opportunities individuals and families have experienced. The committee considers that measures such as the establishment of a Stolen Generations educational scholarship scheme and the provision of a health care card for Stolen Generations survivors will go a long way toward assisting peoples' needs in these areas.

Recommendation 4

That the NSW Government establish a Stolen Generations Scholarship Scheme to support Stolen Generation survivors and their descendants in accessing educational opportunities.

Recommendation 5

That the NSW Government seek the support of the Australian Government to create a health care card for Stolen Generation survivors, similar to other Commonwealth health care cards, that will provide better access to medical services (including mental health services) and reduced costs of medication and gap fees payable under Medicare.

Other measures, such as ensuring survivors have priority access to social, public and affordable housing (recommendation 18), and the delivery of culturally appropriate aged care services (recommendation 19) have also been recommended by the committee.

Avoiding a repetition of the past

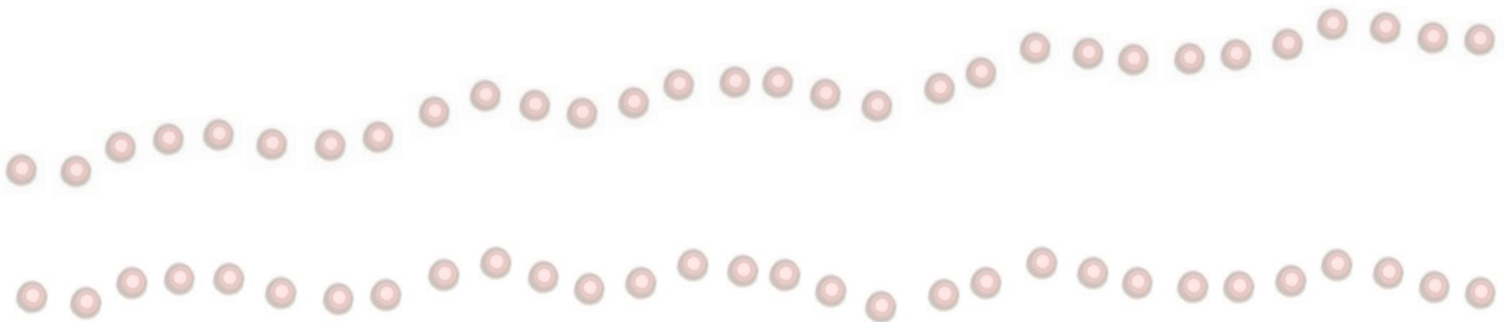
In light of the loss of identity and disconnection from culture Stolen Generation survivors have experienced, and the overrepresentation of Aboriginal children and young people in the care and protection system, it is essential that contemporary approaches to the management of Indigenous children's welfare value the importance of Aboriginal culture, language and community.

In this vein, the Department of Family and Community Services must have effective strategies in place to ensure that Aboriginal children and young people remain with their family as the first priority. Early intervention services play an important role in this regard; however, the evidence suggests that Aboriginal families may be reluctant to engage these services, due largely to mistrust and suspicion arising out of the historical treatment of Indigenous peoples within Australia. The committee has

therefore recommended that the department identify strategies to better promote these services and programs to the Aboriginal community (recommendation 31).

Where it is not feasible for an Aboriginal child or young person to remain with their family, it is vital that they maintain a strong connection to their culture and community when placed in out-of-home care. Two important mechanisms in this regard are the Aboriginal Child Placement Principles, which set out principles for the preferred order of placement for children who are removed from their family, and cultural care planning, which focuses on how an Aboriginal child or young person in out-of-home care is to maintain a cultural connection. However, evidence to this inquiry has suggested that both of these mechanisms are not operating as effectively as they should, which is why the committee has recommended an independent audit of the Department of Family and Community Services' compliance with the principles, with a view to improving compliance and reporting (recommendation 32), and a review of cultural care planning (recommendation 33).

The report makes a number of other important recommendations to government to address the needs of those who have been affected by past forcible removal policies and practices, and provides a solid framework for the development and implementation of reparations for Stolen Generation survivors in New South Wales.



Summary of recommendations

Recommendation 1

xv

That the Premier of New South Wales and Minister for Aboriginal Affairs establish a Stolen Generations Advisory Committee, comprised of a majority of Aboriginal representatives including members of the Stolen Generations, with responsibility for:

- advising the Premier and Minister for Aboriginal Affairs on any matters related to the Stolen Generations
- monitoring and reviewing the implementation of recommendations in this report, with a progress report to be tabled by the Premier in Parliament every two years.

Recommendation 2

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- be developed in close consultation with Stolen Generation survivors
- complement the current group action involving Stolen Generation survivors
- provide appropriate communal and individual responses, including a personal letter of apology from the Premier and Minister for Aboriginal Affairs
- include a right of appeal
- consider learnings from the South Australian and Tasmanian reparation schemes.

Recommendation 3

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That the NSW Government seek the support of the Australian Government to create a health care card for Stolen Generation survivors, similar to other Commonwealth health care cards, that will provide better access to medical services (including mental health services) and reduced costs of medication and gap fees payable under Medicare.

Recommendation 6

47

That the NSW Government develop a plan to build a trauma-informed workforce to support Stolen Generation survivors and their families and communities.

Recommendation 7

55

That the NSW Government request the Department of the Prime Minister and Cabinet to consider amending the role and title of Social and Emotional Wellbeing Counsellors to ensure there is a clear focus on the provision of support to Stolen Generation survivors and their families.

- Recommendation 8** **61**
That the NSW Government collaborate with and provide support, both financial and non-financial, to the Coota Girls Corporation, Kinchela Boys' Home Aboriginal Corporation and the Children of the Bomaderry Aboriginal Children's Home Incorporated, to establish healing centres in appropriate locations to support the healing of individuals formerly institutionalised in those homes and their families and communities.
- Recommendation 9** **70**
That the NSW Government, on the 20th year anniversary of the tabling of the *Bringing them home* report, acknowledge the wrongdoing of past government policies and practices, and the ongoing commitment to provide reparations to Stolen Generation survivors, and that it request the Office of Local Government to encourage local governments to do the same.
- Recommendation 10** **70**
That the Parliament of New South Wales acknowledge and promote the strength and importance of Aboriginal culture and heritage at the commencement of each new parliament.
- Recommendation 11** **75**
That the NSW Government, in consultation with Stolen Generation survivors, establish a memorial to acknowledge and commemorate members of the Stolen Generations in a prominent location in Sydney.
- Recommendation 12** **75**
That the NSW Government, in consultation with Stolen Generation survivors, establish other memorials in areas of significance for members of the Stolen Generations.
- Recommendation 13** **80**
That the NSW Government, in cooperation with the Australian Government, collaborate with and support the Coota Girls Corporation, Kinchela Boys' Home Aboriginal Corporation and Children of the Bomaderry Aboriginal Children's Home incorporated and relevant local Aboriginal land councils to establish Keeping Places or museums at the sites of these former homes.
- Recommendation 14** **80**
That the NSW Government work with relevant organisations to investigate and search the sites of the former Cootamundra Aboriginal Girls' Training Home, Kinchela Aboriginal Boys' Training Home and the Bomaderry Aboriginal Children's Home to locate the remains of any Aboriginal children.
- Recommendation 15** **82**
That the NSW Government work with the Australian Government to establish a dedicated fund to assist families with the cost of funeral expenses for members of the Stolen Generations.
- Recommendation 16** **91**
That the NSW Government, in consultation with the Aboriginal community, re-establish the Aboriginal Trust Fund Repayment Scheme to continue repaying the 'stolen wages' of Aboriginal people, taking into account any lessons learnt from the previous operation of the scheme, with the scheme to operate for an open-ended period of time.

- Recommendation 17** **138**
 That the NSW Government, in consultation with Stolen Generation survivors and the NSW Aboriginal Land Council, review the requirements and costs involved for survivors and their descendants to verify their Aboriginality, to ensure these stakeholders are not disadvantaged in obtaining proof of Aboriginality letters due to record keeping issues.
- Recommendation 18** **140**
 That the NSW Government ensure that Stolen Generation survivors have priority access to social, public and affordable housing.
- Recommendation 19** **145**
 That the NSW Government, in consultation with Stolen Generation survivors, partner with the Australian Government to identify and deliver innovative and culturally appropriate aged care services for Stolen Generation survivors.
- Recommendation 20** **145**
 That the NSW Government explore opportunities for Stolen Generation survivors to better access existing aged care facilities.
- Recommendation 21** **149**
 That the NSW Government encourage the Australian Government to negotiate the return of incarcerated Stolen Generation survivors from overseas jurisdictions.
- Recommendation 22** **152**
 That the NSW Government, in consultation with Stolen Generation survivors, explore options for government agencies to identify and capture the needs of survivors and their descendants, for the purpose of ensuring services are tailored appropriately.
- Recommendation 23** **153**
 That the NSW Government establish a direct point of contact that:
- will assist Stolen Generation survivors to navigate the service system by providing information and making referrals to appropriate services
 - is staffed by people who are trauma-informed and have specialist knowledge about the Stolen Generations, and who are preferably Aboriginal or Torres Strait Islander.
- Recommendation 24** **160**
 That the NSW Government consider increasing the number of Aboriginal Language and Culture Nests under its OCHRE strategy.
- Recommendation 25** **166**
 That the NSW Government, in consultation with Stolen Generation survivors, undertake a comprehensive review of how records relating to the Stolen Generations are managed and accessed, with a view to:
- removing any barriers that inhibit Stolen Generation survivors and their descendants from accessing records related to their family and history, including any fees that may apply when individuals apply for records from government agencies, such as the Registry of Births, Deaths and Marriages
 - ensuring that appropriate mechanisms are in place for Stolen Generation survivors to correct, alter or supplement records relating to their removal

- allocating additional funding to the Aboriginal Affairs NSW Family Records Unit so that it can provide increased assistance to those accessing records and better promote its services.

Recommendation 26**168**

That the NSW Government provide funding to the Coota Girls Corporation, Kinchela Boys' Home Aboriginal Corporation and Children of the Bomaderry Aboriginal Children's Home Incorporated for the purpose of recording the testimonies of Stolen Generation survivors.

Recommendation 27**171**

That the NSW Government:

- request the Department of the Prime Minister and Cabinet to provide additional funding to Link-Up NSW so that it can provide an increased number of reunions for Stolen Generation survivors each year
- review if any state funding can be provided for the reunification program.

Recommendation 28**178**

That the NSW Government ensure that the history of past forcible removal policies and practices and its continuing impacts on Aboriginal people are compulsory modules in primary and secondary school curricula, and encourage private providers to do the same.

Recommendation 29**179**

That the NSW Government ensure that all public sector staff undertake Aboriginal cultural awareness training, and that the training include mandatory information about the impacts of past forcible removal policies and practices on Aboriginal communities.

Recommendation 30**179**

That the NSW Government collaborate with community organisations to develop educational resources about the Stolen Generations for the broader community, with the resources to be made available in public libraries.

Recommendation 31**188**

That the Department of Family and Community Services, in consultation with Aboriginal organisations and communities, identify strategies to promote early intervention services and programs that aim to prevent Aboriginal children and young people being removed from their family.

Recommendation 32**192**

That the Department of Family and Community Services commission an independent audit of adherence to the Aboriginal and Torres Strait Islander Child Placement Principles, with a view to improving compliance and reporting.

Recommendation 33**195**

That the Department of Family and Community Services review the quality and effectiveness of cultural care planning for Aboriginal children and young people placed in out-of-home care.

Recommendation 34

202

That the Premier of New South Wales and the Minister for Aboriginal Affairs be given joint responsibility for overseeing the NSW Government's implementation of recommendations from this inquiry and that they provide a report to Parliament in 2018 for review by General Purpose Standing Committee No. 3 on the implementation of the recommendations of its 2016 report into reparations for the Stolen Generations in New South Wales.

Recommendation 35

203

That, in conjunction with its consideration of the findings and recommendations of this inquiry, the NSW Government review the commitments made in its 1999 response to the *Bringing them home* report.